обов'язки, які вимагають емоційних витрат, а також у прагненні виправдати це шляхом знецінення діяльності та її предмета.

***Ключові слова:*** *персонал місць несвободи, професійна деформація, детермінанти, психологічне перевантаження, емоційне вигорання, екстремальність, запобігання*

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# MONITORING OF EMPLOYEES' WORK EMAILS AS A MEANS OF INFORMATION SECURITY OF A POLISH ENTERPRISE

**Abstract.** In the given article, the problem information security of Polish enterprises is researched. One of the directives of the given information security is the control over the employees' work emails. In the article, the legal obligations of the enterprises as for the work email monitoring and the right for personal life respect are analyzed. The issue of sanctions for confidentiality correspondence violation and the right to respect for the private life are dealt with.

***Keywords:*** *information security, privacy, sanctions, European Court, law, Labor Code*

**Introduction.** Relevance for studying different aspects of information security is connected to the process of globalization, when the significance of information is constantly increasing. Information poses as an important element for the state functioning, democratic development of the society, the relationship between the state, citizens and society. The human information rights are considered an integral part of civil rights.

Therefore, the enterprises face the problem of ensuring information security. Every employer is obliged to develop and implement a set of measures which aims at securing information from an unauthorized access, ensuring its confidentiality, accessibility and integrity.

Nowadays, almost every enterprise either creates or demands from its employees to create a so-called work email. As a rule, it is an email connected with the domain of the enterprise, which can help to identify the employees with the company when working with other enterprises. Unfortunately, this email address may be used not only for performing the company's activity but also for other private purposes, which may lead to the negative repercussions for the company.

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To avoid the employee using the work email for personal purposes, the employer has to own the set of tools, with the help of which he can check the use of the work email. It has to be done correctly so that the right to the private life and confidentiality of correspondence is not violated. The enterprises' decision-making actions have to be characterized by the proportionality principle which is important in checking correspondence of employees. In case of neglecting such measures, the enterprise may have financial losses or face the negative consequences as a result of informational security violation.

**Analysis of recent research and publications.** According to Polish law, the employee has the right to check the employee's correspondence made from work email. It natural for the employer to have the right to know the content of such correspondence as it is done on the company's behalf.

Thus, work emails control is the right of the employer. It is possible according to the Article 223 part 1 of the Labour Code of the Republic of Poland (1974), which states that it is possible in case of necessity to provide the organization of work that ensures the full use of working time and the proper use of labor tools provided to the employee. The employer may introduce control over the employee's work email (email monitoring).

Thus, the work email control is possible, but it needs to have a strictly determined aim of increase in employees' work efficiency and the ability to check whether or not they use the tools provided by the employer (K. Jaskowski, https://sip.lex.pl).

The regulation providing enterprise with the right to control the employees' work emails was included in the Labour Code of the Republic of Poland. Before the given regulation, there were no norms that gave the employer the ability to control the employees' correspondence. Therefore, this issue has been the subject of discussions. The email checks were one of the most controversial forms of monitoring. It is connected to the fact that the secrecy of correspondence is protected by the Polish Constitution. According to the Article 49 of the Constitution of the Republic of Poland, the freedom and protection of the secrecy of correspondence is guaranteed, and its limitation may occur only in cases, stated by the Law and in the manner specified by it. That is why the legislator pays significant attention to the secrecy of correspondence. It has to be taken into account that the exercise of constitutional rights and freedoms may be restricted if it is necessary in a democratic state for its security, public order, environmental protection, protection of health and moral, freedoms and rights of others, provided that these restrictions do not violate the essence of these freedoms and rights (Article 31 part 3 of the Constitution of the Republic of Poland). Therefore, the freedom of correspondence secrecy can be neglected only if it is stated by the Law. The legislator has to determine directly the necessity of correspondence secrecy violation, stating the circumstances and modes of such violation. Only this way the violation of correspondence secrecy right is treated as acceptable (1997).

