



New limits to the remote monitoring of workers' activities at the intersection between the rules of the Statute and the privacy Code.

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1. Foreword.

After over forty years in existence, the rules prescribed by Art. 4 of the Workers' Statute concerning the *remote monitoring of workers' activities* have been modified by Art. 23 of Legislative Decree No. 151/2015, as part of a broad intervention of reform of the labour market labelled as the “Jobs Act”.

The aforementioned statutory provision is certainly among those most requiring an update; in the case of Art. 4 made necessary by the need to “keep it up with the times”, adapting its contents to the technological progress undergone by our society over the decades that separate us from the period of its introduction.

Indeed, it is sufficient simply to skim over the debate among scholars, and especially the jurisprudence that has accumulated on the provision in question in the current millennium, to notice how societal advances in information technology have required that rules are taken from the Workers' Statute Art. 4 to be applied to subject matter that the legislator of 1970 could not have begun even to imagine.

Over the past decades in fact it was necessary to assess, on the one hand, which of the new instruments produced by technological progress suitable for performing the remote monitoring of workers' activities fell within the scope of the Workers' Statute Art. 4 and, on the other, whether and with what methods it was possible to monitor the use of those same instruments by workers.

Confronted with the need to regulate phenomena different from those for which it was drafted, however, Article 4 has been shown to be unsuitable for achieving a reasonable compromise between the interest of the employer to check the use by the worker of new company technological instruments, and the need to protect the dignity and privacy of the same worker.

In the attempt to deduce the main reasons for the aforementioned unsuitability from the history of the application of Art. 4, it is possible to identify at least three of these, and it is useful to make the reasons explicit in order to understand the innovative meaning and scope of the new provision introduced by Legislative Decree no. 151/2015.