

Litigation Chamber

Decision on the merits 138/2022 of 27 September 2022

File number: DOS-2021-05008

Subject: Complaint about camera surveillance

The Litigation Chamber of the Data Protection Authority, composed of Mr.

Hielke Hijmans, chairman, and Messrs. Romain Robert and Jelle Stassijns, members.

Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and

to the free movement of such data, and repealing Directive 95/46/EC (General Regulation on the data protection), hereinafter "GDPR";

Considering the law of December 3, 2017 establishing the Data Protection Authority, hereinafter "LCA";

Having regard to the internal regulations as approved by the House of Representatives on December 20, 2018 and published in the Belgian Official Gazette on January 15, 2019;

Considering the documents in the file;

Made the following decision regarding:

The Complainants:

1. Mr. X1, hereinafter "complainant 1"

2. Mr. X2, hereinafter "complainant 2"

hereinafter jointly referred to as "the plaintiffs";

The defendant :

Mr. Y, hereinafter "the defendant"

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I. Facts and procedure

1.

On July 1, 2021, the complainants each filed a complaint separately with the Autorité de data protection against the defendant. These complaints have the same object.

2.

The subject of the complaints concerns the installation of a surveillance camera by the defendant, the neighbor located at the rear of the plaintiffs' residence, with adjacent gardens. Complainants say that this camera is in a place that can also capture the garden and the plaintiffs' living space. Complainant 2 has already made a statement to the police zone local Assenede-Evergem, within the framework of which an inspection took place on October 27, 2022 by these competent police services.

3.

On August 17, 2021, the complaints are grouped together by the Front Line Service (and are therefore hereinafter referred to as "the complaint") and are declared admissible by this service on the basis of the Articles 58 and 60 of the LCA; the complaint is forwarded to the Litigation Chamber pursuant to Article 62, § 1 of the LCA.

4.

On September 15, 2021, in accordance with Article 96, § 1 of the LCA, the request of the Litigation Chamber to proceed with an investigation is forwarded to the Inspection Service, as well as the complaint and the inventory of parts.

5.

On November 26, 2021, the investigation by the Inspection Service is closed, the report is attached to the file and this is transmitted by the Inspector General to the President of the Chamber Litigation (art. 91, § 1 and § 2 of the LCA).

6.

On December 9, 2021, the request of the Litigation Chamber to carry out an investigation additional information is forwarded to the Inspection Service, in accordance with Article 96, § 2 of the ACL.

7.

On January 6, 2022, the additional investigation by the Inspection Service is closed, the report is attached to the file and it is sent by the Inspector General to the Chairman of the Litigation Chamber (art. 91, § 1 and § 2 of the LCA).

The report includes findings relating to the subject matter of the complaint and concludes that:

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there is a violation of Article 5, paragraph 1, a), b) and c) and paragraph 2 of the GDPR and of Article 24(1) GDPR; And

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there is a violation of article 8 of the law of March 21, 2007 regulating the installation and use surveillance cameras (hereafter: "the camera law")<sup>1</sup>, article 3 of the Royal Decree of February 10, 2008 defining the manner of reporting the existence of surveillance by camera (hereinafter: "the royal decree of 10 February 2008")<sup>2</sup> and articles 7, 8 and 9 of the decree

<sup>1</sup> Law of 21/03/2007 regulating the installation and use of surveillance cameras, M.B., 31 May 2007.

<sup>2</sup> Royal Decree of 10/02/2008 defining the manner of reporting the existence of camera surveillance, M.B., February 21, 2008.

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of 8 May 2018 relating to declarations of installation and use of security cameras surveillance and register of surveillance camera image processing activities (hereafter: "the cameras decree")<sup>3</sup>.

8.

On January 17, 2022, the Litigation Chamber decides, pursuant to Article 95, § 1, 1° and article 98 of the LCA, that the case can be dealt with on the merits.

9.