The dubious issue was the monitoring of work emails. There were no principled doubts that the personal correspondence of the employee is above the employer's control (M. Kuba, https://sip.lex.pl). On the one side, when talking about work correspondence, it was hard to determine the scope of the correspondence secrecy. It was particularly difficult to decide, who, except of the people taking part in correspondence, is authorized to control the given correspondence. It is stated that as long as the employee leads correspondence on behalf and in favor of the employer, the latter can be treated as a person authorized to access this information (M. Kuba, https://sip.lex.pl).

On the other side, the secrecy of correspondence sphere covers only the communication participants, namely the employee and his interlocutor. It is important as the secrecy of correspondence is also provided by the criminal legislation. According to the Article 267 paragraph 1 of the Criminal Code of the

Republic of Poland (A. Bojanczyk, 2003), a crime against the secrecy of information is committed by those who gain access to information not intended for him without permission, by opening a closed letter, connecting to a telecommunications network or e-mail (G. Bogatyrev, A. Bogatyrev, & M. Puzyrev, 2017, 40 p.). Criminal liability also applies to those who illegally gain access to all or part of the IT system (paragraph 2 of the Article 267 of the Criminal Code of the Republic of Poland), as well as to those who receive or use listening devices, visual devices or other software to obtain information to which he has no right of access (paragraph 3 of Article 267 of the Criminal Code) (1997).

Therefore, without doubt, the solution of the further mentioned dilemma demanded the legislators' intervention. The changes had to be introduced for the enterprises not to be subjected to criminal responsibility for actions aimed at creating the conditions for its safe functioning and inspecting the activities of people working for this enterprise (M. Kuba, 2016).

**The purpose of our article** is to study the problem of information security of Polish enterprises.

**Formulation of the main material.** The fact that the absence of the legal grounds for the employee's email check is unacceptable is proven by the legislation experience in other countries. For example, the law of Great Britain makes clear exceptions for the employer regarding to the fact of wiretapping and reading employees' emails (without permission from both sender and receiver). The employer has the right to control and record the messages in certain circumstances, among them for assuring the employees keep to the standards of the company, prevent or detect the crime, investigate or detect the unauthorized use of the telecommunications system or ensure the security of the system and its effective functioning (2000). In its turn, Finnish law on protection of confidentiality in professional life regulates the rules controlling the employer regarding the employees' email, namely the namely, the restoration and opening of messages sent to the email address of the employee and messages sent by the employee from this email address (2004).

Consequently, there are no doubts that the access of the employer to the employee's correspondence sent on behalf of the company was dubious despite the business nature of this message and the fact that it is created with the tools provided by the employer (V. Medvedev, 1992, pp. 33–40).

Therefore, it is necessary to positively evaluate the establishment of the regulation, which lawfully authorizes the employer to control the employee's work email. They legitimize the enterprise to take care of its safety in the field of activities done by its employees (A. Bogatyrev, 2016, 198 p.).

The legislator refers to the proportionality rule by allowing the control over the employee's email. Taking into account the further mentioned regulation, the employer can introduce the control over the employee's work email if it is necessary for work organization. It should also ensure the fully fledged use of working time and the proper use of work tools provided by the employee. While choosing the conditions for subordinating the employee to control in this regard, two tasks were identified for the labour organization, which allow the full use of working time by employees and the proper use of business tools. In the given case, the legislator uses the particle «and» underlining the connection between the further mentioned aims of the employer's controlling activity. As a result, it means that the corresponding conditions have to be kept to simultaneously (M. Kuba, 2016).

Thereupon, the monitoring of the employee's work email is acceptable if it is necessary for ensuring the proper work organization (which allows the full-fledged use of working time) and the proper use of work tools provided by the employee.

These conditions do not always come together. The employee can use the tools in a way not corresponding to their purpose in the working time (for, example, during the break). However, it has to be mentioned that the necessity to keep to

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both obligations, stated in regulation commented, increases the protection of the employees from the excessive control of the employer, but it can also be the source of abuses done by the employee (M. Kuba, 2016).

