

Athens, 30-12-2019 Prot. No.: 9097/30-12-2019 HELLENIC REPUBLIC PERSONAL DATA PROTECTION AUTHORITY A P
O F A S I NO. 48/2019 (Department) The Personal Data Protection Authority met in composition Department at its
headquarters on Wednesday, July 24, 2019, upon the invitation of its President, in order to examine the case referred to in the
present history. Georgios Batzalexis, Deputy President, in the absence of the President of the Authority, Constantinos
Menoudakos, and the alternate members Panagiotis Rontogiannis as rapporteur, Evangelos Papakonstantinou and Grigorios
Tsolias to replace the regular members Antonios Symvonis, Konstantinos Lambrinoudakis and Charalambos Anthopoulos,
who although elected legally in writing, they did not attend due to disability. The meeting was attended, by order of the
President, Ioannis Lykotrafitis, expert scientist - auditor as assistant rapporteur and Irini Papageorgopoulou, employee of the
Administrative Department of the Authority, as secretary. The Authority took into account the following: Complaint number
C/EIS/1889/25-03-2016 was submitted to the Authority, as it was supplemented by letter number C/EIS/1890/25- 03-2016
document, from the Workers' Union of PLAISIO COMPUTERS ABEE, according to which, among other things, cameras have
been installed and are operating in places such as the company's warehouses and the call center in violation of the principle of
proportionality, while the system is being used video surveillance in the company's stores for the purposes of monitoring and
excessive surveillance of staff. 1-3 Kifissias St., 11523 Athens, Tel.: 210-6475600, Fax: 210-6475628, contact@dpa.gr,
www.dpa.gr Specifically, it is complained that within the warehouses at the company's headquarters at the location ... Φ, in the
company's call center in X, but also in the company's stores in general, the cameras monitor the workers, recording image and
sound. Also, the cameras do not focus on machines, while in the shops the employees are obliged at hours inaccessible to the
public to carry out the receiving-dispatching tasks under specific cameras, so that their work can be checked. Finally, the
Union complains that in the relevant question it submitted to the company regarding the video surveillance system (a copy of
which was submitted to the Authority with document no. prot. C/EIS/1890/25-03-2016) it only received verbal responses
general clarifications. Subsequently, the Authority, in the context of investigating the complaint, with document No.
C/EX/1889-1/15-04-2016, informed the data controller about the conditions of No. 1/2011 Directive of the Authority for the legal
operation of video surveillance systems and requested clarifications on the complaint. In particular, he informed the company
that, since the legality conditions set out in the aforementioned Directive are not met, it should immediately take the necessary
actions (proper adaptation or uninstallation of the system in question). Finally, he asked the company for sample images
(photos) from the cameras mentioned in the complaint. The data controller responded with document No.

G/EIS/3920/21-06-2016, in which it states that the purpose of the processing is to protect persons and/or goods traded in its stores and facilities, and therefore has a legitimate interest, given that it markets, among other things, high-tech products that, due to their value, are the target of malicious actions. Also, the company states that there is no audio processing and there is no video surveillance system in either the company's call center or its headquarters, as alleged. In particular, the company states that cameras operate: in the cash registers of the company (stores and central), in the reception area of the administration department, where an image is taken only from - - the point of the entry-exit door, - loading and unloading of goods (truck ramps), - in the internal entrances-exits between the departments, i.e. in the doors that separate the individual departments in which the central facilities in Φ can be distinguished, facilities and in the entrances-exits points in the central of 2 in the emergency exits, in the warehouse department for the protection of the high value of goods and not from corridors, stairwells, offices or other common areas, - - kept there, - in the assembly department to protect the high value goods being moved and the high value equipment there. The shooting angle of the cameras there is such that it does not focus on the faces of the workers who are employed or passing by (wide-angle shooting), and - on the perimeter of the building facilities. Finally, with said document he provides a sample image from the cameras of the company's central facilities in F (127 cameras), the call center in X (7 cameras), and the furniture showroom in X (4 cameras), which space is noted as operating as a storage space where no staff is employed. Subsequently, the Authority, with document No. C/EX/4067/23-05-2017, invited the company to provide additional clarifications, and in particular to clarify the following: A. Regarding the cameras in the assembly department, whether it has been examined whether the intended purpose of the processing of these cameras can be achieved by less burdensome means or in another milder way, without affecting the fundamental freedoms and rights of workers. B. With regard to video surveillance systems in stores, to clarify whether the maintenance/service area in a typical store is covered by cameras and whether customers also have access to this area. In the event that cameras operate in this area, whether it has been examined whether the intended processing purpose of these cameras can be achieved by less burdensome means or in another gentler way. The controller submitted the memorandum No. G/EIS/7698/25-10-2017. In this he reiterates that for all the cameras that operate, all the conditions for their legal operation are met. In particular, for the assembly department, where the area is also an area for checking orders and closing boxes, alternative methods/ways have been considered (ie, control by the shift supervisor, weight control of the packages containing the orders, use of electronic means – RFID, methods he presents in detail), but proved insufficient without the combined use of cameras for reasons he