On January 17, 2022, the parties concerned are informed by e-mail of the provisions such as as set out in article 95, § 2 as well as in article 98 of the LCA. The parties involved are

also informed, pursuant to Article 99 of the LCA, of the deadlines for transmitting their conclusions.

The deadline for receipt of the Respondent's submissions in response was set at February 28, 2022, that for the plaintiffs' reply submissions on March 21, 2022 and that for the defendant's reply submissions on April 11, 2022.

10. On January 17, 2022, the Respondent accepts all communications relating to the case by way of electronic.

11. On January 17, 2022, the plaintiffs accept all communications relating to the case by electronic way.

12. On February 28, 2022, the Litigation Chamber receives the request to extend the deadlines for conclusions. On the same day, the Litigation Chamber communicates the adapted deadlines for the findings.

The deadline for receipt of the Respondent's submissions in response was set at March 2, 2022, that for the plaintiff's reply submissions on March 23, 2022 and finally that for the defendant's rejoinder submissions on April 13, 2022.

13. On March 2, 2022, the Litigation Chamber receives the submissions in response from the defendant concerning the findings relating to the subject matter of the complaint.

14. The Litigation Division did not receive any submissions in reply from the complainant, nor any Respondent's rejoinder submissions.

## II. Motivation

### II.1. Jurisdiction of the Litigation Chamber

15. Article 4, § 1, first paragraph of the LCA provides that:

“The Data Protection Authority is responsible for monitoring compliance with the principles fundamentals of the protection of personal data, in the context of the

3 Royal Decree of 8 May 2018 relating to declarations of installation and use of surveillance cameras and to the register of surveillance camera image processing activities, M.B., April 15, 2019.

this Law and laws containing provisions relating to the protection of the processing of personal data.”

16.

Article 4, § 2, second paragraph of the LCA adds that:

“The Data Protection Authority is the competent supervisory authority when no other law provides otherwise.”

17.

The Court of Justice has previously confirmed that the taking of images of people by surveillance cameras fell within the concept of "personal data" within the meaning of the standards of European data protection law.<sup>4</sup> Surveillance using of video recordings of people which are made (recorded) is processing processing of personal data within the meaning of Article 2(1) GDPR.<sup>5</sup>

The processing of personal data in this context must therefore also immediately benefit from the protection offered by the GDPR.

18.

The surveillance cameras that are the subject of this complaint were installed by the defendant on private property (i.e. the defendant's property). For the application of GDPR, we can point out that the installation of surveillance cameras on a private domain and the use of these surveillance cameras filming people does not mean definition that it is a "strictly personal or domestic activity" within the meaning of Article 2(2)(c) GDPR.<sup>6</sup>

19.

When the video surveillance system covers for example the public space or the domain deprived of other people, even in part, and thus goes beyond the private sphere of persons who process data by means of this system, it cannot be considered that it

it is an activity carried out exclusively for personal or household purposes<sup>7</sup>.

By doing so, it is indeed possible to produce images of natural persons and to identify them.<sup>8</sup> This is the case here. The Litigation Chamber can therefore fully assume his powers and rule on the facts.

20. The legal assessment of this dossier will therefore be made primarily by means of the provisions of the GDPR. In this regard, the question arises to what extent the processing of

4 CJEU judgment of 11 December 2014, *František Ryneš c. Úřad pro ochranu osobních údajů*, C-212/13, ECLI:EU:C:2014:2428

(hereinafter: the Ryneš Appeal Judgement), para. 22.

5 Compar. the analysis in Ryneš of the replaced legal standard *mutatis mutandis*, para. 25.

6 A private domain is a "closed place not accessible to the public" within the meaning of article 2, 3° of the camera law. The article

is stated as follows: "closed place not accessible to the public: any building or place delimited by an enclosure, intended only for the use of habitual users".