In the analyzed sources it is stressed that while controlling the work employee's work email, the employer has to comply with the following principles:

necessity principle;

employee's dignity and personal rights protection principle

trade unions liberty and independence principle

According to the necessity principle, the monitoring of the employee's email is acceptable when it is necessary for the work organization which allows for the full-fledged use of time and working tools allowable for the employees ( have to be performed together) (M. Kuba, 2020).

The necessity principle means that the employer has to state that the above mentioned aims cannot be achieved otherwise than by the way of employee's monitoring. The circumstances which have significance for the assessment are the type of work, its nature and the position of the employee. The necessity principle is additionally marginalized by the employee's dignity and personal rights protection principle. Using the accordance monitoring is acceptable only if the personal property of the employee, as well as the secrecy of correspondence, (Article $22^3$ paragraph 2 and 4 of the Labour Code of the Republic of Poland) is not violated.

According to the trade unions liberty and independence principle, the monitoring cannot include, without any exceptions, rooms (an analogy to the email address) used by the trade union.

Besides, the Article $22^2$ § 6-10 and Article $22^3$ §4 of the Labour Code of the Republic of Poland makes it visible that any form of employees' monitoring is legit if it was made by the principles stated there.

These principles comply with the transparency in processing personal data principle (M. Kuba, 2020). Such requirements serve the basis of this principle:

a) the aims, scope and mode of using monitoring are defined in collective labour agreement, labour regulations or in message if the employer does not make collective labour agreements (part 6 of Article $22^2$ of the Labour Code of the Republic of Poland);

b) the employer informs the employees about the monitoring in the mode acceptable for the employees not later than 2 weeks before the start of its implementation (part 7 Article $22^2$ of the Labour Code of the Republic of Poland);

c) before allowing the employee to start working, the employer provides him with the written information on the aims, scope and mode of conducting monitoring (part 8 Article $22^2$ of the Labour Code of the Republic of Poland) (M. Kuba, 2020).

The compliance with the transparency principle, while controlling the correspondence, is of a principal importance for respecting the employee's personal rights. The employee has to be informed about the monitoring of his work email. The employee who has not been informed about by the employer about the monitoring has the lawful right to hope that his private life and communication are protected (K. Jaskowski, https://sip.lex.pl).

By implementing this form of control the employer is obliged to inform the employees in a mode, defined by the given company in two weeks before the start of the monitoring (Article 22 §7 in line with Article 22 §3 of the Labour Code of the Republic of Poland). Upon hiring a new employee and the company has to provide him with the written information on the aims, scope and mode of email monitoring before allowing him to do the job (Article 22 §8 in line with Article 22 §3 of the Labour Code of the Republic of Poland). Besides that, the employer has to mark accordingly the emails, stating clearly that the given email is controlled by the company. Marking computer or another device used for email service is not considered sufficient if the marking does not include the information that the email is controlled too (M. Kuba, 2020).

In addition, according to Article 222 §3 of the Labour Code of the Republic of Poland, the aims, scope and mode of the above mentioned form of monitoring have to be stated in the collective labour agreement or labour regulations or in message if the employer does not make collective labour agreements or is not obliged to set up the rules. Consequently, the employer has to define the aims of the monitoring, stating clearly the scope of controlling activity in the discussed area. Besides, the scale of monitoring and the data collected have to be defined. The scale of data has to be compliant with the aims of monitoring. Therefore, if getting information on the sender and receiver, date and time of sending and receiving and the topic of the message is enough, the company does not have to analyze the content of correspondence. However, the employee has to be informed that this specific data will be collected while making the controlling activity. The mode of monitoring as well as defining the ways of email controlling and its rules have to be the subject of agreement too. Particularly, the circumstances and the frequency of controlling have to be defined (M. Kuba, 2020).

