Aspects of data protection in employment relationships

The protection of personal data has become increasingly important in pace with the development of information technology. Several international documents have been adopted to regulate this area. The use of cameras at working places is often associated with the idea of big brother. Cameras allow to record and provide information, which may be very accurate. The purpose of this Questionnaire is to provide an overview on how camera surveillance (video recording) is treated in the legal systems of the participant countries.

1. Are there explicit legal provisions concerning camera surveillance especially at working places? Are there collective agreements defining the circumstances and conditions for the introduction and use of camera surveillance?

*In Finland the legal provisions concerning camera surveillance are Act on the Protection of Privacy in Working Life (759/2004), Personal Data Act (523/1999) and The Criminal Code.*

2. Is it obligatory for the employer to define the purpose of the use of camera surveillance? Is this bound to certain purposes (for instance security and safety, the protection of the property of the enterprise, the control of production process, the control of the performance of the worker….). Is it allowed to use camera surveillance for the surveillance of a certain employee or certain employees at the workplace? Is camera surveillance allowed in toilets, dressing rooms or staff rooms?

*The employer may operate a system of continuous surveillance within his premises based on the use of technical equipment which transmits or records images (camera surveillance) for the purpose of ensuring the personal security of employees and other persons on the premises, protecting property or supervising the proper operation of production processes, and for preventing or investigating situations that endanger safety, property or the production process.*

*Generally it is not allowed to use camera surveillance for the surveillance of a certain employee or certain employees at the workplace. The camera surveillance is not allowed in toilets, dressing rooms or staff rooms.*
Notwithstanding mentioned above the employer may, however, direct the camera surveillance at a particular work location in which employees are at work if the surveillance is essential for:
- preventing an apparent threat of violence related to the work of the employee or an apparent harm or danger to the employee’s safety or health,
- preventing or investigating property crimes if an essential part of the employee’s work is to handle property of high value or quality, such as money, securities or valuables, or
- safeguarding the employee’s interests and rights, where the camera surveillance is based on the request of the employee who is to be the subject of the surveillance and the matter has been agreed between the employer and the employee.

3. To whom are the sequences available.

Usually the employer has the right to use sequences.

4. How long are they stored.

Recordings shall be destroyed as soon as they are no longer necessary for achieving the purpose of the camera surveillance, and no later than one year after the end of the recording. A recording may, however, be stored after this deadline if it is needed for completing the processing of a matter concerning matters of that is emerged for investigation before the end of the maximum storage period or if the employer needs the recording to substantiate the appropriateness of terminating an employment relationship, or if there is some other special reason for keeping the recording.

5. Is there an obligation to inform employees if camera surveillance is installed?

After the cooperative and consultative procedures with the representatives of employees, employees are informed of when the camera surveillance will begin, how it will be implemented, how and in what situations any recordings would be used and the locations of the cameras if the camera surveillance is directed at a particular work location in which employees are at work.

Do the use of camera surveillance require the consent of the employees?

The cooperative and consultative procedures with the representatives of employees are required.

6. Is there an obligation to inform the works council or trade unions about the introduction and the use of camera surveillance?

Is there an obligation to have an agreement with the works council or trade unions defining the circumstances and conditions for the introduction and use of camera surveillance.

See answers 5 and 6.

7. Has the employer (controller, who uses electronic technology to process personal data) the duty to notify the processing to the Data Protection Authority or another authority? Do employers need a permit from the Authority before he can set up the
camera? What are the conditions for the Permission for camera surveillance? Has the Data Protection Authority the authority to impose changes in order to make the processing or the surveillance satisfy the requirements of the law?

See answer 2.

The use and other processing of recordings of people obtained through surveillance is planned and performed with due consideration to the provisions of sections 5-7, 10 and 32-34 of the Personal Data Act. Before making recordings the employer as a controller needs draw up a description of the personal data file, indicating the name and address of the controller and, the purpose of the processing of the personal data, a description of the principles in accordance to which the data file has been secured. The controller shall keep the description of the file available to anyone. This obligation may be derogated from, if necessary for the protection of national security, defence or public order and security, for the prevention or investigation of crime, or for a supervision task relating to taxation or public finances.

The use of camera surveillance is supervised by the occupational health and safety authorities together with the Data Protection Ombudsman.

8. What are the consequences of a failure to comply with the rules on camera surveillance (for instance punishment; liability to pay damages; works council or trade unions or worker can demand the control measures to be stopped and the prior situation to be restored….)?

An employer or his representative who deliberately or out of gross negligence introduces camera surveillance or violates the provisions of the transparency of camera surveillance contrary to provisions, shall be sentenced to a fine for violating the Act on the Protection of Privacy in Working Life, unless a more severe penalty is provided elsewhere in the law.

The penalties for a personal data file offence, computer break-in, illicit viewing, eavesdropping, message interception, violation of a confidentiality obligation, and an offence in public office are laid down in the Penal Code.