

The Finnish Constitution and employee email

Global business demands that foreign companies establish local businesses in various countries. It is apt therefore that companies seeking to establish business in Finland, be aware that business secrets and business assets are secondary to the employees freedom of privacy in their emails.

In the balance of rights: the freedom of privacy and freedom of occupancy, the Finnish Constitution tilt the scales in favour of employees freedom of privacy in their emails and explicitly state that while an employer is the grantor of access to emails and holds the title to the email system, the employer has no right to access the employees private email and that business secrets and assets are worth much less than an employee's private communication.

Potential investors and business owners must be mindful of this significance in the Finnish Constitution, which it has been stated, can be found no where else in Europe.

Indeed, potential employers who usually designate employee email as name.surname@secondleveldomain.topleveldomain, ought be advised to be mindful in designating instead, finance@secondleveldomain.topleveldomain thus designating general email addresses. The reasoning is clear, according to Pekka Kiviniemi's article entitled "*Employer, Employee, And Email: The Finnish Way*" published in the ABA's SciTech Lawyer, Volume 6 Issue 2, "According to the [Finnish] legislation, the sender and the recipient are the only parties allowed to access email and related identification data. Under Finnish laws, identification data means information directly related to an email message that is necessary for an email system to enable processing of email in regular fashion. [Thus], IP addresses of both sender and recipient would qualify as identification data."

Finnish laws impose significant onuses on employers and, according to Kiviniemi, even go as far as specifying how to set up the email system. Of particular interest, the laws state that emails must be categorised as "private" email or "other".

Thus in Finnish law, business emails and business communications, fall under the "other" emails category. These laws speak volumes to potential employers and investors who must constantly go through lengths to ensure that company information and data be kept secret in order to maintain their competitive advantage.

Given this imbalance in the law, it is arguable that Finland is anti-investor or anti-business. One would think that more rights and consideration would be given to the employer's right to manage his/her business and less weight given to employee's right to privacy in their emails and communications -- particularly given the difficulty in keeping trade secrets a secret.

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