According to the Article 22 §2 of the Labour Code (1974) the email monitoring cannot violate the secrecy of correspondence or the right for privacy of life (I. Sokolov, A. Sysoyev, & S. Gornostayev, 2005, 206 p.).

Although the term «correspondence» is associated with communication through letters, according to the decision of the European Court, the secrecy of correspondence covers all means of communication. A similar view is expressed by the European Court of Human Rights, pointing out that the term «correspondence» also applies to communication by electronic means, such as email (1997).

Without doubt, the employee's right to the secrecy of correspondence can be violated while using email for monitoring. Despite the fact that the law allows to control only work messages, there is a risk of finding private messages in the employee's work email.

As is underlined in the research, even though the employer forbids using work email for private conversations, when he finds the private correspondence of the employee who neglected that prohibition, the employer is not allowed to read the whole conversation (M. Kuba, 2016).

Therefore, as is shown in the legal literature, the law which forbids violation of the secrecy of correspondence is considered fully justified. From the point of view of business, such a prohibition bears a possible risk for the employer of being held responsible for the measures taken to ensure the company's safety. In order to avoid the non-deliberate violation of the employees' personal space it is advised to make the definition of the employees' private messages. However, the prohibition of using work email for private purposes is not an easy matter (1997).

A lot of polish laws impose sanctions for violation of the right for privacy and the secrecy of correspondence.

The sanctions for violation of the regulations on authorized monitoring of the employee, monitoring procedures and other requirements for the processing of personal data of the employee are specified primarily in the regulations of the Law on Personal Data Protection from 2018 (M. Kuba, 2016).

Besides, if the employee recognizes his personal rights violation or suffers from its consequences, he has the right to demand protection on the basis of the regulations of the Civil Code of the Republic of Poland (1974).

In general, the employee may also use his right to immediately quit the labour relations as for the serious violation of main obligations by the employer according to Article 55 part 1 of The Labour Code of the Republic of Poland (1974).

As was mentioned above, the secrecy of correspondence violation may even lead to the criminal responsibility as well as to violation of the Convention for the Protection of Human Rights and Fundamental Freedoms. However, in case of the given violation, the case will be viewed by the European Court of Human Rights and instead of the employer the responsible side will be the state.


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Let us look at the employee's work monitoring and intrusion in their right for the respect for private life. The usage of Law regulations which allow conducting monitoring, has to be done with regard to the necessity to balance these contradictory values and interests of both sides of labour relations. It means that monitoring as means of controlling employee has to include the need to respect the employee's personal rights, among them the right for personal life. The connected standards are set by the European Court of Human Rights in the Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which is a guarantee of the above mentioned right to respect for private life (in particular, judgments of 9 January 2018, 1874/13 and 8567/13, Lopez Ribalda and Others vs. Spain, LEX № 2418052 from 11.28.2017 p., 70838/13 Antović and Mirković vs. Montenegro; LEX №2398411; Grand Chamber judgment 05.09.2017 g., 61496/08 Bărbulescu vs. Romania, LEX №2347233; 03.04.2007 g., 62617/00 Copland vs. Great Britain, LEX № 527588 of 2 August 1984, 8691/79 Malone vs. Great Britain, LEX № 80974) (M. Kuba, 2016).

In this context, the judgment in Bărbulescu vs. Romania (Grand Chamber judgment of 5 September 2017, statement № 61496/08) deserves special attention.

Bohdan Bărbulescu, the citizen of Romania, on request of his employer created an account in a public messenger, which had to be used for communication with clients. While conducting monitoring on the content of messages, received by the employee, it was noticed that this messenger account is also used for the employee's private conversations. The employer broke the labour contract with Mr. Bărbulescu. The employee, in his turn, accused the employer of the unreasonable termination and the excessive intrusion in private life. Later, he handed the case to the court. The court agreed with the employer. In 2008 Bohdan Bărbulescu handed the case to the European Court of Human Rights stating that the Art.8 of Convention for the Protection of Human Rights and Fundamental Freedoms had been violated. The given article refers to the right to respect for family life, home and correspondence (1974).

The European Court of Human Rights made a claim that the employee's correspondence at work is covered by the concepts of «privacy» and «correspondence» and therefore the Article 8 of the Convention has to be applied.

The Court's idea was that the potential violation has to be looked at from the point of view of the state positive obligations. In the sphere of labour law, it had to be evaluated if the state was required to create the legal basis for the protection of employees' rights to the private life and correspondence in the context of their relations with the employer. The relations between the employee and employer are based on their mutual agreement. They include specific rights and obligations of both sides, which differ significantly from the generally accepted ones in the relations between individuals. From a legal point of view, labour legislation leaves space for the negotiations between both sides of a labour agreement. To conclude, the sides determine most part of their relations (2017).

The Court noted that regulating relations in this area could not be subjected to the unlimited freedom. National authorities must ensure that the measures implemented by the employer to monitor correspondence and other means of communication, regardless of their scope and duration, are accompanied by adequate and sufficient guarantees against abuse.

The Court stated that in the given context the following factors have to be taken into consideration:

– whether the employee was notified of the employer's ability to control correspondence and conduct monitoring. However, in practice employees can be notified in different ways depending on case circumstances. The Court recognizes that the implementation of such measures that meet the requirements of Art. 8 of the Convention, as a rule, requires that the notification clearly indicate the nature of the monitoring and is given to the employee prior to its conduct;

– the scope of monitoring and the degree of interference in the employees' private lives. In this regard, a distinction should be made between monitoring the flow of correspondence and its content. It should also be taken into account whether all correspondence was monitored, as well as whether monitoring was limited in time and how many people had access to its results;

– if the company has provided the justified reasons that excuse the monitoring of correspondence and knowledge of its actual content. In a situation where correspondence monitoring is an inherently more invasive method, it needs more serious justification;

– whether it was possible to create a monitoring system based on methods and measures that are less stringent than direct access to the content of employees' correspondence. It is necessary, given the special circumstances, to assess whether the goal of the enterprise can be achieved without direct access to the full content of the employee's correspondence;

– the consequences of monitoring for the employee and the way the company used the results of monitoring, in particular, whether or not it served to achieve its stated purpose;

– whether the employee used appropriate guarantees, especially when the employer's monitoring was strict. In particular, it should prevent access to the actual content of the correspondence in question, except in cases where the employee has not been notified of of monitoring before its conduction (2017).

The government has to ensure that the employee whose correspondence was tracked receives access to court under whose jurisdiction is possible to check to what extent the above mentioned criteria are kept to.

The European Court of Human Rights has to evaluate the method which the national courts applied when dealing with the employee's case about the violation of his right to private life and correspondence by the employer (2017).

In the given case, the Romanian courts paid attention only to the fact whether or not the employer revealed the content of correspondence to the employee's colleagues. The court stated that this argument is not sufficiently justified in the case materials and that the complainant did not provide any other proofs. Therefore, it considered that the application was related to the employee's dismissal as a result of monitoring conducted by the employer.

The European Court of Human Rights stated that in this case the Romanian court had to be more precise about whether or not the company used monitoring according to the Article 8 of the Convention and the complainant's right to the respect of his private life and correspondence was not violated.

Thereby, the task of the European Court of Human Rights is to establish, in all circumstances, the competent authorities. The courts have a good balance of competing interests in the event if monitoring is applied to the complainant. He acknowledged that the employer has a legitimate interest in the effective operation of the company, which can be done through the verification mechanism done to check that employees perform their professional duties properly and with due diligence (2017).

For this reason the Court made a decision to check how the national courts established the facts relevant to the given case. By studying this case, the Court had to determine if the national courts acted according to the regulations of the Convention.

