

Fine for data protection violations at H&M

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35.3 million euros fine for data protection violations in the H&M service center

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In the case of the surveillance of several hundred employees of the H&M service center in Nuremberg by the center management, the Hamburg Commissioner for Data Protection and Freedom of Information (HmbBfDI) issued a fine of 35,258,707.95 euros against the H&M Hennes & Mauritz online shop AWAY. & Co. KG.

The Hamburg-based company operates a service center in Nuremberg. Since at least 2014, some of the employees have had extensive recordings of their private living conditions. Corresponding notes were permanently stored on a network drive. After absences due to vacation or illness – even short ones – the superior team leaders held a so-called Welcome Back Talk. After these talks, not only specific holiday experiences of the employees were recorded in a number of cases, but also symptoms of illness and diagnoses. In addition, some superiors acquired a broad knowledge of their employees' private lives through one-on-one and hallway talks, ranging from rather harmless details to family problems and religious beliefs. Some of the findings were recorded, stored digitally and could sometimes be read by up to 50 other managers throughout the company. The recordings were sometimes made with a high level of detail and updated over time. In addition to a meticulous evaluation of the individual work performance, the data collected in this way was used, among other things, to obtain a profile of the employees for measures and decisions in the employment relationship. The combination of investigating their private lives and constantly recording what activities they were doing led to a particularly intensive encroachment on the rights of those affected. The data collection became known because the notes were accessible company-wide for a few hours as a result of a configuration error in October 2019. After the Hamburg Commissioner for Data Protection and Freedom of Information was informed about the data collection through press reports, he first ordered the content of the network drive to be completely "frozen" and then demanded its release. The company complied and presented a data set of around 60 gigabytes for evaluation. After analyzing the data, interviews with numerous witnesses confirmed the documented practices.

The discovery of the significant violations has prompted those responsible to take various remedial actions. A comprehensive concept was presented to the HmbBfDI as to how data protection is to be implemented at the Nuremberg location from now on. In dealing with past events, the company management not only expressly apologized to those affected. It also follows the suggestion to pay the employees unbureaucratic compensation in a considerable amount. In this respect, it is an unprecedented commitment to corporate responsibility after a data protection violation. Other building blocks of the newly introduced data protection concept include a newly appointed data protection coordinator, monthly data protection status updates, increased communication of whistleblower protection and a consistent information concept.

For this Prof. Dr. Johannes Caspar, the Hamburg representative for data protection and freedom of information: "The present case documents a serious disregard for employee data protection at the H&M location in Nuremberg. The amount of the fine imposed is therefore appropriate and suitable to deter companies from violating the privacy of their employees.

The efforts of the group management to compensate those affected on site and to restore confidence in the company as an employer must be rated as positive. The transparent clarification on the part of those responsible and the guarantee of financial compensation definitely show the will to give those affected the respect and appreciation that they deserve as dependent employees in their daily work for their company".

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