7 Compar. with Ryneš Judgment, para. 32.

8 Compar. CJEU judgment of 24 November 2011, *Asociación Nacional de Establecimientos Financieros de Credito en Federación*

*de Comercio Electrónico y Marketing Directo c. Administración des Estado*, C-468-9/10, ECLI:EU:C:2011:777 (hereinafter: the Asociacion Nacional judgment), para. 35

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personal data was lawful, in accordance with, *inter alia*, Articles 5 and 6 of the GDPR.

21. In addition, the camera law and two royal decrees also impose obligations additional information that is relevant to several aspects of the processing of this case. The Litigation Chamber emphasizes, however, that the application of the GDPR, as a European Union regulation, takes precedence over the aforementioned national legislation due to

its direct action and its primacy in the European legal order.<sup>9</sup>

II.2. Article 5, paragraph 1, a) and paragraph 2 of the GDPR and article 24, paragraph 1 of the GDPR and Belgian camera surveillance legislation

22. The Litigation Chamber has already pointed out that a video surveillance system comes under the provisions of the GDPR when the device used makes it possible to record personal data staff and store them. In this sense, the processing of personal data must always comply with the principles set out in Article 5 of the GDPR relating to the processing of personal data.

23. In its inspection report, the Inspection Service finds that the defendant has installed a surveillance camera on his home without respecting all the principles relating to the processing of personal data under Article 5(1) GDPR or any the obligations of the legislation relating to surveillance cameras. More specifically, the Inspection Service came to the conclusion that the defendant did not comply with the prescribed of Article 5, paragraph 1, a), b) and c) of the GDPR.

Article 5, paragraph 1, a) of the GDPR – principle of “lawfulness, fairness and transparency”

24. The basic principle of Article 5(1)(a) GDPR is that personal data personnel can only be processed in a lawful manner. This means that there must be a legal basis for the processing of personal data, as referred to in Article 6, paragraph 1 GDPR. With regard to the assessment of the lawfulness of the processing of personal data, the Litigation Chamber refers to section II.3.

25. The processing of personal data must also be fair. Finally, we must clearly know for what purposes the personal data are processed and how this takes place (“transparency”).

26. Pursuant to these principles, Article 8 of the Cameras Act prohibits any hidden use of surveillance cameras :

<sup>9</sup> See among others the CJEU judgment of 5 February 1963, NV Algemene Transport- en Expeditie Onderneming van Gend &

Loos c.

Nederlandse Administratie der Belastingen, C-26-62, ECLI:EU:C:1963:1; CJEU, Judgment of July 15, 1964, Flaminio Costa v. E.N.E.L., C-6-64, ECLI:EU:C:1964:66; with regard to the legal protection of citizens on the basis of Union law and principles of 'direct action' and 'primacy', see C. BARNARD, The Substantive Law of the EU: The Four Freedoms, Oxford (5th ed.), 2016, 17.

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"Concealed use is considered to be any use of surveillance cameras that was not previously authorized by the person filmed. Entering a place where a pictogram indicates the existence of a camera surveillance is worth authorization prior".

27. Article 7, § 2, sixth paragraph of the Cameras Act provides that the controller affix a pictogram at the entrance to the closed place not accessible to the public indicating the existence of camera surveillance. The pictogram therefore has an informative role and is mandatory for the transparency of the processing of personal data. In this

With regard to the pictogram itself, the camera law provides for a uniform model, of so that the person concerned always knows clearly that he is being filmed. Section 3 of the royal decree of 10 February 2008 defining the manner of reporting the existence of a camera surveillance (hereafter: "the Royal Decree of 10 February 2008")<sup>10</sup> defines the requirements to which this pictogram must respond. Thus, the pictogram must be affixed at the entrance a closed place not accessible to the public, such as a family home. On this pictogram there are several mandatory pieces of information, such as the identity of the person responsible for the treatment. In this way, the data subject has direct access to this information.

relating to the processing and to the controller.