cites. The company also emphasizes that the cameras only take images of the products placed inside the parcels to be shipped. For the maintenance/service area in the stores, the camera focuses from the 3 counter and backwards, while the intended purpose cannot be achieved with alternative, milder means, the company states, due to the increased volume of work, as well as certain peculiarities in the delivery devices for repair/maintenance. Essentially the camera footage is used to prove the equipment delivered as well as the materials used during the repair/maintenance process. The company "PLAISIO COMPUTERS ABEE" was legally summoned, with the Authority's document No. C/EX/2626/03-04-2018, to a hearing before the Authority at the meeting of 04-18-2018, as data controller, to provide further clarifications and to thoroughly present her views on the above. A corresponding summons to a hearing before the Authority was notified to the Employees' Union with document No. C/EX/2627/03-04-2018. The representatives of the data controller and the Union attended the aforementioned meeting of the Authority. After the meeting, the controller was given a deadline to submit a memorandum, which he submitted, within the set deadline, with document No. C/EIS/3181/24-04-2018. Accordingly, the Union also filed a memorandum with document No. C/EIS/3085/24-04-2018. In its above memorandum, the company mentions, among other things, the following: the video surveillance system is used exclusively for security purposes, - and not for personnel evaluation and/or monitoring of their productivity. only the Director of Internal Control has access to the material, and in fact - this access is only possible through the computer connected to the camera recorder, which is located in a separate room. - the identification of the employees in the area of the assembly department is possible only if the employee in question addresses the Personnel Department, with a relevant written request, and asks for the names of the employees who were on shift at a specific time. The camera also only records their hands, not their face, the company says. - cashier. - in the previous document. there is no specific policy for the use of the video surveillance system. The reason mentioned is that until today Directive No. 1/2011 of the Authority was being applied. In the context of compliance with the General Data Protection Regulation 2016/679 (from now on the cameras in the service area are necessary for the reasons listed regarding the camera in the restaurant, it does not record sound and focuses on 4 GDPR), the company states that it will draw up a relevant special policy. - access logs on the computer where the recording material is stored do not exist. This will be reviewed in light of GDPR obligations. - the contribution of the video surveillance system in question is important in limiting the financial damage suffered by the company as a result of illegal acts. Specific figures are listed, from which it appears that in 2010 the damage from hardware theft doubled, so in 2011 they decided to put cameras into operation in the stores, and a strict policy of stock taking on a daily basis

