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Israel: Court Addresses Employee's Right to Workplace Privacy

On March 26, 2025, Israel's National Labor Court issued a decision clarifying when an employee can expect a right to privacy at the workplace. The case involved an employee who resigned from her job because her employer placed security cameras near her workstation. The court rejected the employer's appeal of a regional labor court ruling that the employee had a right to severance pay under the circumstances. (Labor Appeal [41179-01-24 Friedman v. Elkaner](#) (National Labor Court, 03/26/2025).)

Background

The employee (the respondent) worked at her employer's workplace for 18 years. She claimed the employer installed two surveillance cameras, one behind her workstation and the other in front of it, in a manner that photographed her workstation 24 hours a day. She claimed this constituted a tangible deterioration in the conditions of her employment in accordance with section 11(a) of the [Severance Pay Law 5723-1963](#).

Under section 11(a), when determining eligibility for severance pay, the resignation of an employee is considered a dismissal when it is "due to a tangible deterioration in working conditions, or due to other circumstances in the employment relationship with respect to that employee in which [the employee] is not required to continue working."

The employer said the installation of the cameras stemmed from an allegation of sexual harassment by an employee, who was subordinate to the respondent, against another employee of the company. Since an investigation of the complaint was inconclusive, the employer decided to deploy nine security cameras throughout the workplace.

The Isakov Case

According to the court's decision by Court President Varda Wirth Livne, the rules that apply to an employee's right to privacy in the workplace derive from the leading decision in the [Isakov](#) case. That 2011 opinion discusses the legality of employers' penetration into, and use of information obtained from, employees' e-mail boxes.

According to [Isakov](#), the principles that govern the balancing of an employee's right to privacy against an employer's property and managerial rights require employers to formulate a clear policy and code of

[Skip to main content](#) ees only for essential work-related purposes; apply less-intrusive means to the extent

possible; collect information only for the purpose for which it was permitted; and ensure the policy is communicated to employees in a clear and transparent manner. (*Isakov*, para 60.)

Under Israel's [Protection of Privacy Law 5741-1981](#), photographing a person in his or her private domain constitutes an infringement of privacy. Additionally, a directive issued by Israel's Authority for Privacy Protection on October 17, 2017, addresses privacy at the workplace. Directive No. 5/2017, [the Use of Surveillance Cameras in the Workplace and in the Framework of Employment Relations](#), provides:

the starting point is that the right to privacy is intended to protect a person's privacy and not the privacy of the place, and therefore, the "private domain" in which increased protection of a person's privacy is granted – is not determined solely by the ownership or possession of the subject of the right in a particular place. "Private space" accompanies a person in his/her workplace as well, to a scope that varies according to the employee's legitimate expectation to privacy in various areas of the workspace. The expectation criterion is dynamic and is naturally examined not only from the employee's subjective point of view, but also from an objective viewpoint.

... The employer's managerial prerogative to decide on the use of surveillance technologies in the workplace is subject to the requirements of reasonableness, proportionality, good faith and fairness. (Directive, paras. 12-13.)

The Court's Decision

In the Labor Court's recent decision, Livne notes that the directive:

emphasizes that disproportionate use of cameras in the workplace constitutes a violation of the Protection of Privacy Law. This type of violation has administrative, criminal and civil ramifications. In the field of labor law, this violation finds particular expression where the disproportionate use of cameras may constitute a circumstance in an employment relationship in which the employee should not be required to continue his work "which, in accordance with section 11(a) of the Severance Pay Law, 5723-1963, grants the employee the right to receive compensation even as a result of resignation on his own initiative." (Labor Appeal 41179-01-24, para. 64.)

Based on an examination of relevant Israeli and comparative law, Livne concluded that the consideration of an employee's right to privacy at the workplace should be governed by the following principles: legitimacy; relevancy; proportionality; proper process (relating to the ability of the employee, or union, where applicable, to express reservations about policies); consent; and transparency. The application of these principles varies from case to case according to the circumstances of the cases and the legal questions deriving from them. (Paras. 81-82.)

In the case at hand, Livne accepted that the employer had installed the security cameras for legitimate reasons, namely, to prevent incidents of sexual harassment or, alternatively, to document such incidents if they occur. The employer, however, did not inform the respondent before the cameras were installed and denied her request to remove them. By refusing to move the cameras, or at least to examine the respondent's request, the employer acted disproportionately in a way that clearly caused harm to the respondent.

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Livne concluded that "the installation of cameras in which the workstation of an employee who has been employed for such a long period of time is filmed is a significant violation of her employment conditions, and at the very least constitutes a change in circumstances for which she could not have been expected to continue in the workplace." (Para. 109.)

In the absence of consent by the respondent, Livne held, "the very placement of the cameras should indeed be seen as a tangible deterioration in the conditions of her employment," and she should qualify for severance pay in accordance with the Severance Pay Law. (Paras. 110-111.)

Ruth Levush, Law Library of Congress
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