



# New technologies and powers of control of workers for the employer in Spain.

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## 1. New technologies in labour relations: an overview.

The assertion that for some time already, information and communication technologies are an indispensable tool in the organisation of labour, as well as in many other areas, is certainly not new. Without a doubt, we are witnessing a growing implementation (and innovation) of the workplace technologies needed to reduce costs and increase labour productivity. A process of technologization of labour is underway that affects and changes the dynamics of production (increasingly characterised by atypical forms of work and flexible contractions of working hours), the management and organisation of the enterprise, and staff recruitment.

The executive power finds in these new technologies a key tool to improve the effectiveness of work organisation and the productivity of workers, expanded by the use of work tools adapted to the new technologies. However, the process of general technologization that we are witnessing produces not only benefits, because the heavy use of technological devices in the enterprise can generate issues of not insignificant importance. As has been argued in legal theory (1), the misuse of work technological tools by the employee can cause various kinds of economic damage for the employer, *lucrum cessans*. On the one hand, it could measure the time that the employee takes off from the proper carrying out of his work performance to dedicate it, during working hours, to personal matters separate and alien with regard to the employee's own work; on the other hand, there is a risk that the improper use of company technological tools compromises the security, image and competitiveness

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(1) RODRÍGUEZ ESCANCIANO, S.: *Poder de control empresarial, sistemas tecnológicos y derechos fundamentales de los trabajadores*, Tirant lo Blanch, Valencia, 2015, págs. 14 y 15.

of the enterprise in the event that confidential data are disseminated outside the work environment. In such cases the problem, not easy to fix and a harbinger of court submissions, is how far employer control can extend and what limits can be imposed on it in situations where the risks described above clearly present themselves. In fact, the evolution of technology enables new methods of simultaneous control and facilitates the collection and processing of data and information, both through computer tools made available to workers, and by advanced systems of video surveillance, from which employers can reconstruct professional and personal profiles of their workers. For these reasons, the traditional Fordist system methods of supervision and control, characterised by personal supervision of the worker and the direct and immediate recording of the execution of work, are now to be considered left behind, as the most modern information technologies allow a permanent, incisive, exhaustive and general control over the entire life of the worker (2). In this sense we can affirm that the new forms of control enabled by information technology remodel the executive power of the entrepreneur as they are able to provide the entrepreneur with a supervisory ability much more extensive in terms of space and time, and a data collection system suitable for capturing even information alien to the work context. Precisely for this reason the affirmation of whomever it was in legal theory who spoke of a work dimension of Orwell's Big Brother prophecy does not surprise (3).

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(2) GOÑI SEIN, J L.: *El respeto a la esfera privada del trabajador: un estudio sobre los límites del poder de control empresarial*, Civitas, Madrid, 1988, pág. 147.

(3) TASCÓN LÓPEZ, R.: "El lento (pero firme) proceso de decantación de los límites del poder de control empresarial en la era tecnológica", *Aranzadi Social*, núm. 17, 2007.