



### The Use of Technology for Monitoring Employees

#### 1. Monitoring Employees

The work place is changing at such a rapid pace that legal regulation and management policies do not always keep up-to-date. One example of such a gap between regulation and practise is the use of new ICT technology by employers to monitor employees' activities. The most common surveillance methods include: monitoring emails, tracking websites visited, monitoring keyboards, recording telephone calls, installing GPS systems in business cars, and using cameras at the office.

It is of course understood that an employer needs the appropriate tools for reviewing an employee's performance, but, equally, employees need to know the rules of any monitoring or surveillance. An employer should select tools for monitoring employees on the basis of need, and also ensuring the protection of employee's privacy and personal data. The most sensible way for employers to inform employees about monitoring systems is by stating such in the work regulations, or providing a separate set of employee monitoring regulations.

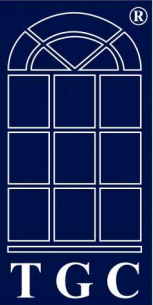
In other European countries, the abuse of employers' right to monitor employees is subject to employees' claims to international institutions. Following a judgment of the European Court of Human Rights regarding monitoring of telephone calls and e-mail correspondence, the Polish Ombudsman has suggested that the Minister of Labour amends the Labour Code accordingly. The Ministry is currently considering changes, however, it is difficult to anticipate if and when new regulations will come into force.

#### 2. Biometric Data

Serious problems also arise in gathering and processing biometric data (e.g. fingerprints or iris prints) by employers as there is no legal right to obtain this type of data. This personal data is mainly used for access control systems, work time evidence, or other user authorization. The market for ICT systems using biometric identification data is rapidly developing. Although employers may install such systems with good intentions, and distributors of such equipment state with honesty that they are responsible only for technical aspects, the employer still has to ensure that implementation of this type of technology is compliant with the Labour Code and that appropriate internal procedures and regulations are put into place.

According to the Personal Data Inspection Office (GIODO), the collection of employees' biometric data by employers is a breach of current law. Although employers using such systems usually ask for an employee's written consent for obtaining their biometric data, in the opinion of GIODO, this is not a full legal solution, as an employee's refusal cannot result in any negative consequences. A few months ago, GIODO issued a precedent decision relating to a factory in Poland and ordered it to discontinue gathering biometric data and destroy the electronic database of employee fingerprints used for the purposes of monitoring attendance and controlling access.





### 3. Adequacy of Monitoring Methods

Some new technology provides employers with a quick and easy way to identify if time or resources are being wasted, information is being lost, theft, misuse of assets, or inappropriate behaviour by employees. In order to assess the type of technology that can be justified and reasonable, the employer should consider industry norms, such that a different approach will be required for a bank, retail business, field sales force, or an advisory firm. Otherwise monitoring might be perceived by staff as a lack of trust and cause a negative reaction, thereby causing lower productivity.

Monitoring mainly provides for an employer to be able to have information about an employee's activities to ensure that such are in accordance with work practises. As such, these systems are very useful for companies whose business activities require employee's activities to be monitored, such as highly sensitive information, large numbers of employees, and high security risks. Even in these situations, explaining the need for surveillance and the value this will add to the company's security requires an employee's approval. The added benefit of getting agreement to such systems is that this will facilitate a better understanding of the company's strategy, and hopefully increase productivity.

### 4. Contact

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