

## Abstract

This thesis intends to offer a balanced legal standpoint on monitoring of employees from the point of view of employer's rights and interests protected by law as well as from the point of view of employees' right to privacy. The surveillance of employees is governed especially by Section 316 (1) through (3) of the Labour Code<sup>1</sup>. However, in case personal data of employees are processed within such monitoring, the personal data protection regulation must be applied as well. This thesis distinguishes between a so-called one-time or random inspection of employees performed within the meaning of Section 316 (1) of the Labour Code for the purpose of checking their observance of ban on using the employer's production and working tools for personal purposes and between continuous monitoring performed under Section 316 (2) of the Labour Code. At the same time, it is necessary to assess whether the employees' personal data are processed as well. Therefore, in practice, four different types of inspections/surveillance of employees have to be distinguished, each of them being governed by slightly different regulation.

Currently, the personal data protection regulation is undergoing the most significant changes in the last more than 20 years; on 25 May 2018, GDPR<sup>2</sup> enters into force. This regulation will replace in full the current Directive 95/46/EC<sup>3</sup> which was implemented into the Czech law by the Personal Data Protection Act<sup>4</sup>. The Personal Data Protection Act's fate is currently unknown; however, most probably it will be abolished and replaced by a new act governing only partial issues of the personal data protection the regulation of which is entrusted by the GDPR into the competence of the national legal regulation. With regard to the forthcoming date of entrance of the GDPR into force, this thesis works both with the Personal Data Protection Act and the GDPR.

This thesis is thematically divided into three parts. The first part generally deals with basic principles and conditions to be fulfilled by an employer in order to implement monitoring. The proportionality principle shall be respected as the key principle for the purpose of

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<sup>1</sup> Czech Act No. 262/2006 Coll., the Labour Code, as amended.

<sup>2</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

<sup>3</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

<sup>4</sup> Czech Act No. 101/2000 Coll., on Personal Data Protection and Amendment of Certain Acts, as amended.

searching the mutual balance of rights of an employer and its employees. The second part of this thesis describes particular methods of the monitoring in detail, including the available relevant decision-making practice. For the illustration, proposals of specific scenarios of monitoring are included for each one of the most usual methods of monitoring. Finally, the third part of this thesis deals with issues which are closely tied to the monitoring, including the possibility of an employer to conclude certain consequences for an employee from the results of the monitoring and the possibility of an employee to challenge the monitoring.