28. The Inspection Service notes in its inspection report that the persons concerned, in this case the neighbours, were not informed fairly and in a manner transparency of the processing of their personal data via the camera of



monitoring of the defendant. The Assenede-Evergem police zone has indeed noted that the required pictogram, with the required information, had not been affixed. After the check local police services, the defendant obtained a pictogram to respond to this duty. However, the Inspection Service finds on the basis of photos transmitted by the defendant that the pictogram affixed was not correct, which is not in conformity with article 3 of the royal decree of 10 February 2008. Consequently, the persons concerned, including the complainants, were not informed fairly and transparently about the disputed processing of their personal data.

29. In its pleadings, the Respondent argues that during the installation of the security camera surveillance, he was not aware of the obligation to affix the required pictogram to the entrance to a place not accessible to the public, in this case his property. As soon as he was informed by the local police during the aforementioned check, the defendant ordered a online pictogram. However, it was found that the pictogram ordered did not did not meet the requirements as defined in the Royal Decree of 10 February 2008.

10 Royal Decree of 10/02/2008 defining the manner of reporting the existence of camera surveillance, M.B., 21 February 2008.

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When the defendant was informed of this, he affixed the correct pictogram. The defendant in submit two photos.

30. According to the findings of the local police services and the Inspection Service, the Chamber Litigation understands that the transparency and fairness requirements of the data processing, as referred to in Article 5, paragraph 1, a) of the GDPR, have not been complied with given that initially, no pictogram was affixed and then the wrong pictogram was used. The Litigation Chamber concludes as soon as there has been a violation of Article 5(1)(a) GDPR, but this has been rectified in the meantime.

31. In addition, the Litigation Chamber further emphasizes Article 14 of the GDPR which specifies the information that must be provided by the controller when the data of a personal nature are not obtained from the data subject. By virtue of Article 12(7) GDPR, this information can be provided via icons standardized, such as the aforementioned pictogram. The Litigation Chamber has not studied this aspect further, since it is not part of the dispute in question.

Article 5, paragraph 1, b) of the GDPR - principle of "purpose limitation"

32. In accordance with Article 5, paragraph 1, b) of the GDPR, personal data must be collected for specified, explicit and legitimate purposes.

33. The inspection report finds that there is a violation of the aforementioned principle of "purpose limitation" given that during the aforementioned control by the police area Assenede-Evergem, it appeared that no purpose of the camera surveillance was registered in advance by the controller. Article 7, § 2, second paragraph of the camera law also requires the controller to communicate to the police services the decision to install one or more surveillance cameras in a place closed not accessible to the public, at the latest the day before the day of the commissioning of the camera monitoring.

34. During the investigation by the Inspection Service, the controller made it known that the purpose of the processing was as follows:

"I first bought this camera in 2019 to secure my garden behind the house and especially my carport/garage in which there are 2 motorcycles worth exceeding 40,000 euros."

35. The Respondent argues that the camera surveillance was put in place for the purpose of protect his own garden behind the house where there is a carport with vehicles to great value engine. The Respondent emphasizes in this respect that he was not aware of mandatory registration and that its purpose was also not to violate the privacy of its

neighbors. The required recording of camera surveillance was put in order after the aforementioned control of the local police services.

36. The Litigation Division finds that the necessary recording of the purpose of the surveillance by cameras was not carried out in a timely manner with the services authorities of the local police, so it cannot be said that the data has been processed for a specific, explicit and legitimate purpose. Therefore, it is a question of a violation of Article 5, paragraph 1, b) of the GDPR. On the basis of the documents transmitted by the defendant, the Litigation Chamber finds that the surveillance by cameras has time was registered with the local police, with the aim of securing of its own garden with carport in which there are large motor vehicles value.

Article 5, paragraph 1, c) of the GDPR – principle of "data minimization"

37. According to the data minimization principle provided for in Article 5, paragraph 1, c) of the GDPR, the personal data processed must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed. It results that personal data may only be processed if the purpose of the processing cannot reasonably be achieved by other means.

