

GREEK REPUBLIC PERSONAL DATA PROTECTION AUTHORITY Athens, 04-09-2020 Prot. No.: G/EX/5992/04-09-2020 A  
P O F A S I NO. 31 / 2020 (Department) The Personnel Data Protection Authority Character met as a Department composition at its headquarters on 15-04-2020 at 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 Evangelos Papakonstantinou, Grigorios Tsolias, as rapporteur, and Emmanuel Dimogerontakis, in place of the regular members Konstantinos Lambrinoudakis, Charalambos Anthopoulos and Eleni Martsoukos, respectively, were present. although they were legally summoned 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 Authority's administrative affairs department, as secretary. The Authority took into account the following:

Complaint No. C/EIS/2527/02-04-2019 was submitted to the Authority by A, which related to the installation and operation of an illegal video surveillance system by the company "B O .Eh." (hereinafter controller) in a workplace. In the above complaint, the complainant stated that the data controller installed and operated a video surveillance system at the store at 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@dpa.gr / www. dpa.gr of clothes with the brand name of ... which it maintains in X. Despite the assurances of her employer and data controller that no sound processing is done and that the scope of coverage includes only the cash register, by accidentally sending a video clip from the company owner's mobile phone to mobile phone, the complainant reports that she found that the camera is taking pictures from the whole store and even recording sound. The complainant also complains that there is a second camera that receives an image from the toilet, the warehouse and a part of the fitting rooms. The complainant supplemented the above complaint with document No. G/EIS/2989/19-04-2019, where she states that cameras also operate in the company's other... stores, as well as in the craft facilities also belonging to the person in charge processing. The Authority, with document No. G/EX/1110/10-02-2020, invited the complained controller to a hearing in order to discuss the aforementioned complaint. The meeting of 02-26-2020 was attended by Ilias Topaidis, with ..., who presented his views orally. The complained controller, after receiving a deadline, filed within the stipulated deadline the memorandum No. C/EIS/1955/13-03-2020. In the memorandum, the controller provides detailed information on the number and technical characteristics of the cameras and recorders operating in their stores and facilities (industrial production areas), provides a sample image (photograph) from each camera, as well as a certificate dated... of the installers, maintainers and technical support managers of the video surveillance system rejecting the complaint

regarding the audio processing element. Details of posted information signs and a copy of the company's privacy policy for the operation of video surveillance systems within stores and other facilities are also provided. The workers have been informed about the installation and operation of the cameras, while the recordings concern only image data, not audio. For the complainant, it states that a decision of a competent court is pending on a lawsuit filed by the complainant against the data controller, seeking compensation, among other things, for the alleged recording of audio data from the store's camera.

Regarding the video file referred to by the complainant, the controller has already challenged it as fake before the 2 competent court and is attaching the technical expertise (laboratory analysis information note) on it, in support of the validity of his claims. The Authority, after examining the elements of the file, the hearing process and after hearing the rapporteur and the assistant rapporteur, who withdrew after the discussion of the case and before the conference and decision-making, after a thorough discussion, THOUGHT IN ACCORDANCE WITH THE LAW 1. According to art. 4 pc. 1 of the General Data Protection Regulation 2016/679 (hereinafter "GDPR"), audio and video data, if 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 of art. 4 pc. 2 of the GDPR. 3. Article 5 GDPR defines the processing principles governing the processing of personal data. Specifically, it is defined in paragraph 1 that personal data, among others: "a) are processed lawfully and legitimately in a transparent manner in relation to the subject of the data ("legality, objectivity, transparency"), b) are collected for specified, explicit and legitimate purposes and are not further processed in a manner incompatible with these purposes (...), c) are appropriate, relevant and limited to what is necessary for the purposes for which they are processed ("data minimization"), (... ) e) are kept in a form that allows the identification of the data subjects only for the period required for the purposes of processing the personal data (...) ("limitation of the storage period"), f) are processed in a way that guarantees the appropriate security of personal data, including their protection against unauthorized or illegal processing and accidental loss, destruction or damage, using appropriate technical or organizational measures ("integrity and confidentiality)." 3 4.

Article 6 para. 1 GDPR provides, among other things, that: "The processing is lawful only if and as long as at least one of the following conditions applies: (...) f) the processing is necessary for the purposes of the legal interests pursued by the controller or a third party, unless these interests are overridden by the interest or the fundamental rights and freedoms of the data subject which require the protection of personal data (...)." 5. The issue of the use of video surveillance systems for the purpose

of protecting persons and goods is regulated in Directive No. 1/2011 of the Authority, the provisions of which must be applied in conjunction with the new provisions of the GDPR and Law 4624/ 2019, which defines GDPR implementation measures. A basic condition for the legality of processing through a video surveillance system is compliance with the principle of proportionality (Article 5 GDPR), as specified in Articles 6 and 7 of the above Directive, as well as in its Special Part. In particular, in article 7 of the Directive where the issue of video surveillance in workplaces is regulated, the following are mentioned - among others - the following: i. The system should not be used to monitor workers within these areas, except in special exceptional cases where this is justified by the nature and working conditions and is necessary to protect the health and safety of workers or to protect critical areas work (e.g. 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. ii. In any case, the data collected through a video surveillance system may not be used as exclusive criteria for evaluating the behavior and efficiency of employees (see No. 115/2001 Directive on the processing of personal data of employees, section E ', par. 6 – 8). Furthermore, according to article 19 par. 2 of the aforementioned Directive, which specifies the principle of proportionality in shopping centers and stores, cameras are allowed to be placed at the entrance and exit points of the stores, in cash registers and money storage areas, in warehouses, while, according to article 19 par. 4 of the same Directive, the operation of cameras is prohibited in dining and leisure areas, in the fitting rooms, in the toilets and in the areas where store employees work and are not accessible to the public.

6. In the case under consideration, regarding the reported illegal processing of audio data through the video surveillance system in question, the Authority maintains doubts in view of the content of the technical expertise which submitted by the controlled data controller, but also of the ... certification of installers of the video surveillance system and rejects the complaint.

Regarding the alleged unlawful processing of image data by her camera installed in the shop where the complainant worked, the Authority

finds that, on the one hand, the conditions of Articles 5, 6 GDPR and the Directive are met  
1/2011 APDPH, on the other hand, that based on the scope of coverage as reflected in  
sample image submitted, it is found that absolutely are collected  
necessary image data to achieve the intended processing purpose,  
which cannot be achieved by milder and equally effective means. Relatively  
with the legality of installation and operation of the remaining cameras (rest  
stores and facilities of the data controller), the Authority reserves the right  
to further investigate the relevant complaint in order to exercise them  
its powers.

#### FOR THOSE REASONS

The Personal Data Protection Authority rejects it as unfounded

A's complaint against "B OE."

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou