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ECONOMIC AND LEGAL ASPECTS OF EMPLOYEE MONITORING, WITH PARTICULAR EMPHASIS ON REMOTE WORK¹

Summary

Purpose – The purpose of this article is to identify and indicate the basic issues of employee monitoring that arise in the field of economic and legal sciences from the perspective of employers, such as the factors motivating employers to use various forms of employee monitoring, current conditions of such activities resulting from state law and the European Union law, as well as potential threats to employers using broadly understood monitoring.

Research method – Dogmatic and statistical methods, the analysis of legal acts and research results, as well as literature studies and observations of practice were used to prepare the article.

Results – The possibility of using modern technologies to monitor employees is an important tool in the pursuit of effective organization of working time, although there is a lack of studies showing whether the monitoring methods offered on the market actually increase work efficiency. The actual needs of employers with regard to various forms of monitoring are not reflected in the provisions of the Labor Code. Employers should approach employee monitoring with caution, because inappropriate actions in this area may have negative effects.

Originality / value / implications / recommendations – The article concerns issues of significant importance from the perspective of not only Poland, but also other European Union countries, current in the realities of the pandemic and based on the latest legal regulations.

Keywords: monitoring, employee, employer, personal data, modern technologies

JEL Classification: M5

1. Introduction

Recently, more and more modern and developed IT tools, applications, specialized software and platforms dedicated to employers, aimed at facilitating and improving the organization of work have been used. Such solutions can be implemented in workplaces as well as on the equipment intended for remote work. Various types of monitoring may be performed by employers. Monitoring of an

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employee is constant (not random) observation with the use of electronic devices as well as a method of controlling the employee's work using modern technical means [Lach, 2004]. It is worth noting that this issue concerns both private and public sector entities, including even universities (for example, see the Regulation of the Rector of the University of Warmia and Mazury in Olsztyn on the Procedure for monitoring computers of employees [www 1]).

The practice of monitoring employees is gaining importance especially in the current realities of the increased use of remote work. It has both the economic dimension (important primarily in the context of employee efficiency and the economic interests of an employer) and the legal dimension (related to the need to comply with labor law and data protection law or personal rights). Moreover, it is an issue that raises doubts and controversies in the social dimension. While monitoring basically concerns things (devices) used by an employee, e.g. a computer, IT system, telephone, car, it is impossible to separate this activity from the person, so it should be taken into account that work monitoring is inseparably related to employee monitoring [Jarguz, 2020, p. 144]. Even the opinion of the President of the Personal Data Protection Office shows that monitoring is one of the most invasive forms of personal data processing and should only be used when there are no other, less privacy-interfering measures [www 2].

Most of the studies on the issue of employee monitoring concern the question of employer's interference with the privacy of employees through the use of various forms of monitoring. This article aims to identify and indicate the basic issues of employee monitoring that arise in economic and legal sciences from the perspective of employers, including factors motivating employers to use various forms of employee monitoring, the current conditions of such activities resulting from state and the European Union law, as well as potential threats to employers who use broadly understood monitoring.

2. Factors motivating employers to use employee monitoring

In the literature, it is indicated that the most commonly used forms of monitoring are video monitoring (with the use of camcorders), monitoring of telephone calls (analyzing billing and recording business calls), monitoring of business e-mail, monitoring of computer use (visiting websites, logging in), geolocation (GPS, SIM cards) and biometric data (iris scan, fingerprints) [Golaś-Olszak, 2020, p. 1764]. It is also more and more common to install software on company computers that tracks activity in the home office mode, including visited websites, e-mail, file transfer and used applications, mouse movements, or even allowing to take pictures of computer screens and workers sitting in front of the screens every few minutes [www 3].

It is commonly known that it is in the interest of an employer that employees perform their work as efficiently as possible. Efficiency will be here understood in many aspects as economy (achieving results exceeding outlays), efficiency and productivity (achieving results of work within a specified time), effectiveness (actions leading to the intended effect as a goal) [Parkitna, 2020, p. 11 and next.]. It is

important that an employee indeed performs the tasks given during work and does not spend time on other activities not related to the work for which he or she receives remuneration. Efficiency is particularly difficult to verify in a situation where work is performed beyond the scope of employer's direct supervision, which is the case of remote work. For this reason, employers more and more often use employee control tools, consisting in monitoring their work with the use of modern technological solutions.

More and more is being said about the negative tendency observed on the labor market, which is the so-called cyberslacking. It can be understood as using the Internet at work for private purposes, spending working time on e.g. online shopping, paying private bills, using social networks, Internet messengers and private e-mail, online games, visiting news websites. The literature indicates the financial and non-financial effects of cyberslacking [Garski, 2016, pp. 40-41]. The first group includes, most of all, financial consequences related to neglecting the employee duties by subordinates, which was calculated in the research – enterprises lose up to 30% of their production capacity. The other effects include, among others, network overload, loss of data, loss of contact with customers, failure to fulfill employee duties, failure to meet deadlines, deterioration of service quality [Garski, 2016, pp. 40-41].

In the realities of remote work, it is, in fact, not easy to control an employee's activity on the network during work. However, technologies of work monitoring help employers. Therefore, it can be stated that the use of various forms of monitoring by employers is intended to counteract the cyberslacking tendency and limit the occurrence of its effects. However, it must be remembered that the use of various forms of work monitoring cannot be performed for the purpose of tracking (surveillance) and evaluation of an employee [Jarguz, 2020, p. 145]. Such a monitoring purpose is not provided for by the Labor Code [Labor Code, 1974], whose provisions present the justification for monitoring (other than video monitoring) only in ensuring work organization enabling the full use of working time and ensuring the proper use of work tools provided to the employee (more about this issue later in the article).

From the above remarks, it can be concluded that in the economic dimension, the final aim of employers who use various forms of monitoring is to maintain or increase profits from work (including remote work) and to improve its efficiency. This may be observed in the offers of monitoring technology suppliers. They have, among others, the following functionalities (information from suppliers' websites) [www 4, www 5, www 6]:

- monitoring of working time in the system, efficiency in particular hours and average productivity results, providing information in which intervals the work efficiency is the highest;
- the ability to verify working time and operations on documents in a given area, to observe the type of documents with which an employee has the greatest difficulties;
- identifying employee activity to optimize work efficiency in key areas;

- the ability to check how effectively the processes in the organization are implemented;
- analysis of the use of computers and programs, management of removable media, monitoring of printouts and printers, blocking websites and controlling activity on the Internet;
- taking screenshots (user work history screen by screen), static remote view of the user's desktop, visited websites (titles and addresses of webpages, number and time of visits), monitoring e-mail messages (headers) anti-phishing, detailed working time (start time, end of activity and break).

It is obvious that the use of various forms of employee monitoring generates costs for an employer, including the costs of purchasing, implementing and operating appropriate devices and software. However, the sources indicate that technologies supporting data processing in the workplace can now be implemented at a fraction of the cost that would have had to be incurred just a few years ago, while the ability to process data by these technologies has grown exponentially [Opinion, 2017, p. 4]. From elementary analyzes of the costs of purchasing employee monitoring software, which are available on the websites of suppliers of this type of products, it can be concluded that the price depends on the employer's demand (what is important is the number of monitored positions, the duration and mode of the monitoring processes), however, employers generally can afford these amounts [www 7, www 8]. Consequently, it appears that employers are effectively encouraged by monitoring technology suppliers to implement such solutions.

Unfortunately, there are no studies on the effects of using various forms of employee monitoring and its impact on the increase in work efficiency, in particular remote work. However, relatively recently (November 2020) there was a study commissioned by EY Poland, entitled "Work organization during pandemic. Challenges for HR in 2021. Hybrid work – measuring effectiveness – a new policy of remuneration and non-wage benefits". The published results of the study show that [www 9]:

- there are many doubts in the aspect of continuing remote work, which may be related to the problems with the reliable assessment of its effectiveness;
- 63% of respondents assessed the effectiveness of remote work as diversified, depending on the department or individual predispositions of an employee;
- only about 20% of the surveyed entities base their assessments on actual performance measures, monitoring KPIs (key performance indicators) and comparing them to the results in the time before the pandemic, the majority rather base their assessments on the opinion obtained from managers or employees;
- as many as 35% of entities do not currently monitor employee efficiency in any way.

It is very likely that the above-mentioned results determine the attitude of employers to remote work in the near future. From the EY study it can be concluded that [www 9]:

- among the surveyed entities, which currently at least partially use remote work solutions, none of them plan transition to this model full-time;
- 49% of respondents do not know yet what dimension of remote work they will use;
- 15% of respondents plan to keep remote work for 2 days a week;
- 7% of the respondents do not intend to continue remote work in any time dimension.

