

Athens, 22-02-2022 Prot. No.: 500 DECISION 5/2022 (Department) The Personal Data Protection Authority (hereinafter "the Authority") met as a Department via teleconference on Friday 16.07.2021 at 09.00 a.m. , 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 Konstantinos Menoudakos, the regular members Spyridon Vlachopoulos, Konstantinos Lambrinoudakis and the alternate member Grigorios Tsolias, as rapporteur, in place of the regular member Charalambos Anthopoulos, who, although legally summoned in writing, attended , did not attend due to disability. The meeting was attended without the right to vote, by order of the President, Efrosyni Siougle, special scientist - examiner as assistant rapporteur, who left after the discussion of the case and before the conference and decision-making, and Irini Papageorgopoulou, employee of the department of administrative affairs of the Authority, as secretary. The Authority took into account the following: Complaint No. C/EIS/5278/29-07-2019 was submitted to the Authority as supplemented by No. C/EIS/6334/19-09- 2019 document, by A (hereinafter "complainant") against the employer of the company called Agrotikos Synetarismos Volos (hereinafter "complainant company"). According to the complaint, the complainant works from ... in the department ... with the main tasks of production ... and the operation of On ... he was notified of a document of disciplinary control and corporate investigation, with which he was called to provide explanations because it was found that he slept during working hours for more than two hours and that the operation was stopped 1-3 Kifisias Avenue, 11523 Athens T: 210 6475 600 E: contact@dpa.gr www.dpa.gr 1 of the machine ... resulting in reduced production ... during his shifts on ..., ... and According to the complaint, he was verbally pointed out by the Investigating Manager that all his wrongful actions were detected and recorded by the video surveillance system installed in the workplace. Also, according to the complainants, the video surveillance system has been installed in the workplaces of the complained company for the purpose of monitoring and controlling the employees and evaluating their efficiency. The Authority, with its letter No. C/EX/5278-2/17-09-2019, forwarded to the complained company a copy of the above complaint, briefly informed it about the conditions for legal processing of personal data through a system video surveillance and requested the provision of its written opinions on the accused. Since the Authority did not receive a response, it sent the complained company the reminder No. C/EX/460/20-01-2020. The complained-about company responded, with documents No. C/EIS/2171/20-03-2020, C/EIS/2173/20-03-2020 and C/EIS/2174/20-03-2020, the following, briefly mentioned: the 135 Employes about workers whose main activity is the dairy industry EVOL. In the Department... there are... machines (...) which are classified as high risk installations. Specifically, their

moving parts include cutting knives, press pistons, valves (which operate under pressure) and can cause serious bodily injury. Also, there are low-voltage electrical panels, both on the machines and in the area of the building, where the mentioned department is housed. An occupational accident took place in the department in question in which a worker, who was handling, was injured Following this and among other things, in the context of the safety of workplaces, the protection of persons, employees and non-employees, as well as the protection of property, it was decided to install closed-circuit visual recording in the mentioned department, in which there is high-risk equipment that needs monitoring proper handling for safety reasons. It is the only part of the factory, in which machines operate during the midnight hours, i.e. when there are less than 10 workers in the entire factory. The system was installed in the said department at the beginning of ... and it works on a round-the-clock basis. 2 The placement of the cameras was planned so that they focus on the ... existing machines, the entrances and exits of the department ... and the stock In particular, the five (5) cameras focus on the machines and the entrance-exit of those coming (employees and non-employees) to the building, which houses the department in question, and the last one focuses on the stock and the second entrance-exit of the building (garage door) which it is used for loading and unloading raw materials and stocks, as well as in case of machine breakdown for their removal. In order to more accurately focus the camera on the critical points so that the collection of data is limited to the data directly related to the employment relationship and the safety of the employees and does not extend to the personal behavior, personal characteristics or personal contacts of the workers as well as for there to be areas that are not monitored, even within the building in question, a permanent display (black background) is used on the camera display on the system's special "matrix" projection/monitoring screen. The provided photos show the points that have been covered with the matrix. A special area outside the building is provided for employees to take a break. Camera footage is automatically deleted after fifteen (15) days from the day it was taken. With the numbered P.E. ... its document and in the context of the conduct (interrogation) based on the Regulation of Official Disciplinary Control of the Status of its Personnel, the complained company informed the complainant that a series of his actions and omissions, which may constitute disciplinary offences, have come to its knowledge, in accordance with the provisions of the above regulation. According to the content of the above document, the complained company established that during his night shift (...) on ..., the complainant slept for more than 2 hours while he had also stopped the operation of the machine ..., as a result of which, among other things, he made a reduced production ..., ..., according to the incompletely completed shift sheet. He also found that during the evening shift (...) on ... the complainant slept for more than 1 hour while

