



Termination of a Compliance Manager in regards to monitoring measures

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GRP Rainer Attorneys and Tax Accountants in Cologne, Berlin, Bonn, Bremen, Düsseldorf, Essen, Frankfurt, Hamburg, Hanover, Munich, Nuremberg, Stuttgart and London www.grprainer.com/en explain: In a judgment from February 18, 2010 (file no.: 38 CA 12879/09), the Labour Court in Berlin decided that the dismissal of a compliance manager should be permitted, if the compliance manager acted unlawfully and also knew of the unlawful actions. In such a case as this, the burden of proof is carried by the employer, if the compliance manager had had no legal training or other employees had also had no reservations about the actions of the compliance manager or had not verbally reported such actions.

An employee in this particular case would be required to provide explanations in such regard that the compliance manager would have been able to better recognize his or her own actions could not have been lawful without legal training better than fellow employees, as is the case for most surveillance measures.

In any case, termination due to reasons as a result of behaviour is not alone justified if the privacy policies of the compliance manager in question, or other legal requirements in effect upon the introduction of such monitoring measures, have not been violated. Namely, the prevention of violations of current laws, inter alia, and in particular the avoidance of criminal violations by the company's employees belong to the rights and responsibilities of a compliance manager.

Accordingly, a compliance manager is probably responsible to prevent possible damage to the company, so that in the case that there is suspicion of a crime, the introduction of surveillance monitoring appears by no means to be out of the question in such regard.

The area of compliance is becoming an increasingly important one due to the increasing number of violations. Above all, it is important, however, to consider that a violation of criminal law may occur as a result of a review of data.

In the event of infringements in the area of compliance, an attorney specialized in labour law and criminal law should be consulted, who can check your case extensively and thoroughly according to the specifics of the case.

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Anlage: Bild

