

Video surveillance in the workplace

by Raluca Bădilă, Avocat (Attorney at Law RO)

The use of video cameras in employment relationships raises significant practical issues - not only in Romania.

Employers seeking to monitor and secure their businesses often walk a fine line with respect to employees' right to privacy.

The use of images from video surveillance cameras in disciplinary proceedings against employees is particularly sensitive. Employees regularly contest the admissibility of such recordings as evidence.

Data processing and its purposes

Video recordings constitute data processing in accordance with Regulation (EU) 2016/679 (General Data Protection Regulation – **GDPR**). According to this regulation, the processing of personal data is permitted only for a clearly defined lawful purpose, based on a legitimate legal basis (Art. 6 GDPR) and with full respect for the rights and interests of the individuals concerned.

The purposes for which video cameras may be used can vary, for example:

- Protection of premises, assets, valuables, and individuals;
- Quality control or monitoring of specific production processes;
- Monitoring interactions with customers;
- Controlling access to buildings or parking areas;
- Detecting violations of rules (attendance, access rules, occupational safety regulations).

Personal data may only be processed for the purpose for which it was originally collected (Art. 6(4) GDPR). Use for another, secondary purpose requires that this purpose be compatible with the original purpose (Art. 23 GDPR).

If, for example, surveillance cameras are installed to protect assets and valuables, the recorded images may be used for investigations into theft on company premises. However, they may not be used without further ado to monitor employees (e.g., attendance monitoring or performance evaluation), as this contradicts the principle of purpose limitation.

The risk of using video recordings for an incompatible purpose is that the evidence may be declared invalid in court if challenged.

Employee monitoring

In the case of employee monitoring, the legal basis is Article 5 of Romanian Law No. 190/2018 on measures for the implementation of the GDPR.

According to this law, when introducing monitoring systems that use electronic means of communication and/or video surveillance systems, the processing of employees' personal data for the purpose of pursuing the employer's legitimate interests is permitted only if the following conditions are met cumulatively:

- the legitimate interests of the employer are sufficiently justified and outweigh the interests or fundamental rights and freedoms of the affected individuals (this can be demonstrated through a Legitimate Interest Assessment – LIA);
- the employer has provided the employees with complete and clear information in advance;
- the employer has consulted the trade union or, where applicable, employee representatives before introducing the monitoring systems;
- other, less intrusive forms and methods of achieving the intended purpose have previously proven ineffective; and
- the storage period for personal data must be proportionate to the purpose of the processing. As a general rule, it may not exceed 30 days, except in cases expressly regulated by law or sufficiently justified.

Sanctions

Failure to comply with GDPR requirements may result in the following consequences:

- sanctions imposed by the National Supervisory Authority for Personal Data Processing (ANSPDCP), including fines of up to 4% of the global annual turnover of the previous financial year or €20 million, whichever is higher;
- the inadmissibility of evidence obtained through unlawful surveillance;
- the obligation to remedy the situation.

Court practice

The courts do not proceed uniformly.

The admissibility of video evidence is examined on a case-by-case basis. Decisions on the legality of surveillance and the proportionality of such evidence is to a certain extent subjective, which creates uncertainty for employers.

Conclusion

Video recordings may be used as evidence in court, but only if the surveillance was lawful and the evidence is relevant and proportionate.

To avoid sanctions or the invalidation of evidence in court, employers must ensure that the entire process—from documentation to installation and monitoring, as well as image processing (access, storage, and deletion)—fully complies with legal regulations. Only this guarantees that the evidence will withstand legal scrutiny.

Contact and further information:



STALFORT Legal. Tax. Audit.
Bucharest – Bistrița – Sibiu

Office Bucharest:

T.: +40 – 21 – 301 03 53

F: +40 – 21 – 315 78 36

M: bukarest@stalfort.ro

www.stalfort.ro