

Case number:

Object:

NAIH / 2020/2729/15

Clerk:

decision on request

privacy

official

procedure

DECISION

The National Data Protection and Freedom of Information Authority (hereinafter referred to as the Authority) shall

([...]) (Hereinafter referred to as the "Applicant") against [...] (hereinafter referred to as the "Applicant")

hereinafter referred to as "the application")

the free movement of such data and Directive 95/46 / EC

Regulation (EU) 2016/679 repealing Directive

alleged breach of obligations by the Applicant

in the data protection authority proceedings initiated by the Authority on 24 March 2020 a

The applicant grants his application and

1.

notes that

the. the Applicant has infringed Article 5 (b) and (c) of the General Data Protection Regulation

('Purpose-based' and 'data-saving') when the [...]

He set the angle of view of the camera in his room called

to monitor only the area justified for the protection of persons and property, but also the

it was also suitable for observing short administrative workers.

b. The applicant infringed Article 13 (1) of the General Data Protection Regulation,

when the employees working at the site below [...] are employed from 18 November 2019 to 2020.

was not properly informed by the camera data processing there between 3 April

circumstances.

2.

obliges the Applicant to ensure that the

change the angle of view of the camera so that it is not suitable for workers

unreasonable monitoring and be consistent with the personnel and

for the purpose of protecting property.

3.

for the above infringements, the Applicant shall be notified on 30

within a day

700,000 HUF, ie seven hundred thousand forints

order to pay a data protection fine;

4.

order the final decision on the identification of the Applicant and the Applicant

disclosure (anonymisation).

The fine is accounted for by the Authority's forint settlement account for the collection of centralized revenues

(10032000-01040425-000000000 Centralized direct debit account IBAN: HU83 1003 2000 0104

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.....

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0425 0000 0000) must be paid by bank transfer. When transferring the amount, NAIH / 2020/2729

JUDGE. number should be referred to.

If the debtor fails to meet his obligation to pay the fine within the time limit,

is required to pay a late payment allowance. The rate of the late payment allowance is the statutory interest, which is a

equal to the central bank base rate valid on the first day of the calendar half-year affected by the delay. THE

the Authority's centralized revenue collection forint account

(10032000-01040425-00000000 Centralized direct debit).

Failure to comply with the notice under point 2 and fines and default interest under point 3

in the event of non-payment, the Authority shall order enforcement of the decision, the fine and the penalty payment.

In view of the fact that it exceeded the administrative deadline, the Authority exceeded HUF 10,000, ie HUF 10,000

pay the Applicant, by choice, by bank transfer or postal order.

There is no administrative remedy against this decision, but it has been available since its notification

Within 30 days of the application addressed to the Metropolitan Court in an administrative lawsuit

can be challenged. The emergency does not affect the time limit for bringing an action. The application to the Authority

must be submitted electronically, which will forward it to the court together with the case file. The trial

The application for maintenance must be indicated in the application. During the emergency, the court is hearing

acting outside. For non-personal tax exemptions, judicial review

the fee for the proceedings is HUF 30,000, the lawsuit is subject to the right to record fees. Before the Metropolitan Court

legal representation is mandatory in these proceedings.

## EXPLANATORY STATEMENT

I.

Background, clarification of the facts

the. Content of the request received by the Authority

The Applicant submitted an application to the Authority by e-mail dated 15 March 2020,

supplemented the following day, 16 March 2020. In the application, it was submitted that the Applicant [...]

Based on its own experience, a camera system for security purposes was installed at the site below

to monitor the work and rest periods of workers and

are also used to control According to the Applicant, among other things, this observation nor did he receive sufficient information about the purpose and legal basis of the worked at the site. He did not receive any information about the cameras at the site yet no warnings were posted.

Applicant is an official procedure in connection with the above - in his opinion, illegal conduct requested the Authority to conduct it.

The application did not contain a statement from the Applicant that the Authority had been identified whether to investigate the data controller's activities of the Requested. Furthermore, the were not attached to the application by the Applicant documenting the infringing situation recorded recordings or other documents that may be used in the course of evidence, and not the content and form of the instruction of the superior acting on behalf of the Applicant was precisely described. THE In view of the above, the Authority called on the Applicant to rectify the deficiencies, which he did in March 2020 Replaced on the 24th.