It is often emphasized in the literature that employers' motivations to use various forms of monitoring are mostly based on economic grounds. From an economic point of view, the forms of employee monitoring are implemented primarily to increase the efficiency of work and employees, to ensure that working time is used properly to fulfill given orders and tasks, and to protect employer's property. Especially in the conditions of remote work, it is difficult to directly supervise employees by their superiors who are looking for the possibility of observing and drawing conclusions from the methods of performing employee duties [Sidor-Rzadkowska, 2021, p. 91]. From the perspective of employees, various forms of monitoring may be perceived, on the one hand, as a motivation to work (including a way of supervising an employee), and, on the other hand, as a way of assessing an employee or a manifestation of lack of trust in an employee. It seems that the economic justification of this action is rarely the employer's concern about the balance of employee obligations and the excessive burden of tasks. It is also indicated that the forms of employee monitoring may be helpful in detecting or preventing loss of intellectual and material property of the enterprise, in increasing the efficiency of employees and in protecting personal data which the controller (here: employer) is liable for [Opinion, 2017, p. 4]. It can be said that the economic motivation to use various forms of employee monitoring is the employers' effort to avoid broadly understood losses, which are the potential result of ineffective or inappropriate behavior of employees. This issue is also worth being analyzed from the other point of view – the improper use of employee monitoring forms may also lead to significant losses for an employer.

The current form of the legal regulations on employee monitoring can also be seen as a motivation for employers. While there is no legal definition of monitoring, a catalogue of acceptable forms of monitoring or provisions comprehensively regulating monitoring, the law does not prohibit such actions. It creates a framework and rules aimed at developing practices that protect the rights of employees and satisfy the interests of employers at the same time. Provisions on video monitoring [Labor Code, 1974, art. 22], as well as e-mail monitoring and other forms of employee monitoring, were added by article 111 of the Act of 10 May 2018 on Personal Data Protection [Act, 2018], in connection with the direct application of the Regulation of the European Parliament and of the Council of 27 April 2016 [Regulation, 2016].

Presently, an important issue is using various forms of monitoring employees as part of remote work. As it was mentioned, objectively speaking, remote work makes it difficult for an employer to exercise control over an employee. Therefore, it is

understandable that this mode of work, which has been more and more widespread for over a year, encourages employers to search for solutions influencing better organization of processes in their organizations. The willingness to verify whether an employee actually works during work, how long, whether he or she fulfills tasks and orders, what the effects of his or her actions outside the employer's seat are, is actually justified in the realities of remote work. Nevertheless, it should be remembered that monitoring in such circumstances must comply with the rigors set by law in the same way as for work in standard mode [Sakowska-Baryła, 2020, p. 70]. In other words, remote work is not an excuse for an employer to use forms of monitoring without meeting the legal requirements, including informing employees, meeting deadlines, making internal arrangements.

3. Legal conditions to use various forms of employee monitoring by employers

In the legal context, considerations regarding employee monitoring should be based on two leading legal acts relating to this issue. The first is the Labor Code [Labor Code, 1974], which concerns monitoring in employer-employee relationship, and the second is Regulation [2016], which establishes general rules for personal data processing. When taking a decision to use some form of employee monitoring, an employer should take into account both mentioned regulations and, at the same time, meet the requirements established in state law and the European Union law.

The general right of an employer to control an employee results from the content of article 22 of the Labor Code (an employee undertakes to perform work of a certain type for an employer and under his direction) [Labor Code, 1974]. Moreover, the content of article 94 point 2 of the Labor Code stipulates that an employer is obliged in particular to: organize work in a way ensuring full use of working time, as well as achieving high efficiency and adequate quality of work by employees, using their talents and qualifications. From an employee's perspective, the legal basis will be article 100 §1 and §2 point 4 of the Labor Code, establishing the obligation to comply with the work regulations and the order established in the workplace, as well as to care for the well-being of the workplace, protect its property and keep information confidential. There are claims in the literature that the statement about employer's right to control employees is not sufficient – it does not indicate how, in what form and scope the control can be carried out [Szymorek, 2012, p. 523]. From May 2018, the provisions mentioned above correspond to the new provisions of the Labor Code, which were added by the Personal Data Protection Act of 10 May 2018. Pursuant to the article 22² of the Labor Code [Labor Code, 1974], the employer may use video monitoring for four purposes justifying it:

- a. to ensure safety of employees;
- b. to ensure protection of property;
- c. to ensure production control;

d. to ensure the confidentiality of information, the disclosure of which could harm the employer.