he had also stopped the operation of the machine ..., on which he was working, resulting in reduced production ... and without completing the shift report at all . The reduced production ... was established through documents and specifically from the shift slips completed by the complainant. The fact that the complainant stopped the operation of the machine on the above dates and times was established by 3 checking the special electronic time counting instrument located on it, in which its operating hours are recorded. The fact that the complainant was sleeping during the shift was made known to the complained company by the other employees and in no case by the video surveillance system. Each shift in the said department is always staffed with ... workers, who are in charge of operating the machines After all, as can be seen from the image recorded by the cameras, there is no visual contact with the places where the workers sit, work and operate the machines. It was pointed out to the complainant on ... for the first time that he was found sleeping during the night shift as evidenced by the no. first ... of the complained company in a time prior to the date of installation of the video surveillance system. The complained company in the 16 months of operation of the video surveillance system has never used the data collected through the cameras to monitor employees or evaluate their efficiency. The control of the efficiency and work behavior of the employees in the department in question is done in other ways, i.e. according to the evaluation system that exists in the factory, through the shift slips, the records at the entrance gate, the records of the material warehouses, etc. The claim of the complainant that the Director conducting the disciplinary review, on the one hand, pointed out to him that his misdeeds mentioned in the disciplinary review document were detected and recorded on the video surveillance system, and on the other hand, that he threatened him that he reserves the right to fire him, is not valid. In fact, it has been established in the past, during disciplinary checks, that the complainant has engaged in misconduct and omissions in the course of his work, which constitute disciplinary offenses under the relevant regulation of the complained-about company, and no disciplinary action has been imposed on him. penalty. The complained-about company has posted numerous information signs at the main entrance of the factory, at the entrances of each individual building and at the entrance of the building housing the department... using the model of Directive 1/2011 of Principle. It becomes clear to the complainant company that the installation of the video surveillance system is useful and even beneficial. On the one hand, it is beneficial for workers as it leads to the avoidance of occupational accidents through the improvement of safety systems, as well as to their exemption from intervention in sections 4 of the electromechanical equipment, where there are adverse conditions. On the other hand, it serves the operational needs of ..., such as the protection of the large inventory from any damages or losses. And always without offending the personality and privacy of the

employees. The complained company is unable to provide the visual material from the dates of the events concerning the complainant because it has been automatically deleted after fifteen (15) days from the above dates. The Authority, with its letter No. C/EX/5909/01-09-2020, requested clarifications from the complained company regarding three issues: a) whether and how real-time monitoring of machine operators is carried out and, if not, how is monitoring of the correct handling of high-risk equipment achieved, b) why are the cameras taking an image from the entire production area and the black background is used in some places instead of each camera focusing , with a limitation of image capture, only to the specific good or the specific point that needs protection and c) whether the information signs and texts have been adapted to satisfy the right to information during data processing through a video surveillance system based on the relevant recommendations of the Authority. The complainant submitted to the Authority the memorandum document No. C/EIS/7287/23-10-2020 in which he expressed his views on what the complained-about company mentions in the above No. C/ IIS/2171/20-03-2020, C/EIS/2173/20-03-2020 and C/EIS/2174/20-03-2020 its response documents, which it received from the Authority following the letter no. C/EIS/6036/07-09-2020 of his application. In this memorandum, the complainant mentions the following, briefly mentioned: The complained company has installed six (6) cameras in the department ..., through which the image of the employees is taken continuously around the clock. Her claim about the installation of the video surveillance system to protect the workers is not true. And this is because the machines that operate for the needs of the factory have protection fuses, as well as safety doors that cover their moving parts (e.g. protection from the cutting knives and press pistons, which are invoked). Neither the factory facilities nor the machines that operate for its needs are of high risk. They become high risk if security and security doors are breached. 5 Camera surveillance will not prevent workplace accidents. The safety of workers depends on measures taken by the employer, such as machine maintenance, equipping machines with safety limit switches, and training workers in the proper handling of machines. The machines operating in the department ... do not differ in terms of risk from the rest of the machines operating in the factory, while they are less dangerous than the (...) machines of the department ... and the (...) machines of the department ..., which have . Machines also operate in other sections such as ..., boiler room, section ..., section ..., assembly ... with the same or higher current voltage than section Cameras have not been installed in any of these departments, not even in the departments with a high risk of accidents such as the department... ..., where an occupational accident occurred..., and the boiler room. The electrical panel located in the ... section is secured with a padlock and only the factory electrician has access to it. Cameras were installed in the ... section, in which there are

low-voltage switchboards. On the contrary, in the substation of the factory, in the only part where there is high voltage current (>1,000 VOLT), no cameras have been installed. During the midnight hours, five (5) people are employed at the factory, namely two people in the department ..., two in management and a security guard. The security guard in the outpost area can only monitor the cameras of the forecourt area and the internal perimeter of the factory and not the department.... Therefore, during the night shift, there is no person in charge in the factory to monitor the machine operators in the department in real time ... in order to intervene immediately if a safety incident occurs. During the night shift in the department ... two people are employed, so in the event of an incident one of the two can intervene. The claim of the complained-about company about the protection of assets cannot be accepted either. The tools used in the department are of little value (wrenches, screwdrivers, pliers), while in the Chemistry there are machines for analyzing products worth thousands of euros. The spare parts used in the department ... are not inside the building, where the said department is housed, but in a container, which is outside the premises. The raw materials used in this section are plastic, in granules, packed in 6 bags of 25 kg each. Inventory control is done by completing daily shift slips. There is also stock in other parts of the factory such as in ..., in the refrigerators, in the warehouse. Loading and unloading of goods and products of greater value and greater risk compared to the ... of the department ... is also done in other departments such as the No cameras have been installed in any of the above departments or areas. In any case, cameras at the entrance and exit of the site are sufficient for the safety of tools, raw materials and stock. The cameras have not been placed in places of critical importance for the security of the company being complained about, i.e. entrances and exits, but inside the workplace for the purpose of monitoring it, controlling the employees and evaluating their behavior and efficiency. Cameras focus on faces, not machines. This is not considered necessary or effective and violates the principles (necessity, proportionality) provided for in article 5, paragraph 1 GDPR. The complainant believes that the reason cameras have been installed in the department ... where he works is to control and intimidate him because in the past he did not hesitate to appeal to the Labor Inspection Body B when he found a violation of labor legislation. C also works in the same department, who is ... of the Trade Union Organization with the name "D" and a member of the Management of Labor Center E and in his capacity has defended the rights of colleagues in the Cooperative many times and has resolved various labor disputes problems. Videotaping workers' jobs in the workplace ... constitutes an excessive invasion of their personal data and is an inconvenient and ineffective measure to protect them from accident and equipment from theft. The fact of the deletion of the recording material after fifteen (15) days does not negate the unjustified restriction of the

freedom of the employees, as a manifestation of the natural development of their personality. The complained company did not provide any relevant photos and any relevant documents to prove its claim that it has posted numerous signs to inform those entering the video surveillance area. It was not proven that the staff of the department ... about the video surveillance system, including the complainant, were properly informed. Since the Authority did not receive a response to its document No. C/EX/5909/01-09-2020, it sent the complaint No. C/EX/8537/11-12-2020 7 reminder. With the same document of the memorandum, he forwarded to the complained company the above-mentioned memorandum No. G/EIS/7287/23-10-2020 of the complainant and asked it to express its views in writing. Following the aforementioned and because it did not receive a response to its above-mentioned documents, the Authority with the call No. C/EX/726/01-3-2021 invited the complained company, as data controller, to attend the meeting of Department of the Authority on Wednesday 10-03-2021 at 9:30 a.m., via teleconference, in order to discuss the case at hand. The complained company submitted the request No. G/EIS/1685/09-03-2021 to postpone the discussion of the case as well as the No. G/EIS/2066/23-03-2021 memorandum in response of the above documents No. G/EX/5909/01-09-2020 and G/EX/8537/11-12-2020 of the Authority and No. G/EX/726/01 -3-2021 of her call. During the hearing, which took place on 03-24-2021, following adjournment from the 03-10-2021 discussion, the attorney-in-fact of the complained-about company Christos Goussios was present with AMDS.... During the aforementioned meeting, a deadline was also given to the complained-about company, which timely submitted the memorandum No. G/EIS/2580/15-04-2021 (a correct repetition of the No. G/EIS/ 2436/08-04-2021 of the memorandum).With the above memorandums, before and after the hearing, the complained company, additionally stated the following, briefly stated: During the midnight hours, a security guard is always employed at the factory site, who is located at the sentry station located at the entrance of the factory. Inside the outpost there is a special screen on which the cameras of the forecourt are shown in real time, but also (during the evening shift) the cameras of the department.... The watchman monitors in real time in order to intervene immediately if an incident occurs. The complained company ended up buying cameras from manufacturer "...", which come with special software (iVMS-4200) and provide the ability to display a permanent special "matrix" (black background) on the camera in order to achieve more accurate camera focus at critical points. And this is absolutely achieved, as the data collected does not extend to the personal behavior, personal characteristics or personal contacts of the employees. It is also noticeable from the image recorded by the cameras that there is no visual contact with the places where the workers sit, work and operate the machines. The 8 complained-about company provided a photo, which shows an image from all the

cameras of the department in question (as seen by the security guard) and in fact by day and time when employees are employed in the department, on which it is proven that there is absolutely no contact with the employees. The complained company has posted numerous information signs (based on the new models) in various places of the factory (at the entrance gate, in the department..., at the entrances of the other buildings, etc.) which include the first level information and the required information text Level B on the factory's central bulletin board, which includes Level 2 information. According to the complained company, it is a given and true that all the machines operating in the factory meet all the safety standards required by law. Nevertheless, an occupational accident took place in ... of ..., which was due to the negligent behavior of an employee handling ... and resulted in his injury. The company being complained about has absolutely no intention of controlling or blackmailing the complainant, who on the contrary has been treated very leniently. He has been guilty of wrongdoing and omissions many times in the course of his work and yet he has received absolutely no disciplinary action. The department's cameras ..., as evidenced by all of the photos provided, do not focus on the faces of the employees. The company complained about would directly and clearly violate the principle of proportionality if it were to install cameras in other parts of the factory as well. And this is because during the operation of these departments both a safety officer and a shift officer are employed in the factory as well as a multitude of other service factors, who can intervene immediately if an incident occurs. Before the installation, a procedure was carried out for the internal documentation of the legality of the installation of the cameras, which is now also recorded in writing. The operating policy of the system has been posted on the website of the complained company. The recorder is located in a controlled and classified access area, it is connected to the network, which is protected from unauthorized access by the use of codes, while access to the video surveillance system and the 9 collected data is given to a small number of clearly defined persons (General Manager, Head of IT, Security Gate). Given the working conditions in the department in question (the only department with machines operating during the midnight hours), the complained company considered it more convenient to use the video surveillance system in the department in question instead of employing an additional person (in the capacity of security or shift manager) , as the person in question would have no other responsibility throughout his eight-hour shift than to monitor in real time the ... operators of ... high-risk machines only, with the aim of immediately intervening if a safety incident occurs (as there are no other workers in the factory who need any monitoring). According to the complainant, this is best achieved with real-time monitoring by the Guardian. There are cameras at the entrances and exits of the factory and other departments, while the cameras in the department ... were installed immediately

after the occurrence of a work accident, precisely to function additively in the protection of the health and safety of workers employed during the midnight hours. The cameras in this section record (store) only during the hours from 20:00 to 8:00 and the image is available in real time, at the guardhouse, only during the same hours as above. The complained-about company notes that camera surveillance does not fundamentally contribute to the prevention of accidents (without, of course, excluding this based on the lessons of common experience). Prevention is mainly achieved by observing the safety specifications of each machine, with their scheduled maintenance, but also with the continuous training of machine operators. Furthermore, the complained company notes that not even the presence - employment of any Safety Officer guarantees the prevention of occupational accidents. However, the monitoring of the specific department in real time through the video surveillance system works additively in the safety of the employees of the department (as is also the case with the Security Officer), as it easily provides, among others, the possibility of immediate intervention if a security incident occurs . After all, the effort to "protect the health and safety of employees" does not stop at the occurrence of a security incident (that is, the effort to prevent it), but continues with the same intensity in the way the incident is managed and immediate intervention, after the incident of, for the benefit of the physical integrity of the sufferer. In the department ..., as a rule, per shift, ... employees are employed. Despite this, it has happened and it is certain that it will happen in the future, due to extraordinary circumstances (eg sudden illness), that only one employee is employed during the evening shift. In this case, the operation of the system becomes even more important. The complainant's conclusion that the system was installed in the said department to control and intimidate him is completely arbitrary, has absolutely no relation to reality, and is mentioned (in conjunction with the report and in the name of C) deliberately in order to create impressions and confusion about things, persons and situations. Other ... employees work in the department in question (besides the complainant and C) and usually in pairs and in three shifts (five days). C never works the evening shift, following his request which was accepted by the Board of Directors. Within the Cooperative, the workers' union has been active in recent years with the name "Association of Workers of Agricultural Cooperative E", which even signed the last Operating Collective Labor Agreement with the Board of Directors, on ... (but the immediately preceding ones). The old trade union organization of which C is the president, is effectively and practically inactive, and this is because it does not concern the employees of the complained-about company, but the employees who are generally employed in cooperatives with headquarters in E and Z, and today it has no substantial purpose. Therefore, the reference to his capacity as President of a trade union organization is pretentious and to create impressions. The complained-about company notes that C has filed it

with no. cat. ... a lawsuit before the Multi-Member Court of First Instance X, with which he requests, among other things, that he be paid an amount of ... euros as compensation for the moral damage he has suffered due to an infringement of his right to personality. The lawsuit in question was heard, after it was referred due to jurisdiction, before the Single-Member Court of First Instance at the beginning of January ... and a decision is expected. The complained company provided, among other things, photos of the display of the cameras on the special screen of the outpost, photos of the posted 11 information boards, extract from the record of processing activities provided for in article 30 of the GDPR, written documentation of the legality of the processing and compliance with the GDPR, video surveillance system operation policy. He points out that in the attached photos from which the range of each camera is derived, the time indicated (...) is outside the time frame of the recording (storage) of the cameras in question. This happened because, for practical reasons, the photos in question were printed from the PC located in the server room with the assistance of the IT Manager in the morning hours in order to be submitted with the document of its views as attachments. The Authority, from the hearing procedure and from the evidence of the case file and after hearing the rapporteur and the assistant rapporteur, who left after the discussion of the case and before the conference and decision-making, after a thorough discussion THINKS AGREE WITH THE LAW 1. It follows from the provisions of Articles 51 and 55 of the GDPR and Article 9 of Law 4624/2019 (Government Gazette A' 137) that the Authority has the authority to supervise the implementation of the provisions of the GDPR, this law and other regulations concerning the protection of the individual from the processing of personal data. 2. The installation and operation of video surveillance systems with the capture or recording of images and/or sound through the collection, preservation, storage, access and transmission of personal data constitute, as individual acts of processing, interference with the individual rights to respect for private life according to art. 9 S., 7 XTHDEE1 and 8 ECHR as well as the protection of personal data according to art. 9A S., 8 ESDA and 8 XTHDEE2, as the Authority decided in detail with its Opinion No. 3/2020. 3. In article 27 par. 7 of Law 4624/2019 it is provided that "The processing of personal data through closed-circuit visual recording within workplaces, whether they are publicly accessible or not, is only permitted if it is 1 DIE Digital Rights Ireland par. 29. 2 TEU Digital Rights Ireland para. 38. 12 necessary for the protection of persons and goods. Data collected through closed-circuit visual recording may not be used as a criterion for evaluating employee performance. Employees are informed in writing, either in writing or in electronic form, about the installation and operation of closed-circuit visual recording within the workplaces. From the above provision it immediately follows that, with the exception of the purposes of protecting persons and property, video recording within workplaces is

prohibited. 4. In article 35 paragraph 1 of the GDPR it is provided that the controller has an obligation to carry out, before the processing, an assessment of the effects of the planned processing operations on the protection of personal data when a type of processing, in particular with the use of new technologies and taking into account the nature, scope, context and purposes of the processing may result in a high risk to the rights and freedoms of natural persons. According to the guidelines WP 248 rev. 01 of the European Data Protection Board (hereinafter "EDPS")³, the reference of Article 35 GDPR to the rights and freedoms of natural persons primarily concerns the rights to data protection and privacy, but may also include other fundamental rights, such as freedom of speech, freedom of thought, freedom of movement, prohibition of discrimination, the right to liberty, freedom of conscience and religion. Consequently, the data controller is obliged to carry out a data protection impact assessment (hereinafter "DPA") when any of the fundamental rights and freedoms of natural persons are put at high risk by the planned processing operations. Furthermore, the GDPR "(...) respects all fundamental rights and respects the freedoms and principles recognized in the Charter as enshrined in the Treaties (...)" (ref. 4 GDPR). The GDPR is an important tool for fulfilling the obligation of accountability (according to article 5 par. 2 in combination with articles 24 par. 1 and 32 GDPR) which burdens the data controller on the one hand to take the necessary measures in order to comply with the requirements of the GDPR, on the other hand , to 3 Guidelines for data protection impact assessment (DPIA) and determining whether processing is "likely to entail a high risk" for the purposes of Regulation 2016/679, available at the link https://edpb.europa.eu/our-work-tools/our-documents/guidelines/data-protection-impact-assessments-high-risk-processing_en 13 proves at all times its above compliance, as it helps it manage the risks for the rights and the liberties of natural persons and in making decisions about processing. 5. The Authority issued a list (Government Gazette B'1622/10.05.20194) with the processing operations for which an EAPD is required, which complements and specifies the above WP 248 rev. 01 ESPD guidelines. According to the said guidelines, in most cases, the controller may consider that a DPA study is required when two (2) of the nine (9) criteria set out therein are met, or in some cases when only one of them is met. In any case, the above list of the Authority, the criteria of the above guidelines as well as the indicative cases of article 35 par. 3 of the GDPR are not exhaustive, and the data controller has the obligation to carry out a DPA in every case where the conditions are met of article 35 par. 1 of the GDPR. 6. In accordance with the Guidelines 3/2019 of the ESPD⁵, in order to judge the legality of the installation and operation of the video surveillance system, the conditions of articles 5 and 6 par. 1 of the GDPR must be met cumulatively and must be prior to the installation and operation of the system to document internally the legality of the

processing and in fact, when determining the purpose of the processing, a relevant assessment may be needed for each camera separately, depending on where it is placed. In particular, they specify the following: 6.1. "5. Video surveillance is not necessarily necessary as long as there are other means to achieve the underlying purpose. Otherwise, there is a risk that the cultural norms will be changed and therefore the lack of privacy will be established as a general principle." 6.2. "15. Before using the material, the purposes of the processing must (Article 5 paragraph 1 letter b)). Detailed video surveillance can serve many purposes. Among other things, it can contribute to the protection of property and other assets, 4 Available at the link <https://www.dpa.gr/el/enimerwtiko/nomothesia/proswpika/kanonistikespraxeis> 5 Guidelines 3/2019 regarding the processing of personal data character through video devices, available at the link https://edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-32019-processing-personal-data-through-video_en 14 in the protection of life and physical integrity of individuals, in the collection of evidence for civil actions. These monitoring purposes should be documented in writing (Article 5(2)) and must be specified for each surveillance camera used.' 6.3. "20. The legitimate interest must actually exist and relate to a present matter (ie the interest must not be fictitious or hypothetical). There must be an actual risk situation – such as damage or serious past events – before surveillance begins. Based on the principle of accountability, it is useful for controllers to record relevant events (date, manner, financial loss) and relevant criminal prosecutions. These recorded events can be a strong presumption of the existence of a legitimate interest. The existence of a legitimate interest as well as the necessity of monitoring should be reassessed at regular intervals (eg once a year, depending on the circumstances)'. 6.4. "24. Personal data should be appropriate, relevant and limited to what is necessary for the purposes for which they are processed ("data minimization"), (see Article 5(1)(c). Before installing a video surveillance system, the controller should always thoroughly consider whether this measure is, firstly, appropriate to achieve the desired objective and, secondly, sufficient and necessary to achieve its purposes. Video surveillance measures should only be chosen if the purpose of the processing could not reasonably be fulfilled by other means, which infringe to a lesser extent the fundamental rights and freedoms of the data subject." 6.5. "25. If it is assumed that the controller wishes to prevent crimes against his property, instead of installing a video surveillance system, he can take alternative security measures, such as e.g. fence his property, have security personnel regularly patrol the premises, hire security guards, improve lighting, install security locks, tamper-proof windows and doors, or cover surfaces with anti-graffiti coatings or films. These measures can be just as effective as video surveillance systems in preventing incidents of robbery, theft and vandalism. 15 processing must assess on a case-by-case basis whether these

measures can be a reasonable solution". 6.6. "26. Before the operation of the video surveillance system, the controller is obliged to assess when and where the video surveillance measures a video surveillance system operating at night, as well as outside the usual operating hours, meets the controller's need to prevent any risk that threatens the property of". is absolutely necessary. Usually, 6.7. "29 (...) Also, in some cases real-time monitoring can be more intrusive than storing and automatically deleting material after a certain time has passed (e.g. when someone is constantly watching the screen it can be more intrusive on private people's lives than if there is no screen at all and the material is stored directly in the black box). In this case the principle of data minimization must be taken into account (Article 5(1)(c)). It should also be taken into account that the controller, instead of video surveillance, sometimes has the option of using security personnel, who can react and intervene immediately." 7. The Authority has issued Directive No. 1/2011 on the issue of the use of video surveillance systems for the purpose of protecting persons and goods, the provisions of which must be applied in conjunction with the new provisions of the GDPR and the law. 4624/2019, which defines GDPR implementation measures. This applies in particular to the obligations of the controller included in chapter C' thereof (articles 10 to 13 of Directive 1/2011). For example, data controllers no longer have an obligation to notify the Authority⁶ of the processing, but must take the necessary measures to comply with the requirements of the GDPR and ensure the satisfaction of the enhanced rights provided for by the GDPR. It is pointed out in this case that in this particular case, Law 4624/2019 does not apply, as the complaint under consideration concerns a period of time before its implementation. 8. According to article 5 of Directive 1/2011, the installation points of the cameras and ⁶ See and the Authority's announcement regarding the abolition of record keeping/editing notices and the granting of licenses (decision 46/2018). ¹⁶ the method of receiving the data must be determined in such a way that the data collected is not more than is absolutely necessary to fulfill the purpose of the processing and does not affect the fundamental rights of the persons who are in the area being monitored. In this way, the application of the principle of data minimization is achieved in principle, which can then be enhanced by the use of privacy-friendly technologies (data protection by design), such as by overlaying specific areas on the plan. Otherwise, it would be paradoxical to place cameras in any place and point, indiscriminately and without any criteria, and to achieve the principle of data minimization by using display/surveillance technologies, a measure that can be reversed or changed by the controller (see APD 23/2021, cf. APD 87/2015). of the collected overlay data on 9. According to article 7 of Directive 1/2011 (prohibition of surveillance in workplaces), the application of the principle of proportionality is of particular importance in cases of operation of video surveillance systems in workplaces. 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. 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. 10. In the present case, the complained company installed and put into operation a video surveillance system in the department ... on ... following an industrial accident, which took place on ... in this department and was due to the negligent handling of a machine of type ... by an employee and resulted in the his injury. The purpose of the 17 installation and operation of the system in the said department is the protection of persons and goods and more specifically, mainly the protection of the health and safety of the workers employed in it during the midnight hours but also the protection of critical workplaces (...) as well as the produced products. From the documents in the case file and in particular the photographs showing the locations of the cameras and their range, it is established that six (6) cameras were installed quite high and around the perimeter of all the walls (one on the north, two on the south, two on the east and one in the west) of the building in which the department in question is housed, the range of which covers the entire workplace and has been overlaid with a black "background" (matrix) of specific display/monitoring screens of the system. of the projected image of its parts on 11. It is the only part of the factory in which high-risk machines operate during the evening and midnight hours when there is no security officer or shift manager on the factory premises. The complained company considered it more convenient to use the video surveillance system in the said department instead of employing an additional person (in the capacity of a security or shift manager), as the person in question would not have any other responsibilities throughout his eight-hour shift , except to monitor them in real time ..., in order to intervene immediately if a security incident occurs (since there are no other workers in the factory who need any monitoring). According to the complaining company, this is best achieved with real-time monitoring by the Guardian. 12. According to the complained company, the installation of cameras in the other parts of the factory would violate the principle of proportionality because during the operation of these parts, which also have high-risk machines and electromechanical equipment, both a shift manager and a security manager are employed but also a multitude of other service

factors, who can intervene immediately if an incident occurs. 13. The complained company did not consider the adoption of milder measures before the installation and operation of the video surveillance system in the department ..., nor did it evaluate their effectiveness since it installed the system only a few days after the work accident. 18 14. In particular, he did not document, nor adequately justify the possible non-application of the milder measure of using a security or shift manager and for the only night shift in the entire factory or assigning the relevant authority to other official factors, such as the two persons of the management which are located on the premises of the factory during the night hours and to which the complainant referred in his memorandum No. Prot. C/EIS/7287/23-10-2020. He did not provide the Authority with explanations regarding what are the responsibilities and responsibilities of the security or shift manager, what is the total number of these persons, what is the number of these persons per department and shift, if there is a continuous presence of these persons daily and the entire duration of the work of the machine operators in each part of the factory, how the protection of the health and safety of the workers in each part of the factory is achieved by these persons as well as the immediate intervention in the event of an incident, what are the other responsibilities of the persons of them in addition to monitoring them in real time ... so that they can intervene immediately as well as how immediate intervention is achieved if a security incident occurs when these persons are performing their other responsibilities. The complained-about company did not document why the installation and operation of a video surveillance system within the workplace is necessary for the part of the intended purpose that concerns the protection of electromechanical equipment and manufactured products only in the department ... (first line of extract of activity record) nor for which reason the general system is not sufficient for this department as well video surveillance at the entrances/exits of the factory, on the inner perimeter and in front of the cashier area (third line of the excerpt of the activity file) since there are no cameras in the rest of the factory. Still, he did not explain why the department's cameras are simultaneously monitored ... in real time as well as recording and preserving the visual material for a period of fifteen (15) days. He also did not explain why the General Manager and the IT Manager have access to the data of the video surveillance system of the department ..., as it is stored in the recorder, with the use of secret passwords given that the ability to monitor the images by the company manager , at any time, and in fact without the existence of an incident that 19 indicates an increased risk (e.g. an alarm), excessively violates the rights of employees, as "vulnerable" data subjects, is not an appropriate means for the protection of persons and goods while increasing the risk of the material being used for another purpose, such as for employee surveillance (see APD Decision 12/2021). 15. The complained company claims that by using the "matrix" (covering with a

