

22.12.2020

## A new sanction applied to a public authority

The National Supervisory Authority completed on 11.12.2020 an investigation in the Municipality of Cluj-Napoca, represented by the Mayor, for the General Directorate of Local Police Cluj-Napoca and found the violation of the provisions of art. 5 para. (1) lit. a) referred to in art. 6 para. (1) of the General Data Protection Regulation.

The municipality of Cluj-Napoca, for the General Directorate of Local Police Cluj-Napoca was sanctioned with a warning, pursuant to art. 58 para. (2) lit. b) of Regulation (EU) 2016/679, reported in art. 14 para. (11) and art. 15 para. (1) of Law no. 102/2005, as well as pursuant to art. 12-14 of Law no. 190/2018, corroborated with art. 7 of O.G. no. 2/2001, as the staff of the General Directorate of Local Police Cluj-Napoca, in the exercise of specific missions and activities, processed personal data using the portable audio-video system type "Body-Worn Camera" (which processes the image and voice ), starting with October 2019, without there being a legal obligation of the operator and without fulfilling any other condition provided in art. 6 para. (1) of the RGPD, although according to art. 5 para. (1) lit. a) of the RGPD, the operator had the obligation to process the data legally, fairly and transparently to the data subject.

The sanction of the warning was accompanied by the application of a corrective measure, through the remediation plan, according to the provisions of art. 12-14 of Law no. Regulation (EC) No 190/2018 on measures for the implementation of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing of Directive 95/46 / EC (General Data Protection Regulation). Thus, the operator was ordered to ensure the conformity of the processing operations, performed by using the portable audio-video systems of the "Body-Worn Camera" type, with the provisions of art. 5 and art. 6 of the RGPD.

The investigation was carried out following the receipt of a notification regarding the violation of the legislation on personal data protection by the General Directorate of Local Police Cluj-Napoca.

It was found that the General Directorate of Local Police Cluj-Napoca processes personal data through portable audio-video systems such as "Body-Worn Camera", used by local police officers in the exercise of their duties to record the following categories of interventions and actions:

a) identification of persons;

- b) driving people to the local police headquarters;
- c) the use of force and means;
- d) performing the body control or the luggage;
- e) stopping vehicles;
- f) finding flagrant offenses and contraventions;
- g) those determined by the prevention of an imminent danger to the life, health and physical integrity of a person.

The General Directorate of Local Police Cluj-Napoca could not prove compliance with art. 6 para. (1) of the RGPD on the legality of the processing carried out through the portable audio-video system of the “Body-Worn Camera” type.

Consequently, it was found that the processing of personal data (image, voice) was carried out without fulfilling the legality conditions provided in art. 6 para. (1) of the RGPD.

Legal and Communication Department

A.N.S.P.D.C.P.