

Monitoring of employees in the decision-making practice of Labour inspectorates

Abstract

The theme of the thesis is employee monitoring conducted by employers. The applicable law permits the employee monitoring but imposes restrictions to it. Every employer shall consider thoroughly whether he fulfills the conditions required to implement the employee monitoring or not.

The thesis introduces the reader to the legal framework of employee monitoring in the first place. It enlists relevant regulation and defines key terms which are necessary to understand the employee monitoring, such as privacy, surveillance, personal data etc. The key terms are often vague and thus difficult to interpret.

The author then examines the provision of Section 316 Subsection 1 of the Labour Code in-depth. The Section prohibits the employees to use the employer's means for their personal needs. It also authorizes the employer to check compliance with the aforementioned prohibition. The relationship between first and second subsection of Section 316 of the Labour Code is also evaluated.

The next part of the thesis describes employee monitoring which interferes with employees' privacy and which is regulated by Section 316 Subsection 2 of the Labour Code. The author researches which employers may conduct the monitoring, which reasons they must have to implement it and what methods they have to use. As the conditions of the monitoring are concerned, the attention is given to proportionality test, scope of the monitoring, the consent of employees with the monitoring and the employer's obligation to inform the employees about the monitoring.

The author introduces the reader to the consequences of violation of applicable law regulating the employee monitoring, which both the employer and the employee might face. They can be found liable of a crime, a minor offense, or be liable for damages. The employer might also face procedural consequences of illegal monitoring, whereas employee might face labour law liability resulting in termination of the employment relationship by the employer.

The final part of the thesis analyzes the decisions of the public authorities relevant to the employee monitoring, namely decisions of regional labour inspectorates, The Office for Personal Data Protection, courts of the Czech Republic and the European Court of Human Rights. Author critically evaluates the decisions and emphasizes found insufficiencies. The low amount of the decisions of the Czech courts makes the comprehension of the employee monitoring more difficult.