On the other hand, e-mail monitoring and other forms of monitoring in accordance with the article 22³ of the Labor Code [Labor Code, 1974] may be used:

- to ensure work organization which allows the full use of working time, and
- to ensure the proper use of the work tools given to an employee.

For all forms of monitoring, the principle of necessity and the principle of purpose limitation have vital meaning – monitoring is to be necessary to achieve only the above-mentioned objectives. This means that an employer must prove that the objectives cannot be achieved in any other way than by a specific form of employee monitoring [Jaśkowski, 2021, p. 224].

In addition, the provisions of the Labor Code [Labor Code, 1974] impose a number of obligations on an employer, mainly of an informative nature, related to the activation of monitoring. As for various forms of monitoring (not only video), these will be:

- 1) establishing the goals, scope and method of applying monitoring in a collective labor agreement or in work regulations or in an announcement;
- 2) informing employees about applying monitoring in the way adopted by a given employer no later than 2 weeks before its activation, as well as providing written information before allowing an employee to work;
- 3) marking the monitored area in a visible and legible way, with the use of appropriate signs or audio announcements, not later than one day before its activation.

Monitoring is inextricably linked with personal data processing. It covers operations such as viewing, saving, sharing, storing or deleting data. It is accurately indicated in the literature that a wide range of data are collected from an employee via various forms of monitoring. These include, first of all, the IP address, the user ID, identifiers of devices given to an employee (device ID), types and versions of operating systems of these devices, the time and place of connections made with an employer's databases, the history of activities undertaken in the individual employer's systems, included, for example, in the logs of an employer's servers and systems, information included in e-mails, attachments, connection registers, also biometric data, such as a fingerprint (touch ID) or three-dimensional face mapping (face ID), data related to the behaviour and network traffic of an employee, URLs of requests sent by an employee, names of domains visited, types of browsers used, number of clicks (keyloggers), the amount of time spent on webpages, dates and time of using particular services, information about geolocation of given devices [Bender, 2020, p. 24-25]. A significant part of the information mentioned above may be recognised as personal data, therefore, an employer who is a data controller, while taking a decision to process this type of information, should take into account the requirements resulting from the provisions of the GDPR. In their scope there will be primarily the obligation to process data in accordance with the principles of processing (article 5 of the GDPR), the obligation to secure the processed data adequately (article 24 and 32 of the GDPR), the information obligation (articles

13-14 of the GDPR), the obligation to exercise the rights of data subjects (articles 15-22 of the GDPR), the obligation to carry out the data protection impact assessment (article 35 of the GDPR).

It can be said that in the context of processing of data obtained through the use of various forms of monitoring, the provisions of the GDPR and the provisions of the Labor Code are consistent and similar. Firstly, it can be seen in terms of the rules. The Labor Code requires from employers using various forms of monitoring to comply with the aforementioned principle of necessity. The provisions of the GDPR formulate a corresponding principle of data minimization, according to which the processed data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (article 5 (1) (c) of the GDPR). In practice, there is an example that violates the principle of necessity and the principle of data minimization. In connection with the pandemic, there arose an idea that employees sent to work remotely should have the computer webcam turned on all the time during working hours, which would allow the supervisor to constantly view an employee in order to better organize working time. This situation was critically assessed due to the lack of necessity of such a far-reaching interference in the privacy of employees for the purposes of employer [www 10]. In addition, both of the above-mentioned regulations are also convergent in the context of the purpose limitation principle – the Labor Code specifically lists the purposes for which various forms of monitoring are allowed, and the GDPR stipulates that the data shall be collected for specified, explicit and legitimate purposes and not processed further in a manner that is incompatible with those purposes (article 5 (1) (b) of the GDPR). Secondly, the provisions of these two acts are similar in terms of the information requirement. The Labor Code requires that employees shall be informed about the introduction of the form of monitoring in a specified time (2 weeks before its activation, possibly before starting work), while the GDPR requires an employer to fulfill the information obligation specified in the article 13 of the GDPR when collecting personal data.