was implemented, achieving a dramatic reduction in financial damage. - as a sign of goodwill and to provide the necessary assurances to the staff about the cameras and their use, the CEO has called the workers' representatives to a meeting. In its memorandum, the Union mentions, among other things, the following: the cameras are installed in all areas of the central warehouse in - F. - there has been a verbal briefing in 2016, following the Union's request, on the matter of the cameras, but not written. They have not been told where the tracking unit is and who has access to it. - the increase in thefts during the first period of operation of the warehouses in T, is due to mistakes made by the company during the setup of the warehouses, such as not creating separate special security areas for expensive and small-sized products. - cameras are used to monitor productivity. Attached are data from which it appears that in the period 2011-2014 the dismissals for the F store amounted to 119. The Authority, after examining all the elements of the file, after hearing the rapporteur and the clarifications of the assistant rapporteur, who left after discussion and before the conference and decision-making, and after thorough discussion, CONSIDERED ACCORDING TO THE LAW 5 1. According to article 2 par. a' of Law 2472/1997 and recitals 14-17 in the preamble of Directive 95/46/EC, audio and video data, as long as they refer to persons, constitute personal data. 2. The storage and transmission of an image of a person, which is collected by a video surveillance system, which operates permanently, continuously or at regular intervals, in a closed or open area of gathering or passage of persons, constitutes processing of personal data and in fact fully or partially automated in the sense of articles 2 par. d' and 3 par. 1 of Law 2472/1997. 3. According to article 4 par. 1 of law 2472/1997, a basic condition for the legality of the processing of personal data is the observance of proportionality, in the sense that the collected data must be necessary and appropriate for the intended purpose, the which should not be able to be achieved by milder and equally effective means. The data subject must be informed by the data controller in advance of the collection and the impending processing in the context of no. 4 par. 1 sec. a' n. 2472/1997 obligation for legitimate collection and processing, which is borne by the data controller under no. 4 par. 2 of Law 2472/1997. Furthermore, the processing of image data through a video surveillance system, for the purposes stated by the controller, can only be based on the provision of no. 5 par. 2 e' of Law 2472/1997 "The processing is absolutely necessary for the satisfaction of the legal interest pursued by the data controller or the third party or third parties to whom the data is communicated and on the condition that this clearly overrides the rights and interests of the persons to whom the data refer and their fundamental freedoms are not affected". 4. According to article 5 of no. 1/2011 of the Authority's Directive on the use of video surveillance systems for the protection of persons and goods, the legality of the processing is examined in the context

of the purpose pursued by the controller and in accordance with the principle of proportionality, which requires video surveillance systems to be convenient and necessary in relation to the intended purpose, which should not be achieved by milder means (articles 4 and 5 of Law 2472/1997). The affordability and necessity of video surveillance is assessed based on the risk that the controller wants to face in relation to the intended purpose. Furthermore, the installation points of the cameras and the way of receiving the data must be determined in such a way that the data collected is no more than is absolutely necessary to fulfill the purpose of the processing and the fundamental rights of the subjects are not affected. of persons present in the area being monitored and in particular not to violate what can be considered as a "legitimate expectation of a certain degree of privacy protection" in a specific area. 5. Also, according to article 7 of no. 1/2011 Directive, the system should not be used to monitor workers within the workplace, except in specific exceptional cases where this is justified by the nature and working conditions and is necessary to protect the health and safety of workers or the protection of critical workplaces (eg military factories, banks, high-risk facilities). For example, in a typical business office space, video surveillance should be limited to entry and exit areas, without monitoring specific office rooms or corridors. An exception may be specific areas, such as cash registers or areas with safes, electromechanical equipment, etc., provided that the cameras focus on the goods they protect and not on the employees' areas. Also, in special areas, such as areas with electromechanical installations, the shift manager or the safety manager can monitor in real time the operators of high-risk machines, in order to intervene immediately if a safety incident occurs. 6. According to article 12 of no. 1/2011 Directive, before a person enters the range of the video surveillance system, the data controller must inform them, in a visible and comprehensible way, that they are going to enter an area that is being videotaped. To this end, it must: a) be posted in a sufficient number and in a visible place clearly visible signs, which will indicate the person on whose behalf the video is being recorded (the person in charge of processing), the purpose, as well as the person with whom the interested parties can contact to exercise the rights that Law 2472/1997 recognizes to the data subject. 7. The more specific issue of the use of video surveillance systems in all kinds of stores is regulated in article 19 of the Special Part of no. 1/2011 Directive. As mentioned in this article, cameras are allowed to be placed at the entry and exit points, in cash registers and money storage areas, in warehouses, in areas of electromechanical installations as well as in parking lots (always subject to the conditions of the general part of the Directive). 7 It is noted that, according to its decision No. 81/2012, warehouses are defined as areas that are not the main workplace of the employees, but intermediate storage areas for goods in transit and do not constitute the main activity of the company, such as e.g. x