38. The Inspection Service refers in its report to the defendant's statement during the investigation. In this statement, the defendant claims that the camera has a function movement, but that this functionality has been deactivated on the advice of the services of local police during the aforementioned on-site inspection. The Inspection Service estimates that during the period before the motion function is disabled, no more data to personal character have been processed, or could have been processed, than what is necessary to so that the principle of "data minimization" was not respected.

39. The defendant transmits with his conclusions photos of a headdress which was placed around

from the surveillance camera so that only part of the own garden and the garage can still be filmed. The defendant also sends photos attesting that the surveillance camera can now only film the defendant's own garden. Seen these elements, the Respondent therefore considers that at the time of writing its conclusions, it is not there is no longer any question of a violation of Article 5, paragraph 1, c) of the GDPR.

40. The Litigation Division notes that it appears from the inspection investigation and the conclusions of the defendant that the surveillance camera could film more than the garage/carport of the defendant, which constitutes a violation of Article 5, paragraph 1, c) of the GDPR. On the basis of the documents transmitted by the defendant, the Litigation Chamber finds that this violation has since been rectified.

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Article 5, paragraph 2 j° article 24, paragraph 1 of the GDPR – liability

41. Given the breaches of the above principles, the Inspection Service finds that the defendant does not demonstrate the following:

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how the persons concerned were informed fairly and in a manner transparent;

-

the fact that the processing of personal data via the surveillance camera of the defendant takes place for specified, explicit and legitimate purposes;

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the fact that the defendant's surveillance camera does not process more data than personal character than those which are adequate and relevant for the purposes for which which they are processed.

42. Consequently, the Inspection Service concludes that there is also a question of a violation of the liability as set out in Article 5, paragraph 2 j° Article 24, paragraph 1 of the

GDPR.

43. Furthermore, the Inspection Service also finds a violation of Articles 7, 8 and 9 of the cameras order given that the defendant did not submit a copy of the register of image processing activities, despite the request of the Inspection Service.

44. In its submissions, the Respondent wished to clarify certain aspects relating to the violations mentioned above which have been observed by the Inspection Service. About the dated record of image processing activities, the defendant asserts that he learned that he did not have to keep such a register because the camera was installed in a closed place and that the images were kept for a maximum of 1 month. In the meantime, he was informed that this obligation applied well and during the period between the closing of the inspection report and the transmission of the conclusions, the defendant established a condensed register of the activities image processing, of which it also transmits photos.

45. The Litigation Chamber recalls that each data controller must comply with the basic principles of data protection, as defined in Article 5, paragraph 1 of the GDPR, and must be able to demonstrate compliance with these principles. This stems from principle of responsibility set out in Article 5, paragraph 2 of the GDPR juncto Article 24, paragraph 1 of the GDPR.

46. On the basis of Article 7, § 2, fifth paragraph of the Cameras Act and Articles 7, 8 and 9 of the Royal Decree of 8 May 2018 relating to declarations of installation and use of cameras surveillance and register of surveillance camera image processing activities<sup>11</sup> (hereinafter: "the cameras decree"), the controller must keep a register of surveillance camera image processing activities as long as it carries out processing

11 MB, 23 May 2018.

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footage from surveillance cameras. The said register must be kept up to date by the controller, in this case the defendant. This register contains in particular the name

and the contact details of the controller, the precise purposes of the processing, the categories of recipients, the possible transfer to third countries, the retention period, a description of the security measures, as well as a certain number of elements typical information specific to the use of cameras such as, for example, the mention of the type of place. The Litigation Chamber emphasizes that the keeping of such a register of activities image processing provides a basis for the data controller to respond to the liability obligation as defined in Article 5(2) and Article 24, paragraph 1 of the GDPR.

