

MONITORING WORKERS AND DISCIPLINARY SANCTIONS

When an employer and worker sign a contract, both undertake to comply with certain obligations.



THE EMPLOYEES' OBLIGATIONS INCLUDE THESE FUNDAMENTALLY IMPORTANT ONES:

- **DILIGENCE:** the obligation to do the work with the care required and according to the methods established by the employer;
- **LOYALTY:** prohibition against conducting business in competition with the employer and disclosing confidential company information.

If the employer finds that these obligations have been breached, when **monitoring** that work is performed correctly, then they can exert their **disciplinary power**, applying sanctions (fines, suspension from, and even dismissal).

- **HUMAN MONITORING:** through security guards and surveillance staff who can carry out checks within the workplace or outside it, such as, for example, personal monitoring visits. These must, however, be carried out according to automatic selection criteria and with respect for the worker's dignity and privacy.
- **TECHNOLOGICAL MONITORING:** the employer may install audio or video systems (e.g. video cameras) for needs relating to organisation/production, occupational safety, or protection of company assets. In order to do so, an agreement with the company union is necessary, or authorisation from the Labour inspectorate.

The employer may only use data collected to apply disciplinary sanctions if it has informed workers on the operation of the monitoring systems/tools and in compliance with the law protecting personal data (privacy).

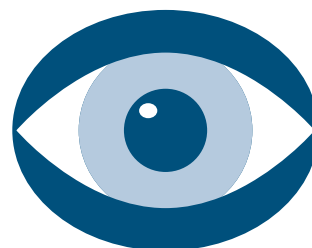
The processing of personal data must occur with respect for the worker, who must be adequately informed.

WHAT HAPPENS IF THE WORKER BREACHES THEIR OBLIGATIONS:

- **NOTIFICATION:** the employer immediately communicates the breach to the worker. If the sanction stipulated for the act committed is not a simple verbal warning, communication must take place in written form.
- **DEFENCE:** the employer calls the worker to hear the grounds for their defence.
- **APPLICATION:** if the employer is not convinced by the worker's justifications, they can proceed with the sanction within 5 days of the notification of the event.

As far as regards the choice of measures, the law sets some LIMITS:

- except for dismissal, the employer cannot apply permanent changes to the employment relationship like, for example, transfer to another company location or assigning the worker less senior work
- the employer cannot apply a fine greater than 4 hours' pay
- suspension from work and pay cannot exceed 10 days



REMEMBER



- ✓ The employer must inform its workers of events that may determine a breach of obligations and the type of sanctions stipulated - e.g. verbal warning; fine; suspension; dismissal - providing a document called disciplinary regulations in a place accessible to all workers.
- ✓ The worker **HAS THE RIGHT** to be informed of the names of the guards and of their tasks.
- ✓ The disciplinary sanction that the employer applies must be proportionate to the breach.
- ✓ If the worker believes that the sanction goes counter to the disciplinary regulations or the legal limits, he or she may contact the trade union or an employment judge within 20 days of its application.

PRIVACY IN THE WORKPLACE

Privacy is the set of rules that limit the freedom of the employer to request personal data from the worker and that regulate the right of the worker to have their privacy protected. Each worker may, in fact, restrict disclosure within the company of information that concerns them (details about their private life, information relating to their health status, data regarding political or religious beliefs, and sexual orientation).

On the other hand, however, the employer must have access to some of the personal data of employees and collaborators, but must process them correctly.

WHO TO CONTACT



These are associations that represent and defend the rights of workers.

You may contact your trade union to:

- Ask for information about your rights: contract, working hours, leave, holidays, pay slip, occupational health and safety, etc.
- Receive legal assistance if your employer breaches your contract.

Through services promoted by the trade union, you may also obtain:

- Tax assistance at tax centres (**CAF's**)
- Assistance regarding injuries, occupational illnesses, pensions, unemployment, etc. **at Patronage**



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