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European Court of Human Rights: Monitoring an Employee's Office Communication Account Breached His Right to Private Life

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The European Court of Human Rights ("**ECHR**") recently held that an employer's monitoring of an employee's office communication account violated his right to private life, granted under Article 8 of the European Convention on Human Rights ("**Convention**").

The employee was dismissed in 2007 on the basis he had been using an office communication account for personal purposes. The employee filed a complaint before Romanian courts, claiming the dismissal violated his right to private life. The domestic courts ruled in favour of the employer, so the employee filed an application to the ECHR, contending that the court had not struck a fair balance between the interests at stake.

The ECHR recently decided that the employee's communication contents fell within the scope of "private life" and "communication", as referred to under the Convention. The ECHR concluded that the national authorities had not adequately protected the employee's right to respect for his private life and correspondence. They had consequently failed to strike a fair balance between the interests at stake.

According to the ECHR's decision, the domestic courts should have considered a number of factors when rendering their decision, including:

- Whether the employee has been clearly informed about the possibility of monitoring.
- The nature or extent of the monitoring.
- Whether the employer had legitimate reasons to justify monitoring and accessing all contents.
- Whether less intrusive methods would have been sufficient for the purposes.
- The consequences of the monitoring for the employee.

Please see this link for the full text of the ECHR's decision in Bărbulescu v. Romania (61496/08).

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