warehouses of commercial stores. In any case, however, as pointed out in the above article, it is not allowed - among other things - to operate cameras in areas where store employees work and are not accessible to the public. 8. According to Directive No. 115/2001 of the Authority for the protection of employees' data, the collection and processing of employees' personal data for purposes that do not directly or indirectly relate to the employment relationship is prohibited by the authority of purpose. The consent of the employees cannot remove the prohibition of exceeding the purpose. Besides, according to the principle of proportionality, as established in article 4 par. 1 item (b') of Law 2472/97, personal data must be relevant, relevant and no more than is necessary in view of the purposes of processing, in the context of employment relations and the organization of work. 9. In the case at hand, taking into account what both the Association and the data controller presented during their appearance before the Department of the Authority and which they developed further with the memoranda they filed, as well as the other elements of the file, the Authority finds that the following occur: The cameras operating in the assembly department as well as in the maintenance/service area, based on their location and angle of capture, and taking into account the high value of the goods traded in these areas, seem to collect the absolutely necessary data for the achieving the intended processing purpose, which cannot be achieved by milder and equally effective means. The camera operating in the restaurant area, has the processing purpose of protecting the cash register from possible thefts, however it can be seen from the photographic material presented to the Authority that her receiving field is quite broad, violating the principle of proportionality and it is judged that it should be limited exclusively to the cash register through repositioning and new focus in order to be acceptable in accordance with the principle of proportionality.

It is noted that the controller, in order to be legalized to

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operates a camera in this area, it must be able to justify the law interest in protecting said premises and the goods therein.

- Cameras in the wider areas of the warehouse are permitted to the extent that no there is a permanent presence of workers in the area included in the field their coverage.

- The cameras on the perimeter of the building facilities can be seen, based on the field

coverage as captured in the sample image submitted, that they collect the absolutely necessary data to achieve the intended purpose processing.

- Regarding access to the video surveillance system, the Authority has already made a decision in the past in similar cases that the administration should not have real-time access to camera footage (see Decisions 81/2012 and 27/2016). Based on the principle of proportionality and in order to minimize the risk of employee monitoring, the use of the system real-time video surveillance for stores should be done exclusively by specialized security personnel with corresponding professional qualifications qualifications, if the controller employs such staff. According with the principle of proportionality and articles 7 and 11 of the Directive, recipients of data from the video surveillance system may be its persons Address of the company only in exceptional cases, with any access and extraction of material from the recording system to be recorded and justified.

- It is reminded that the above cameras should be used only for the purpose of the protection of the goods and not as exclusive criteria for its evaluation behavior and employee efficiency.

- Regarding the obligation to inform the data subjects and specifically of the employees, the controller appears to have satisfied the relative right of the employees initially verbally, without however being possible to prove in retrospect whether the information in question was the appropriate one. THE update should be carried out in accordance with the provisions of article 12 of Directive No. 1/2011 of the Authority, i.e., among other things, to be detailed, to is offered in any convenient way (eg in writing by making available printed material) and to include the categories of persons who handle and have access

in the system. It is considered that the information in question to the employees for reasons

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transparency and accountability must be in writing, either in writing or in

electronic form.

- The video surveillance system in question does not meet the requirements of legality which are set out in articles 7, 12 and 19 of no. 1/2011 of the Authority's Directive. Hence, it follows that the fundamental requirements for the legitimacy of each have also been violated collection and processing of personal data, which the provisions of Articles 4, 5 and 11 of Law 2472/1997 state.

In view of the seriousness of the violation found, taking into account what stated the data controller during his submissions, the Authority unanimously considers that must be imposed on the person in charge of the processing provided for in art. 21 par. 1 item a of Law 2472/1997 sanction referred to in the operative part of the present.

FOR THOSE REASONS

The Personal Data Protection Authority taking into account above addresses, based on article 21 par. 1 item 1st Law 2472/1997, warning to the company "PLAISIO COMPUTERS ABEE" for the violation of articles 4, 5 and 11 of law. 2472/1997 and orders it to immediately take the following actions, informing regarding the Authority:

a) to adjust the field of view of the camera in the space of the restaurant, or uninstalling the camera if he cannot justify it legitimate interest in the protection of said premises and the goods therein him.

b) to adapt the video surveillance systems in its facilities at conditions of legal operation defined in point 9 of the reasoning herein, and in general to the existing legislation for the protection of personnel data

character.

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou