

LfD Lower Saxony imposes a fine of 10.4 million euros on notebooksbilliger.de

video surveillance

The State Commissioner for Data Protection (LfD) Lower Saxony has imposed a fine of 10.4 million euros on notebooksbilliger.de AG. The company had been video-monitoring its workers for at least two years without any legal basis for doing so. The impermissible cameras recorded workplaces, sales rooms, storage and common areas, among other things. The company had argued that the aim of the video cameras installed was to prevent and investigate criminal offenses and to track the flow of goods in the warehouses. In order to prevent theft, however, a company must first examine milder means (e.g. random bag checks when leaving the company premises). Video surveillance to uncover criminal offenses is also only legal if there is a reasonable suspicion of specific people. If this is the case, it may be permissible to monitor them with cameras for a limited period of time. At notebooksbilliger.de, however, the video surveillance was neither limited to a certain period of time nor to specific employees. In addition, the recordings were stored for 60 days in many cases, which was significantly longer than necessary.

General suspicion is not enough

"We are dealing with a serious case of video surveillance in the company," says the LfD Lower Saxony, Barbara Thiel, "Companies must understand that they are massively violating the rights of their employees with such intensive video surveillance". Even the allegedly deterrent effect of video surveillance, which has been brought up again and again, does not justify a permanent and unreasonable encroachment on the personal rights of employees. "If that were the case, companies could expand surveillance without limit. However, the employees do not have to give up their personal rights just because their employer places them under general suspicion," says Thiel. "Video surveillance is a particularly intensive encroachment on personal rights, since it can theoretically be used to observe and analyze a person's entire behavior. According to the case law of the Federal Labor Court, this can mean that those affected feel the pressure to behave as inconspicuously as possible in order not to be criticized or sanctioned for deviating behavior.

Customers of notebooksbilliger.de were also affected by the inadmissible video surveillance, as some cameras were aimed at seating in the sales room. In areas in which people typically stay longer, for example to extensively test the devices on offer, those affected by data protection law have high legitimate interests. This applies in particular to seating areas, which are obviously intended to invite people to linger. Therefore, the video surveillance by notebooksbilliger.de was not proportionate in

these cases.

The 10.4 million euros are the highest fine that the LfD Lower Saxony has imposed under the General Data Protection Regulation (GDPR). The GDPR allows regulators to impose fines of up to €20 million or up to 4 percent of a company's total global annual turnover – whichever is greater. The fine imposed on notebooksbilliger.de is not yet final. The company has now designed its video surveillance lawfully and has proven this to the LfD Lower Saxony.

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