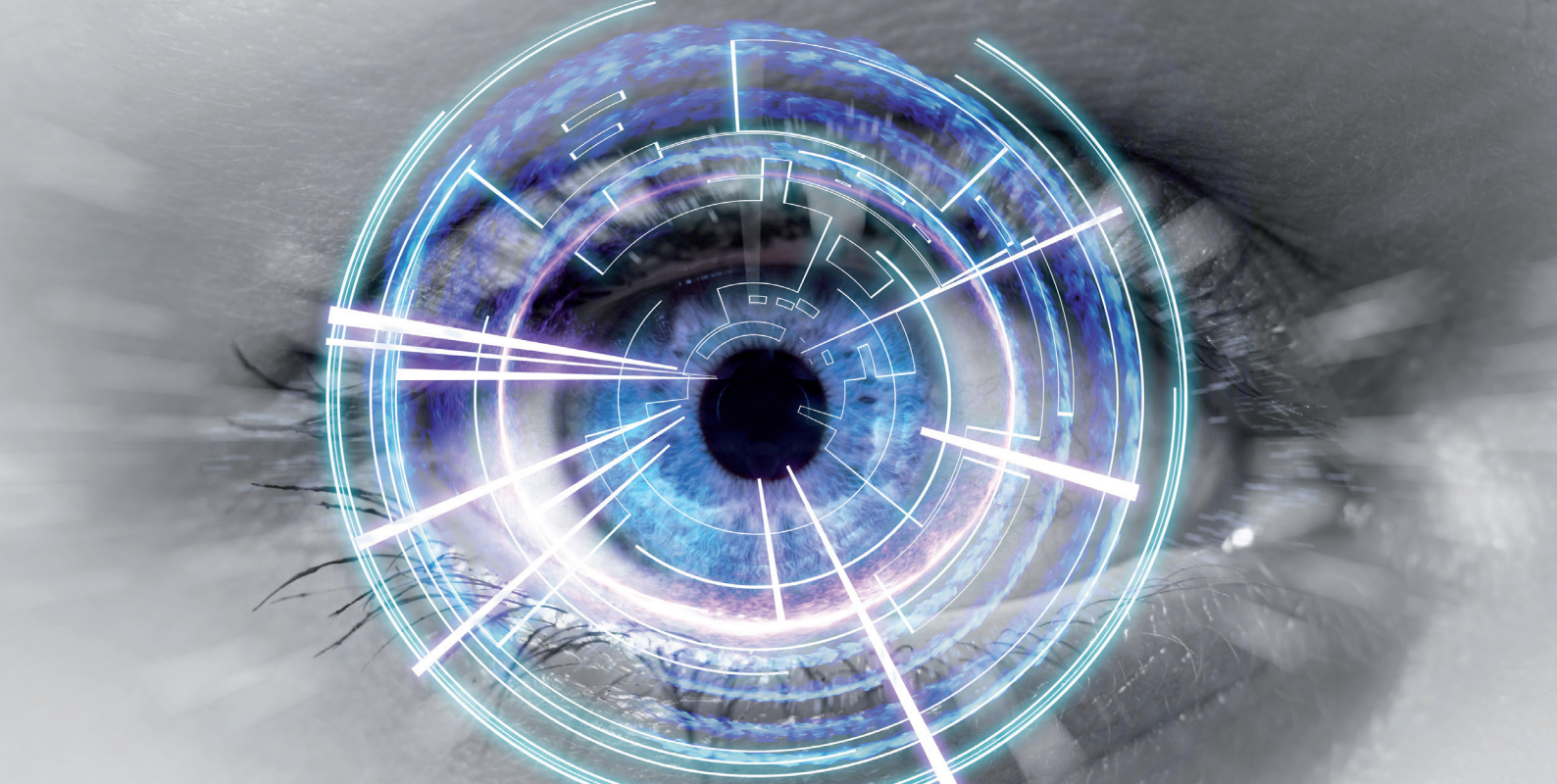




# How to monitor employees in accordance with law and how to avoid sanctions?



# Regulation by law concerning monitoring of employees from 25 May 2018.

On 25 May 2018 the act on personal data protection of 10 May 2018 has entered into force. It, among other things, introduces to the Labour Code a comprehensive regulation by law concerning monitoring of employees. Apart from description of conditions on admissibility of employee monitoring, new regulations specify also the formal requirements connected with using monitoring and specific obligations of employers concerning this.

With regard to the fact that new regulations entered into force on 25 May 2018, the adaptation of rules on employee monitoring to new regulations should be immediately conducted. The legislator does not provide employers with any transitional period.

## Necessity and purpose

Employee monitoring is allowed if it is **necessary** for performance of one of the following purposes:

### CLOSED-CIRCUIT TELEVISION

- Ensuring safety for employees
- Protection of the employer's assets
- Production control
- Protection of the company secret

### MONITORING OF ELECTRONIC MAIL AND OTHER FORMS

- Ensuring work organisation and full usage of worktime for performance of tasks
- Appropriate usage of work tools

## Privacy

Using monitoring may not result in the violation of:

- **dignity or personal belongings of employees**
- **confidentiality of correspondence**
- **rule of freedom and independence of trade union organisations**

Closed-circuit television – by and large – **may not be used in:**

- sanitary rooms
- locker rooms
- canteens
- smoking rooms
- rooms made available to trade union organisations

## Time limits

By and large, the monitoring records may be stored no longer than for the period of **3 months** from the date they are recorded. If records are or may be the

evidence in proceedings, the period of their storage shall be extended until the proceedings are finished validly.

## Monitoring implementation

Irrespective of the form of monitoring, the implementation of it, including specification of a purpose, scope and means, shall be conducted in:

- **the collective labour agreement** – if the collective labour agreement operates in the establishment
- **the terms and conditions of work** – if the employer is obliged to establish one
- **the announcement** – in other cases

### INFORMATION OBLIGATION

An employer who is implementing monitoring should inform their employees on its introduction in a manner adopted in the establishment **at least 2 weeks before monitoring starts its operation**.

Irrespective of this, every newly employed employee should be informed by the employer in writing about the purpose, scope and means of monitoring **before she/he starts working**.

The above provision does not exclude the information obligation which stems from Articles 13 and 14 of the GDPR.

### NECESSARY MARKINGS

Irrespective of the information obligation, the employers who use monitoring are obliged to **clearly and explicitly mark** the rooms or devices which are the subject of monitoring by means of appropriate markings or sound announcements.

## Beware of sanctions!

The employers who are already using employee monitoring – in any form – should adapt immediately to obligations which stem from new regulations.

Unlawful monitoring of employees constitutes not only the violation of provisions of the Labour Code but may also be the violation of provisions of the GDPR which provides high administrative pecuniary sanctions.

## How can we help you?

Our employees responsible for personal data protection as well as those responsible for labour law will prepare for you comprehensive solutions concerning employee monitoring, including among other things:

- assessment of admissibility of using particular forms of monitoring (closed-circuit TV, monitoring of mails, billings, GPS usage and others)
- analysis of the scope of admissibility of your processing of personal data concerning people employed in the context of employment
- preparation of necessary documentation (such as monitoring policy, privacy policy, information for employees)
- adaptation of currently required company regulations and internal documents, including the terms and conditions of work, to new requirements
- trainings regarding employee monitoring for the team responsible for HR and for managers
- comprehensive support and advice on each stage of implementation of the abovementioned solutions.

# Contact

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Od wielu lat jesteśmy wyróżniani i rekomendowani przez międzynarodowe rankingi i informatory prawnicze, takie jak Chambers and Partners, The Legal 500 oraz IFLR1000.

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