The Court reminded that, regarding the factual findings, it was aware of the ancillary nature of its task and its obligation to exercise caution, assuming the role of the actual court, unless this was unavoidable. The court cannot replace the assessment of the facts set out by the national courts, as they must establish the facts on the basis of the provided evidence. However, while examining the case, the Court is not bound by the decisions of the national courts and is free to assess them in the light of all the materials submitted. Despite this, the convincing arguments are needed for the Court to depart from the factual findings of the national courts (2017).

The proof provided for the Court show that the employee was informed by

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the employer about the in-house regulations, which do not allow using company resources for personal needs. It confirmed reading the corresponding document and signing its copy on December 20, 2006. In addition, the employer sent a notice dated 26 June 2007 to all employees, reminding that the use of the company's resources for personal purposes was prohibited, and one employee was fired for violating this prohibition. The complainant read the notice and signed a copy on an unspecified date between 3 and 13 July 2007. The court also noted that on 13 July 2007 the employer twice requested a clarification for the use of official mail for personal purposes. Initially, when the employer showed him a list of his correspondence, the employee stated that he used the Yahoo Messenger account only in connection with work. Fifteen minutes later, when the employer showed him a 45-page correspondence with his brother and his fiancée, the employee accused the employer of violating the confidentiality of the correspondence (Ombudsman. Monitoring the employee's communications... , https://www.rpo.gov.pl).

According to the Court, the national courts correctly identified the parties to the dispute, clearly stating the applicant's right to respect for his private life, as well as the legal principles applied. In particular, the Court of Appeal referred directly to the principles of necessity, purpose, transparency, proportionality and security, and stressed that the monitoring of correspondence falls under these principles. The courts also examined whether disciplinary proceedings had taken place in an adversarial manner and whether the applicant could present his arguments.

It is left to decide how the national courts took into account the above criteria in determining the extent of the applicant's right to respect for his private life and correspondence against the employer's right to do monitoring, including his disciplinary rights, in order to ensure the effective functioning of the company.

As considering the fact if the applicant was previously informed by the employer, the Court stated that he claimed that he might not be informed about the scale and type of monitoring or about the fact that the employer might have had access to the content of his correspondence. The Court stated that, regarding to the possibility of conducting monitoring, the national court simply noted that «the employees noticed that one of their coworkers was fired before the reprimand of the applicant», and deduced that the applicant was warned against using company's resources for his personal purposes. National courts have not defined whether the applicant was previously informed about the fact that employer might conduct monitoring, its sphere and character. The Court agrees that for the message being viewed as a previous notice it has to be made before the monitoring, especially when it covers the access to the employees' correspondence. The international and European standards are developing in this direction, demanding from the employer to inform the subject of monitoring beforehand.

With regard to the scope and extent of the violation of applicant's privacy, the Court noted that this issue had not been considered by the court, although the employer seemed to have registered the whole applicant's correspondence during the monitoring period, had access to it and copied its content (Ombudsman. Monitoring the employee's communications... , https://www.rpo.gov.pl).

It also appears that the courts did not sufficiently assess the legitimate reasons that justify the monitoring of the applicant's correspondence. No specific goal that could justify such strict monitoring is mentioned. It is only stated that there is the need to ensure that the company's IT systems are not damaged, its responsibility in the event of illegal activities in cyberspace and the disclosure of trade secrets of the company. However, the Court considers that these examples can only be viewed as theoretical, as there is no indication that the applicant actually exposed the company to this type of risk (Ombudsman. Monitoring the employee's communications... , https://www.rpo.gov.pl).

Moreover, the national courts did not determine whether the employer's aim could be reached the measures less heavy than the access to the employee's correspondence. In addition, none of the courts viewed the consequences of

monitoring on further disciplinary proceedings. The Court stated that the applicant was given the strictest punishment which was his dismissal (Ombudsman. Monitoring the employee's communications... , https://www.rpo.gov.pl).

