

**ARTICLE 29 WORKING PARTY<sup>1</sup> ONLINE CONSULTATION ON THE  
PROCESSING OF PERSONAL DATA BY MEANS OF VIDEO SURVEILLANCE:  
VIDEO SURVEILLANCE IN THE EMPLOYMENT CONTEXT**

**Comments**

1. UNICE welcomes the possibility offered by Article 29 Working Party (hereafter 'the Working Party') to comment on the issue of processing personal data by means of video surveillance. UNICE believes such consultations are a step in the right direction for further cooperation and understanding between public authorities and interested parties<sup>2</sup> regarding the protection of personal data.
  
2. As a basis for consultation, the Working Party refers to a working document it adopted on this issue on 25 November 2002<sup>3</sup>. **The comments below deal exclusively with section 8 of the afore-mentioned working document, entitled "Video surveillance in the employment context".**
  
3. The working document expresses the view that "*(...) it is appropriate to point out that video surveillance systems aimed directly at controlling, from a remote location, quality and amount of working activities, therefore entailing the processing of personal data in this context, should not be permitted as a rule*". UNICE believes that a recommendation from the Working Party should not contain a negative principle which may constitute a hindrance for employers to establish video surveillance systems in order to implement quality control and safety measures in a production process. In general, instruments of remote surveillance are appropriate for monitoring production quality, essential for business competitiveness.

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<sup>1</sup> The Article 29 Working Party was set up under Article 29 of Directive 95/46/EC and is an independent European advisory board composed of European data protection Commissioners. The secretariat is provided by the European Commission, Internal Market Directorate-General, Directorate E. More information is available at the following website: [http://europa.eu.int/comm/internal\\_market/privacy/workinggroup\\_en.htm](http://europa.eu.int/comm/internal_market/privacy/workinggroup_en.htm)

<sup>2</sup> See UNICE preliminary comments on the implementation of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data of 24 October 1995; paragraphs 10-13; 30 August 2002, available at the following link: [www.unice.org](http://www.unice.org)

<sup>3</sup> "Working Document on the Processing of Personal Data by means of Video Surveillance", adopted on 25 November 2002 by Article 29 Working Party, 11750/02/EN, WP 67. The full text is available at the following link: [http://europa.eu.int/comm/internal\\_market/privacy/workinggroup/wp2002/wpdocs02\\_en.htm](http://europa.eu.int/comm/internal_market/privacy/workinggroup/wp2002/wpdocs02_en.htm)

4. Furthermore, video surveillance assists employers in meeting their responsibilities, in particular deriving from health and safety legal regulations<sup>4</sup>. Video surveillance is a useful tool both for the employer and the employee because it contributes to the correct handling of equipment, preventing accidents and reducing the consequences when accidents happen.
5. Video surveillance is also an effective tool to prevent damages like thefts committed by a third person that may affect not only employers, but also employees. Therefore, continuous video surveillance should be permitted also for protecting property, even if this entails distance monitoring.
6. The working document indicates the opinion according to which “*the images collected exclusively to safeguard property and/or detect, prevent and control serious offences should not be used to charge an employee with minor disciplinary breaches*”. UNICE is of the opinion that this implied distinction between serious offences and minor disciplinary breaches and the material proof which may be used to substantiate a claim against such wrong-doings is artificial and confusing. Preventing employers from pursuing such breaches because of a lack of proof excluding such images is an unreasonable demand. Furthermore, the determination of which proof is admissible in a court of law shall depend on the national legal system.
7. It is further advocated in the working document that information about video surveillance must be “*given to employees and every other person working on the premises*”. UNICE supports the idea of informing employees of existing or possible video surveillance. Nevertheless, there may be cases in which secret video surveillance is inevitable to prevent considerable damage to enterprises. This is especially true when controlling criminal activities. Member States legislation combined with the relevant case law lay down safeguards and provide for a high level of protection of workers personal data.
8. UNICE believes that the above comments conform to current practice and the International Labour Office protection of workers’ personal data code of practice<sup>5</sup> and hopes that the Article 29 Working Party will take them into account if it decides to adopt a recommendation on this issue.

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<sup>4</sup> See UNICE’s reply to Commission’s second-stage consultation on the protection of workers personal data, 6 January 2003, available at the following link: [www.unice.org](http://www.unice.org)

<sup>5</sup> Protection of workers’ personal data. An ILO code of practice, 1997, section 6.14, p. 4. Available in PFD format at the following link: <http://www.ilo.org/public/english/protection/safework/cops/english/download/e000011.pdf>