black "background" part or parts of the projected image on the projection/monitoring screen) the collection of the data through the installed video surveillance system in the single workplace within the building which the department is housed in ... is limited to data directly related to the employment relationship and the safety of employees and does not extend to those related to personal behavior, personal characteristics or personal contacts of employees. Also, in this way, the cameras do not focus on the workers' areas but on the dangerous parts of the machines, there is no visual contact with the places where the workers sit, work and operate the machines while there are areas that are not monitored even within the same building. The complained company did not justify how the cameras focus on the dangerous points of the machines without getting an image of the workers operating them, since the cameras, according to the internal documentation document, focus on multiple points on the machines and simultaneously on other parts of the site (the camera on the north wall: focuses simultaneously on the front parts of both engines ... and the electrical panel of the room, one camera on the east wall: focuses on the motor, the electrical panel and the valves of the machine ..., the other camera on the east wall: focuses on the engine, electrical panel and valves of the engine ..., one camera on the south wall: simultaneously focuses on the pistons of both engines ... and on the inlet - outlet of the section, the other camera on the south wall: focuses on the cutter machine). It also did not justify how it distinguishes the image data of the same persons, which is collected through the video surveillance system during working hours, between those directly related to the employment relationship and the safety of the employees and those related to personal conduct, personal characteristics or personal contacts during working hours. Moreover, it is not understood that the overlay of a part of the projected image creates a separate space, which is not monitored, within the same single work space in which the video surveillance system with perimeter cameras is installed at a sufficient height. In any case, the transition of the worker from his position in front of the machine or from another point that may be located to the space, the projection of which is overlapped, if he knows what the specific covered part is, is visible and recorded. In addition, the setting of the application of the black background of the "..." cameras using the iVMS 4200 software, although the company mentions it as permanent, can at any time and in an easy way be reversed or changed, also from the relevant system settings , so that the image taken by the cameras is displayed on the projection/monitoring screen without any coverage or with coverage of other parts (see APD 23/2021, cf. APD 87/2015). All this information (see above par. 13-16) which the complained-about company had to provide to the Authority within the framework of the principle of accountability according to article 5 par. 2 of the GDPR, even without prior relevant specialized questions from the Authority (see APD

43/2019 request. sc. 6), they should have resulted from a relevant assessment of legality prior to the installation and operation of the video surveillance system, through the preparation of an EAPD study according to article 35 paragraph 1 GDPR. 16. Such an EAPD study according to article 35 paragraph 1 GDPR was not prepared by the complained company before the installation and operation of a video surveillance system in the department.... However, according to the above-mentioned WP 248 guidelines, for the processing in question, two of the criteria provided for therein are met (see paragraph 5 hereof). In particular, the first criterion met concerns the processing of image data of employees as vulnerable data subjects due to the increasingly unequal power relationship between them and the employing company as controller (criterion 7 of the WP 248 guidelines). The second criterion that is met concerns the systematic monitoring of the employees of the department ... as, during the night shift, the guard monitors in real time, through a special screen located in the watchtower, the cameras of the department in question (criterion 3 of the WP 248 guidelines). Overlaying using the black "background" part or parts of the projected image on the projection/monitoring screen of the system does not negate the above monitoring of the movements of the workers in the area where they perform their daily work. Besides, the feeling of constant monitoring of the employees during their work is caused by the existence of only 21 cameras installed in the workplace, with whatever consequences this feeling causes (among which the "chilling effect")⁷ (see APD 23/2021). In any case, the installation and operation of a video surveillance system, and even more so the systematic monitoring using cameras, in the workplace constitutes in principle a limitation of the right to freedom of employees, the free development of their personality and respect for private life. Therefore, the processing in question poses a high risk to the rights and freedoms of the employees and therefore the complained company, as the controller, is obliged to carry out a DPA according to article 35 paragraph 1 of the GDPR. 17. In the context of the particularities presented by the case under consideration based on the above and the accountability obligation that rests on the complained employer company, as data controller, the Authority considers that an EAPD study should be carried out for the installation and operation of a video surveillance system in Department Issues that must be thoroughly examined and analyzed in the EAPD study, in addition to those provided for in article 35 of the GDPR⁸, taking into account that the employees of the department in question are already burdened with the night shift, are at least the following: 17.1. Clear identification and adequate justification of the reasons why the department's facilities are high-risk, high-risk machines and high-risk and high-value manufactured products. Comparative evaluation of the above between the department in question and the other departments of the factory. 17.2. Clear identification and sufficient analysis of the purpose of processing which