The courts did not define if the employer had a real access to the employee's correspondence when he urged the applicant to explain the use of company's resources. The courts did not define where exactly when in the disciplinary proceeding the employer reached the content of correspondence. Accepting the possibility of access to the content of correspondence at any stage of disciplinary proceedings was against the principle of transparency. For these reasons, the finding of the national courts to maintain the right balance of interests was controversial. This statement seems to be an expression of a purely formal and theoretical approach. The national courts did not explain, given the circumstances, the specific reasons concerning the applicant and his employer which led him to such a conclusion.

Therefore, it appears that the courts were unable to establish whether the applicant had been notified in advance by the employer of the possibility of monitoring his correspondence with Yahoo Messenger; they also did not take into account that he was not informed of the extent of the intrusion into his private life and the secrecy of the correspondence. In addition, they did not identify specific reasons that justified the monitoring; whether the employer could have used means less restrictive of the applicant's privacy and correspondence, and whether the applicant's correspondence could be accessed without his awareness.

For all these reasons and despite the freedom of assessment of the facts by the national courts, the Court considered that the applicant had not been adequately protected by his right to respect for private life and correspondence and had not struck the right balance between the parties' interests. Thus, the Article 8 of the Convention was violated (2017).

**Conclusions.** Although the regulations discussed in the given article have to prevent the violation of the right to privacy and confidentiality of correspondence, they are mostly reduced to the fact that employers do not read private correspondence sent by an employee from a business email address. However, practically, it is not that simple. The employer may accidentally open the private correspondence. The other thing is that the work email has to be used only for correspondence connected with work. The employees have to remember not only about the guaranteed confidentiality of correspondence and the right to respect for private life, but also the fact that the company has the right to protect the secrecy of the company, which the employee is prohibited to disclose. Employees should be aware of this, as well as of the fact that the employer will take measures to ensure the company's information security, which requires control and monitoring of employees.

*Conflict of Interest and other Ethics Statements*

The authors declare no conflict of interest.

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## КОНТРОЛЬ СЛУЖБОВОЇ ЕЛЕКТРОННОЇ ПОШТИ ПЕРСОНАЛУ ЯК ЗАСІБ ІНФОРМАЦІЙНОЇ БЕЗПЕКИ ПОЛЬСЬКОГО ПІДПРИЄМСТВА

**Анотація.** Інформаційне право − це відносно молода галузь права, предметом якої є інформаційні відносини, що виникають у процесі обігу інформації. За останні роки сформувався великий обсяг законодавчих актів, що регулюють інформаційну сферу, зокрема сферу інформаційної безпеки та захисту інформації. Права людини в інформаційному суспільстві забезпечуються міжнародними правовими актами, що стосуються інформаційних прав особистості. Важливим аспектом інформаційної діяльності держави є ієрархія пріоритетів, серед яких на першому місці стоїть міжнародне право, на другому – національне законодавство, а вже далі − підзаконні акти, які не повинні суперечити міжнародному та національному законодавству. У статті досліджується проблема забезпечення інформаційної безпеки підприємств Польщі, одним з напрямків якої є контроль службової електронної пошти персоналу підприємств. В статті проаналізовані правові зобов'язання підприємств щодо контролю службової пошти своїх працівників та право на повагу до приватного життя. Розкрито питання санкцій за порушення конфіденційності кореспонденції та права на повагу до приватного життя. Авторами проаналізовано наукові праці з питань правового забезпечення інформаційної безпеки підприємств та констатовано, що в разі контролю службової електронної пошти персоналу роботодавець повинен керуватися такими принципами: принципом необхідності; принципом захисту гідності та особистих прав персоналу; принципом свободи та незалежності профспілок.

В статті представлений моніторинг роботи персоналу та втручання в їхнє право на повагу до приватного життя. Використання положень Закону повинно здійснюватися з урахуванням необхідності збалансовувати ці суперечливі цінності та інтереси обох сторін трудових відносин. А це значить, що моніторинг, як вид контролю роботодавця, повинен враховувати потребу поважати особисті права працівників, включаючи право на приватне життя.

***Ключові слова:*** *інформаційна безпека, приватне життя, санкції, Європейський суд, право, Трудовий кодекс*

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