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A new penalty for breaching GDPR

In April 2022, the National Supervisory Authority completed an investigation at the operator Concordia Capital IFN S.A. and found the violation of the provisions of art. 5 and art. 6 of the General Data Protection Regulation.

The operator Concordia Capital IFN S.A. was fined 19,772.4 lei (the equivalent of 4000 EURO).

The sanction was applied as a result of a complaint claiming that the operator had installed audio-video cameras in the offices of its employees in violation of the legal provisions on the protection of personal data.

During the investigation launched by the Supervisory Authority, the following were found:

that the operator did not prove that the purpose invoked in its internal regulation (ensuring the protection of persons, goods and values of the employer and employees) is a justified one and that other less intrusive means were used to achieve it that did not prove their effectiveness, prior to the adoption of the decision taken in 2020 to use monitoring systems by means of electronic communications and/or by means of video surveillance at the workplace;

that the operator did not present evidence regarding compliance with the processing principles regulated by art. 5 para. (1) lit. a), b), c) and para. (2) and the conditions of legality provided by art. 6 of the General Regulation on Data Protection, which allows Concordia Capital IFN SA to use video surveillance devices inside the offices used by its employees and implicitly process in this way the personal data of the people who work in these spaces;

that the operator did not present evidence from which it can be concluded that he fulfilled all the conditions provided by art. 5 of Law no. 190/2018.

In this context, we specify that, by reference to art. 6 lit. f) from the General Regulation on Data Protection, the provisions of art. 5 of Law no. 190/2018 establish the following:

"If monitoring systems are used by means of electronic communications and/or by means of video surveillance at the workplace, the processing of employees' personal data, in order to achieve the legitimate interests pursued by the employer, is allowed only if:

a) the legitimate interests pursued by the employer are thoroughly justified and prevail over the interests or rights and freedoms of the persons concerned;

b) the employer provided the mandatory, complete and explicit prior information to the employees;

- c) the employer consulted the union or, as the case may be, the representatives of the employees before the introduction of the monitoring systems;
- d) other less intrusive forms and methods for achieving the goal pursued by the employer have not previously proven their effectiveness; and
- e) the duration of storage of personal data is proportional to the purpose of the processing, but no longer than 30 days, except for situations expressly regulated by law or thoroughly justified cases."

Legal and Communication Department

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