2

In connection with the application and its replacement, it can be stated that between the Applicant and the Applicant On January 20, 2020, an employment contract was signed to fill the position of "warehouse manager". THE The job description and the data management information were attached to the employment contract Applicant submitted to the Authority.

General Employees dated January 16, 2020, handed over upon signing the employment contract a separate section in the data management information deals with the operation of the camera surveillance system. According to this, the Requested operates a camera surveillance system, which, however, is not used by the primary and explicit monitoring of workers and their activities. The camera surveillance only for the protection of human life, physical integrity, personal liberty, and in the case of property protection. No cameras will be placed in rooms where human dignity may be violated, in particular in changing rooms, washrooms, toilets and in premises where the Requested employees take breaks between work. THE

the camera system stores the recorded images for up to 72 hours. The rules are only brief and informs about the camera surveillance in general, it is not specifically under the Applicant [...] monitoring at the site.

According to the Applicant, his duties included, inter alia, that the Applicant [...]

the image transmitted by the camera system installed at the site for the protection of persons and property check. Access to the camera system [...], as directed by the fleet and logistics manager

received from the Applicant's IT department. Narration by the Applicant and by him by the cameras

According to the photos attached to the transmitted images, the site was also used by employees for recreation

the so-called [...] Was also recorded. The Applicant received several verbal instructions from his superior

([...]) To monitor employees for the purpose of staying too long in "[...]". THE

According to the applicant, there was a worker who had been in the restroom too long

moved to another area within the site. According to the applicant, upon entry

the cameras have been in operation for months.

In the application, based on the above, the Applicant requested that the Authority investigate the matter a

Applicant regarding the illegality of camera data processing by employees

and the non-disclosure of the lack of information.

On the basis of the request and its supplement, the right to information self - determination and the

CXII of 2011 on freedom of information Section 60 (1) of the Information Act (hereinafter: the Information Act)

data protection authority proceedings were initiated on 24 March 2020.

b. Facts established during the data protection authority proceedings

1) In the case, the Authority issued NAIH / 2020/2729/6. to clarify the facts

called on the Applicant to make a statement and provide the documents within the deadline

he did enough.

Based on the statement of the applicant, it can be stated that it is for the protection of persons and property

the operation of a camera system for new entrants as part of the entry process

informed. The text of the prospectus has already been attached to the application by the Applicant.

Applicant also informed the Authority that the prospectus for employees of the internal can also be accessed at any time via an IT network.

3

According to the applicant 's declaration, dry - matter storage activities at the site below [...]

(high-value telecommunications and IT equipment, hardware, cables, wires, etc.), there

a total of 37 employees perform their activities. He applied for the camera system built here

security and property of buildings, equipment, technical articles,

the protection of its valuables, the preservation of their value and condition, and the presence of those in the monitored area

protection and insurance of the life, physical integrity and property of persons

prevention of offenses, detection of detected offenses, official or judicial

installed and operated for the purpose of

An employer instruction was provided on the installation and use of the cameras operated by the Applicant

for release on March 24, 2020, from which employees working in the field received an email

information on 3 April 2020. The email contains a link to the camera surveillance system

issued on 24 March 2020. The regulations

applies generally to cameras operated by the Applicant and not only to [...]

on site. The information e-mail was also sent to all employees from [...],

to: [...]).

The purpose of the camera surveillance requested is the security of the buildings and property

protection, as well as personal protection purposes, the above detailed data protection

regulations. The legitimate interest of the Candidate was indicated as the legal basis for the observation. The

the balancing test required for data processing based on the legitimate interests of the data controller a

contained in separate regulations. Article 3.2 of the Regulations can not install a camera such

premises or from a point of view that allows employees to spend their working time

It is forbidden to place a camera in a locker room, toilet or shower

and in all places where visual observation would violate human dignity.

Applicant attached to his response a contact placed in the areas monitored by the camera information (which is annexed to the detailed rules) and the [...] installation diagram for on-site cameras.

According to the applicant, the cameras operating at the [...] site are not present at the workplace or to monitor the intensity of work, but for the purpose of protecting property installed them. No observation is made in rooms that are staffed they are used to relax. Applicant sent a list of cameras located at the site as well snapshots showing the viewing angle of the cameras. The cameras do not record sound, a images are stored for up to 30 days.