47. The Litigation Chamber notes that at the time of the inspection investigation, the register of image processing activities that is required was not established or maintained by the defendant, which constitutes a violation of Article 5, paragraph 2 and Article 24, paragraph 1 of the GDPR. On the basis of the documents submitted by the Respondent, the Chamber Litigation finds that this violation has meanwhile been rectified.

48. Furthermore, the Litigation Division further emphasizes that in light of the provisions of Article 30, paragraph 5 of the GDPR, which contains an exception to the obligation to keep a record based directly on the GDPR, it did not assess the registry using Article 30, paragraph 1 of the GDPR.

### II.3. Article 6(1)(f) GDPR

49. The Litigation Chamber has already pointed out above that a video surveillance system fell under the provisions of the GDPR when the device used allows the recording of data of a personal nature and to store them. In this sense, the processing of personal data personal must meet one of the conditions for lawful processing under Article 6 of the GDPR.

50. As explained above, the processing of personal data is lawful only if it is based on one of the legal bases as listed in Article 6, paragraph 1 of the GDPR.

Since the processing of personal data via a camera takes place in

the occurrence for the realization of an interest of the data controller, it will be necessary to verify the extent to which the requirements of article 6, paragraph 1, f) of the GDPR ("interest legit").

51.

According to the case law of the Court of Justice<sup>12</sup>, this verification comprises three stages:

Controllers must demonstrate that:

1) the interests they pursue with the processing can be recognized as legitimate

<sup>12</sup> See also Asociación Nacional judgment, 24 November 2011, C-468/10

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(the "finality test");

2) the intended processing is necessary for the fulfillment of those interests (the "test of necessity"); and

3) the weighing of these interests against the fundamental interests, freedoms and rights of the data subjects weighs in favor of the controllers or a third party (the "test weighting").

The finality test

According to recital 47 of the GDPR, "the existence of a legitimate interest should carefully assessed, in particular to determine whether a data subject can reasonably be expected, at the time and in the context of data collection, to personal character, that they are processed for a given purpose".

52. In this case, the defendant installed a surveillance camera as a private person. The Respondent describes the interests it pursues in this context as follows :

"At first, I bought this camera in 2019 to secure my garden behind the house and especially my carport/garage in which there are 2 motorcycles of value exceeding 40,000 euros."

53. The European Committee for

data protection (hereinafter

:

the EDPB) has

noted

previously that burglary, vandalism or theft were examples of situations

justifying video surveillance<sup>13</sup>. In the given situation, it is established for the House

contentious that the processing of data for the purpose of monitoring the garage/carport is

a legitimate purpose.

Necessity test

54. The Court of Justice has pointed out in the context of camera surveillance systems that this

condition of necessity had to be examined in conjunction with the principle of "minimization

data" currently enshrined in Article 5, paragraph 1, c) of the GDPR<sup>14</sup>. The data to be

personal character must be adequate, relevant and limited to what is necessary

with regard to the purposes for which they are processed.

As noted above, it appears from the inspection report and the conclusions of the

defendant that not only defendant's garage/carport was filmed, but also

parts of the plaintiffs' private property. Such a configuration of a camera

monitoring can hardly meet the principle of data minimization.

The Litigation Chamber notes that the fact of permanently filming the garden (or a

<sup>13</sup> EDPB Guidelines 3/2019, para. 1.

<sup>14</sup> Asociación Nacional judgment, 24 November 2011, C-468/10, para. 48.

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part of it) and (part of) the house of the plaintiffs who are neighbors of the defendant

cannot be considered "relevant", nor "necessary" to safeguard the interests

aforementioned legitimate claims of the defendant. The fact that a headress has been arranged around the camera,



does not prejudice the original breach.

#### Weighting test

55. Although failure of the 'necessity test' is sufficient from the outset to establish that the processing of personal data by means of the surveillance camera is unlawful, the Litigation Chamber also examines whether the fundamental rights and freedoms of persons concerned by data protection (complainants) prevail or not on the legitimate interests of the defendant.