consists in the protection of the health and safety of employees as well as the protection of electromechanical equipment and the products produced and listing the measures by which this is achieved. Comparative evaluation of the above between the department in question and the other departments of the factory. Evaluation of the implementation of the measures with which the above purpose is achieved in the remaining parts of the factory and in the department ..., taking into account point 17.1. 7 The voluntary (even automatic) adjustment of the person's behavior due to the fact of being watched. 8 The necessary standard criteria for completeness of the EAPD study are available on the website link

https://www.dpa.gr/el/foreis/ektimisi_adiktipou_kai_diavouleush/ektimisi_adiktipou Authority on 22 17.3. and what it means what it consists of Clear identification the security incident/incident that needs immediate intervention and how the immediate intervention is achieved in the department ..., taking into account that the guard, who has assumed the relevant responsibility in the said department during the night shift, is inside the guardhouse at the entrance of the factory and has the responsibility of monitoring a fairly large number of cameras of the general video surveillance system. Comparative evaluation of the above between the department ... and the other departments of the factory as well as an evaluation of the implementation of the measures by which immediate intervention is achieved in the other departments of the factory and in the department in question taking into account the previous points.

17.4.

Determination and assessment of the actual present situation risk in the department ..., the frequency, the severity and the causes of accidents, security incidents and its damages or losses electromechanical equipment and the products produced using of evidence (description, date, manner, financial loss), of their effects and the costs of their restoration. Comparative evaluation of above between said section and its remaining sections factory.

17.5.

Evaluation and documentation of its suitability and necessity measure of the installation and operation of a video surveillance system within it

internal workplace of the department ... considering that when someone constantly monitors the screen can interfere more with privacy of individuals than if there is no screen and hardware at all is stored directly in the black box and in this case you should take into account that the controller, instead of video surveillance, has sometimes the ability to use security personnel, who may react and intervene immediately (see paragraph 29 of guidelines 3/2019).

17.6.

Identify and evaluate use and effectiveness

of alternative milder measures in the department ... to achieve the intended purpose, which affect to a lesser extent their rights and freedoms employees, such as indicatively the systematic and appropriate training of machine operators, machine equipment with limit switches

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safety, the automatic shutdown of machines and/or production

automatic sound signal alerting the guard or service agent

in the event of an event such as a malfunction, entanglement or violation of

fuses and machine protection doors, the provision of the possibility to

any employee to activate the audible alert as well as

assessment of the cost of implementing additional measures compared to existing ones.

17.7.

Documentation and sufficient justification why it does not exist for the unique one as well

night shift in the whole factory possibility of using one of the

service agents, such as a security or shift manager or other person

which has been assigned the relevant responsibilities for immediate intervention in

case of incident/event

of the other

shift worker or other person in case of sudden absence

of this), taking into account what is mentioned in paragraph 14 hereof and

estimate of the cost of implementing the milder measure in question.

(including

17.8.

Identify and evaluate the use of milder measures for

protection of electromechanical equipment and products

products in the segment ..., especially compared to the rest of its segments

factory and the fact of the existence of a video surveillance system in

forecourt, such as indicative equipment protection with padlocks/locks

security, equipment placement within lockable grid

access only to the competent persons, inventory recording, separation

of inventory from the workplace, placement of manufactured products in

lockable warehouse with controlled access and cost estimation

implementation of additional measures in relation to existing ones.

17.9.

Determination and documentation of its re-evaluation criteria

real

and

effectiveness of the video surveillance measure at regular intervals

intervals.

necessity

status

danger

her

and

17.10.

Identification and justification of the selection criteria:

- o the number of cameras and documentation of the necessity for each camera separately in view of the intended purpose,
- o the placement points of the cameras based on the principle of minimization of the data in accordance with what is mentioned in paragraph 8 hereof.

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17.11.

Documentation of the process and how the decision was made by complained company, as controller, for the installation and operation of the video surveillance system within his workplace department....

17.12.

Documentation of the decisions of the complained company, as responsible processing, as well as the relevant opinion of the Protection Officer

Data, if defined, in the relevant EAPD study including of the following (see WP 248 guidelines):

- o of the decision to request the opinion of the data subjects based on it par. 9 of article 35 GDPR,
- o the decision to continue the installation and operation of the system video surveillance if the final decision of the controller differs from the opinion of the data subjects, if requested,
- o the decision to publish at least excerpts of the EAPD study, such as a summary of its main findings or conclusions.

18. The complained-about company did not provide evidence from which it could be deduced demonstrated that he/she has adequately informed the employees of the department ... before the installation and operation of the video surveillance system.

19. Based on the information presented in the previous considerations, the Authority finds that the complained company failed to prepare, as it should have, the prescribed in article 35 par. 1 GDPR study EAPD, before installing and putting into operation a system video surveillance in the department In view of this, the Authority considers that an appropriate corrective measure, at this stage, is the virtue of article 58, par. 2 item d' of the GDPR order to the controller to make the processing operations compliant with the provisions of the GDPR based on what is set out in the previous considerations within two months from the notification of this decision to the complained company, reserves the right to review the case in its entirety after its expiration two months.

FOR THOSE REASONS

PRINCIPLE OF PROTECTION OF PERSONAL DATA

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Calls upon the Agricultural Cooperative of Volos, as controller, as within two (2) months from the receipt of this decision, take the necessary actions, according to the reasoning, in order to make the processing operations legal related to the installation and operation of a video surveillance system in the department

The Deputy President

George Batzalexis

The Secretary

Irini Papageorgopoulou

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