It is worth emphasizing that an employer's use of various forms of monitoring is not dependent on the consent of employees. The legal basis for the processing of employees' personal data in the field of monitoring is the legitimate legal interest of the data controller – the employer. The legal basis contained in the article 6 (1) (f) of the GDPR is indicated in the justification to the draft act amending certain acts in connection with ensuring the application of Regulation 2016/679 EU [Draft, 2016], while the President of the Personal Data Protection Office specified that this is the basis for private entities, and public sector entities must be based on the legal provisions that allow this form of data processing [www 11]. An employer's interests are also referred to by the European Court of Human Rights (ECHR). In the judgment of 12 January 2016, the ECHR stated that an employer has the right to monitor the content of employee's official mail to the extent that it is justified by an employer's interest, and an employee's right to privacy is limited in this respect, which is justified by the protection of an employer's interests (61496/08, Legalis nr 1409836). The lack of necessity to obtain consent for employee monitoring

confirms that the employment relationship is not a relationship of equal entities, that an employee is the weaker party to this relationship and that the law grants him or her greater protection. This protection is based both in the provisions of the Labor Code and the GDPR.

Monitoring as an operation on personal data must respect the principles set out in the article 5 of the GDPR. An employer deciding to use one of its forms should take into account that the processing of personal data of monitored employees shall respect:

- the principle of lawfulness, fairness and transparency – data must be processed in accordance with the law, fairly and in a transparent manner for the data subject, therefore, it excludes the use of forms of covert monitoring;
- the principle of purpose limitation – data must be collected for specified, explicit and legitimate purposes and not processed further in a manner that is incompatible with those purposes – it will therefore be inconsistent with this provision to monitor an employee, e.g. in order to evaluate his or her work;
- the principle of accuracy – data must be accurate and, where necessary, kept up to date;
- the principle of storage limitation – data must be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed – therefore, data retention periods should be specified and data should not be processed indefinitely;
- the principle of integrity and confidentiality – data must be processed in a manner that ensures appropriate security, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures – it is important that an employer uses technologies that minimize the risk of e.g. employee's data leakage to the network;
- the principle of accountability – an employer as a controller shall be responsible for respecting principles and be able to demonstrate compliance with provisions – important in the case of an inspection, e.g. initiated by an employee's complaint.

It can be concluded that the employer's decision to use various forms of employee monitoring is not simple, but it is burdened with important obligations. Therefore, an employer should consider a number of not only economic, but also legal circumstances that are related to this activity.

4. Threats for employers resulting from the use of various forms of employee monitoring

The use of various forms of employee monitoring by employers is, despite the legal regulations already well-established in practice, a controversial or even risky issue in the context of an employer's interests. First of all, before using a given form of monitoring, an employer should consider certain balance, juxtaposing his interests with the welfare of employees and with the legal framework permitting such an action.

If an employer decides to use a form of employee monitoring that strongly interferes with the privacy of people and collects an inadequate scope of personal data, it may lead to the loss of respect and trust of employees, loss of the employer's good name. In addition, this action may ultimately result in the loss of competent and experienced employees who, due to unfair working conditions, will seek to change the workplace.

The global trend is that employers collect more and more data of employees. This situation often calls into question the ethical behavior of employers. It is worth noting that in the opinion of the Article 29 Working Party, it is unlikely that the legitimate interest of an employer will be sufficient to justify the use of methods such as, for example, recording keys pressed by an employee or his mouse movements [*Ochrona danych...*, 2020]. Currently, the offices supervising personal data processing and the protection of privacy, deal with complaints about unethical behavior of employers. In Poland, employees who notice irregularities in the use of various forms of monitoring by their employer may seek protection by initiating, through a complaint, the proceedings of the National Labor Inspectorate (PIP) and the Personal Data Protection Office (UODO). From an employer's point of view, this means the possibility of liability, but also issues related to the inspections by both bodies. It is worth mentioning that in 2012 the Chief Labor Inspectorate concluded an agreement with the Inspector General for Personal Data Protection (GIODO) regarding the cooperation of PIP and GIODO in the implementation of statutory tasks to increase the effectiveness of actions for compliance with the provisions on personal data protection in labor relations [www 12]. The cooperation of the authorities was based on the fact that PIP notified GIODO about irregularities found during the inspection in the scope of compliance of data processing with the provisions on personal data protection, and GIODO notified PIP about violations of labor law found during the inspection. Despite the fact that since 2018 the supervisory authority over personal data processing is the President of the Personal Data Protection Office (PUODO), the agreement has not been terminated or changed. Therefore, it can be concluded that PIP and PUODO may continue their cooperation, including the field of verifying correctness of the use of various forms of employee monitoring. For an employee, this means that he or she can file a complaint with an indication and description of violations committed by the employer using monitoring both to PIP and to PUODO. On the other hand, from

an employer's perspective, possible sanctions from both authorities should be taken into account [www 13].