56. This weighting depends on the specific circumstances of a concrete case and the rights of affected complainants under sections 7 and 8 of the Bill of Rights fundamental principles of the European Union relating to the protection of privacy and the data protection.<sup>15</sup> In this sense, one can take into account the seriousness of the breach of rights and freedoms of complainants as an essential part of the analysis.<sup>16</sup> In this regard, one can to point out that the permanent recording of images of the private properties of neighbors constitutes a serious violation of these fundamental rights. This is all the more the case when a another less invasive treatment has proved possible, namely the installation of a cap around of the surveillance camera. It can also be pointed out that the persons concerned do not cannot objectively expect the surveillance camera to be positioned this way, by permanently filming part of the plaintiffs' private domain.<sup>17</sup>

This is particularly the case since the surveillance camera was installed in a way that is not complies with the provisions of national law relating to the installation of security cameras surveillance (the camera law), as set out in Section II.2 of this decision. Of the therefore, the Litigation Division finds that the processing in question was not foreseeable for complainants.

57. Consequently, there is also a question in the given circumstances of a violation of article 6, paragraph 1, f) of the GDPR since the surveillance camera has processed unlawfully images containing personal data. Although there exists

legitimate interests for the defendant within the meaning of point f) of article 6, paragraph 1 of the GDPR, the specific processing operations are not necessary to safeguard these interests, and the 15 Asociación Nacional judgment, 24 November 2011, C-468/10; by. 52; EDPB Guidelines 3/2019, par. 32-35.

16 Asociación Nacional judgment, 24 November 2011, C-468/10, para. 56.

17 Regarding these 'objective expectations', see EDPB Guidelines 3/2019, para. 36.

fundamental rights and freedoms of complainants and other data subjects

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prevail over these interests.

#### II.4. Violations

58. On the basis of the documents in the file, the Litigation Division finds that there is question of a violation of Article 5, paragraph 1, a), b) and c) and paragraph 2, of Article 6, paragraph 1, f) and Article 24(1) GDPR. Although the Respondent has cured these breaches, it is established that violations of the right to data protection have taken place. When determination of the penalty, the Litigation Chamber takes into account the fact that the defendant has already rectified the situation and provided proof of it. The Litigation Chamber decides as soon as when, having regard to the concrete factual circumstances of this case, a reprimand suffices for the above violations. The seriousness of the breach is not such as to require impose an administrative fine.

#### III. Publication of the decision

59. Given the importance of transparency regarding the decision-making process of the Chamber Litigation, this decision is published on the website of the Protection Authority Datas. However, it is not necessary for this purpose that the identification data of the parties are communicated directly.

FOR THESE REASONS,

the Litigation Chamber of

the Data Protection Authority decides, after

deliberation:

- to issue a reprimand, pursuant to Article 100, § 1, 5° of the LCA.

Pursuant to Article 108, § 1 of the LCA, this decision may be appealed to the

Court of Markets (Brussels Court of Appeal) within thirty days of its

notification, with the Data Protection Authority as defendant.

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This recourse can be introduced by means of a contradictory request which must repeat the

particulars listed in article 1034ter of the Judicial Code<sup>18</sup>. The contradictory request must be

filed with the registry of the Markets Court in accordance with article 1034quinquies of the Code

19, or via the e-Deposit computer system of Justice (article 32ter of the Judicial Code).

(Sr.) Hielke HIJMANS

President of the Litigation Chamber

18 The request contains on pain of nullity:

the indication of the day, month and year;

1°

2° the surname, first name, domicile of the applicant, as well as, where applicable, his qualities and his national register number or

Business Number ;

3° the surname, first name, domicile and, where applicable, the capacity of the person to be summoned;

4° the object and the summary statement of the means of the request;

5° the indication of the judge who is seized of the application;

6° the signature of the applicant or his lawyer.

19 The request, accompanied by its appendix, is sent, in as many copies as there are parties involved, by letter recommended to the court clerk or filed with the court office.