

A new penalty for breaching GDPR

The National Supervisory Authority completed, on 13.12.2019, an investigation at the operator Entirely Shipping & Trading S.R.L., finding the following:

violation of the provisions of art. 12 and art. 13 of the General Data Protection Regulation (RGPD);

violation of the provisions of art. 5 para. (1) lit. c), art. 6 and art. 7 of the GDPR;

violation of the provisions of art. 5 para. (1) lit. c), art. 9 and art. 7 of the GDPR;

violation of the provisions of art. 5 para. (1) lit. a), b) and e) and art. 6 of the GDPR.

The operator Entirely Shipping & Trading S.R.L. was sanctioned as follows:

warning for violating the provisions of art. 12 and art. 13 of the RGPD, since the operator did not present evidence from which it can be concluded that he ensured a clear, complete and correct information of the persons concerned;

fine in the amount of 23,893 lei, the equivalent of 5,000 euros, for violating the provisions of art. 5 para. (1) lit. c), art. 6 and art. 7 of the RGPD, since the operator excessively processed the personal data (image) of its employees through the video cameras installed in the offices where they work and in the places where there are closets where the employees store their change of clothes (changing rooms);

fine in the amount of 23,893 lei, the equivalent of 5,000 euros, for violating the provisions of art. 5 para. (1) lit. c), art. 9 and art. 7 of the RGPD, since the operator processed biometric data (fingerprints) of the employees and other means can be used to achieve this goal, less intrusive for the private life of the persons concerned;

warning for violating the provisions of art. 5 para. (1) lit. a), b) and e) and art. 6 of the RGPD, since the operator illegally processed the personal data of a former employee by using them in correspondence by electronic mail, for the purpose of carrying out the company's activity, after the termination of the contractual relationship with him.

The sanctions were applied as a result of a complaint claiming that Entirely Shipping & Trading S.R.L. installed audio-video surveillance cameras in the employees' offices, in the changing rooms and in the dining room and that, in certain locations (restricted access spaces), access was based on fingerprints.

It was also complained that the operator used the identity of a former employee in sending e-mails in the interest of work without the latter having been informed beforehand.

During the investigation, the following was found:

the operator did not prove a justified legitimate interest with regard to the video surveillance system installed at its premises, which prevailed over the interests or fundamental rights and freedoms of the persons concerned, did not prove the consultation of the trade union or, as the case may be, the representatives of the employees before the introduction of the monitoring systems, as well as the fact that other less intrusive forms and ways to achieve the goal pursued by the employer have not previously proven their effectiveness;

the operator has not proven the existence of adequate data protection policies and the implementation of adequate technical and organizational measures to ensure a level of security corresponding to this risk;

the processing of biometric data through the access control system were not collected for appropriate, relevant and limited purposes to what was necessary in relation to the purposes for which they were processed;

the operator has not carried out a data protection impact assessment.

At the same time, the following corrective measures were applied to the operator:

the corrective measure to ensure the correct information of the persons concerned by communicating in a concise, transparent, intelligible and easily accessible form all the information provided by art. 13 of the RGPD and in the transparency conditions mentioned in art. 12 of the RGPD, as well as to modify the documents through which the information is currently provided;

the corrective measure to ensure the compliance of personal data processing operations in the video monitoring activity, respecting the principle of "data minimization";

the corrective measure to ensure the compliance of personal data processing operations in the access control activity, respecting the principle of "data minimization";

the corrective measure to ensure compliance of personal data processing operations with GDPR provisions, by implementing a security policy and implementing appropriate technical and organizational measures in order to ensure a level of security corresponding to the risks.

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