In addition to the interventions of aforementioned bodies, employers may face other consequences of the inappropriate use of various forms of employee monitoring. Firstly, the jurisprudence of courts (not only Polish) indicates that employees use judicial instruments to protect their personal rights and often win court cases (for example: the judgment of 3 April 2007 in the case of Copland v. The United Kingdom, file no. 62617/00, Lex 527588, judgment of the European Court of Human Rights of 5 September 2017, 61496/08, Legalis 1665652; judgment of the Provincial Administrative Court in Warsaw of 06/06/2012, II SA / Wa 453/12 [www 14]), including lawsuits directly against an employer (judgment of the District Court in Giżycko of 10/09/2019, IV P 49/19, Legalis 2257004). Such a consequence of the improper use of various forms of employee monitoring may turn out to be a considerable inconvenience for an employer and, above all, it may cause financial losses, such as the payment of a fine, compensation and redress, but also the loss of image, reputation, trust and time.

It also happens that employers treat employee monitoring with little caution and make excessive use of available technologies, against the law. In practice, it turns out that even after many years it may have negative economic and legal consequences for an employer. An example of such a situation is a case recently disclosed by media, regarding the tracking of employees by Ikea in France [www 15]. In June 2021 the court trial ended, as a result of which the Criminal Tribunal in Versailles sentenced Ikea France to a million euro fine, and one of its former directors to two years' imprisonment suspended and a 50,000 euro fine. The Court found the French branch of a Swedish entrepreneur guilty of spying on several hundred employees, including trade unionists, in 2009-2012 [www 16]. The organized system of monitoring (and even surveillance) of Ikea employees resulted in a number of prosecution accusations recognized by the court and constituting a warning to employers. Currently, Ikea is starting to implement ethical measures to restore the company's reputation [www 17].

5. Conclusions

From an employer's point of view, it should be stated that the possibility of using modern technologies to monitor employees is an important tool aiming to achieve effective organization of working time, as well as counteracting negative trends such as cyberslacking. Especially in the realities of remote work, where it is difficult to supervise an employee, the aim is to make use of various forms of monitoring in order to achieve positive influence on the economic results of an employer. At the moment there are no studies showing whether the offered methods of monitoring really increase efficiency of work, and to what extent they are profitable.

Unfortunately, the legal provisions are not entirely consistent with the economic justification for the use of employee monitoring forms. The legislator does not seem

to see the real need for monitoring in the economic aspect, which is to manage the efficiency and quality of work. In the light of law, employee monitoring cannot be used to assess the level of effectiveness of an individual employee or the enterprise as a whole. The intrinsic purpose of employee monitoring cannot be employee supervision (as far as video monitoring is concerned, it may be supervision over the workplace or the area around the workplace). In other words, the actual needs of employers with regard to various forms of monitoring are not reflected in the provisions of the Labor Code, and there are no other provisions in this regard. In practice, this may lead to an illusion of employers' compliance with the law, both in the private and public sectors, and at the same time weaker protection of an employee. As far as the risks that may arise from the use of various forms of employee monitoring are concerned, it should be remembered that although this activity is not prohibited by law (on condition that the framework set out in the Labor Code and the principles resulting from the GDPR are respected), an employer should take into account the potential negative consequences of this type of action. When deciding to use employee monitoring, an employer should take into account the provisions of the Labor Code and the GDPR, and at the same time – meet the requirements established in the state law and the European Union law. Most of all, it should, on the one hand, comply with the principle of necessity and purpose limitation, and fulfill the prescribed obligations, and on the other hand, respect the principles of personal data processing contained in the article 5 of the GDPR. Employers should act with caution when monitoring employees and should not make excessive use of available technologies, which could lead to employee surveillance. It should be taken into account that inadequate actions in this regard may cause significant inconvenience for employers (such as employee lawsuits, increased inspections, loss of reputation, financial losses).

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