

Subjects: Surveillance (extensive)

Occupation: Human Resources Department (HRD), Information Systems Manager

Data type: Private, Professionals

Do I have the right to check my employees' connections if I suspect misuse ?

X has recently started working for a company, but he is very disappointed by his choice. He considers that his skills are not enhanced.

Demotivated, he actively starts looking for a job, firstly during his breaks, then progressively during the day as well. His mind is at peace as his work is up to date. As he could notice, he is not the only one of the team going web browsing.

In the IT management department, we observe an important slowdown in the data flow on the network for some time and we suspect a few co-workers to regularly use Internet for private purposes during office hours, although the rules are clearly verbally explained during the recruitment. After inspection, those doubts are confirmed.

Several co-workers, including X, are convoked by the HR who gives them a warning orally. X vehemently reacts as all his work is done in good time and he considers he has the right to look for another job. Besides, he is surprised by this undisclosed and non-anonymous inspection.

The CEO, lawyer for that matter, notices that his company did not formalize the rules of Internet usage and its surveillance, and therefore, the inspection should have been disclosed. He gives instructions in this direction.

Recommendations

In order to guaranty the availability of the information, the rules of usage for IT tools and Internet can be established. Inspections and sanctions in case of violation can be planed, but they must be written and conveyed to the employees. The proportionality demands that inspections are adjusted to the suspicions and the risks for the company, and should be initially anonymous. Besides, the employer has a legal obligation to protect the personality of his employees.

Basic principles

art. 4 et 7 LPD, 328 CO et 6 LTr

Honesty and transparency of data collection, proportionality, security ; protection of the co-workers' personality

Resources

see the guide of the PFPDT (Federal Data Protection and Information Commissioner) :

<https://www.edoeb.admin.ch/edoeb/fr/home/protection-des-donnees/arbeitsbereich/surveillance-sur-le-lieu-de-travail/surveillance-de-l-utilisation-d-internet-et-du-courrier-electron.html>