According to the Applicant's statement, a room named [...] was also referred to by the Applicant watching camera. The purpose of installing this camera is to protect property, as it is a high-value small machine, tools and parts are stored. The room in addition to short-term administration tasks are also performed (for example, publishing of warehouse materials, receipt by computer) documentation), continuous employee presence, but constant performance of tasks in this not in room. Based on the sent camera image for storage in the room shelves, cabinets, a desk with computer and printer and several office swivel chairs served:

[...]

4

The camera image sent is the same as the camera image attached by the Applicant for the room and with regard to the angle of view, with the difference that in the case of recruitment of the Applicant there are more worker is also visible.

For images transmitted by on-site cameras in the Privacy Policy<sup>1</sup> can be accessed by employees in a specified breakdown. To learn about camera images General Manager, HR Manager, Security Manager, Network Operations Center (NOC) team leader and staff performing 0-24 hour dispatching duties are eligible. A given

area (eg the site in question [...]) is the logistics manager, the logistics manager

the team leader and the warehouse manager are entitled to get to know the camera images. Additional authority may be issued in consultation with the Chief Security Officer.

2) In the case, the Authority issued NAIH / 2020/2729/8. to clarify the facts

called on the Applicant to make a statement and provide the documents within the deadline

he did enough.

At the request of the Authority, the applicant stated that it had not received any complaints from [...] at the site camera system.

The camera system is called its "trial operation" began at the site on 18 November 2019. THE

Development of a specific data protection policy for camera surveillance

based at the time "already in progress," to issue it and email it to employees

finally, as referred to in the Applicant's previous statement, on 3 April 2020

took place.

Logged access to camera images requested with [...] central video server

performs. The following access data is logged: date,

user ID, user IP address, user type, event, server name,

event information, event supplementary information. The log data was requested by the personal and

CXXXIII of 2005 on the protection of property and the rules of private investigation.

22/2006 on the implementation of Act (IV. 25.) Decree of the Ministry of the Interior with reference to Section 10 (2)

Store for 30 days.

The applicant also stated that the room [...] at the [...] site was not

a room set aside for employees to spend their working time. Its basic function is a warehouse,

and short-term administrative tasks are performed there. It is permanent in the room

tasks are not performed by employees.

3) In the case, the Authority issued NAIH / 2020/2729/10. to clarify the facts

called on the Applicant to make a statement and provide the documents within the deadline



he did enough.

At the request of the Authority, the applicant stated that the installation of the camera system at the [...] site after, from November 18, 2018, it was immediately suitable for image capture, so in this respect there was no difference between its "live" and "test run" in terms of data management.

1

Requested NAIH / 2020/2729/7. Annex 3, point 12, to its reply

5

The system was peer reviewed on 6 April 2020 due to an internal coordination problem line, during which it was found that the constructed configuration is supplemented in several respects and needs to be changed, but not until the Authority has completed its procedure changes Requested, it is still in its original condition on site.

Information on the "trial operation" of the camera system and the start of the related data management was not posted to workers. Information on the operation of the system in 2020.

was sent to the employees by e-mail on April 3, as already requested

he also referred in his previous answers.

c. A NAIH / 2020/2007. started

and the joinder of cases

same

subject

test

procedure

In addition to the Applicant's request, he was further contacted by e-mail on 22 February 2020

A complaint was also received in which the complainant described that the Applicant [...]

worked at the site and was not familiar with data management when the employee entered regulations regarding the camera surveillance system and was not available at the site posting warning and information on camera surveillance. The complainant also described

that a resting space was also observed by the cameras.

As in this case the complainant did not consent to the disclosure of his identity

Therefore, in this case the Authority initiated an investigation procedure against Infotv. § 52

based on NAIH / 2020/2007. case number.

The Authority NAIH / 2020/2007/4. Applicant also sent a request for 2020.

the employer's instruction dated 24 March 2020 and the e-mail dated 3 April 2020

on the availability of a data protection policy for camera data processing, which is already the subject of this decision

I./b./1). It is the same as the legal basis and purpose of the data processing

referred to as references in the official procedure NAIH / 2020/2729. Requested

also sent a drawing of the installation of the cameras and the images they transmitted, which is the same

with the sender in the present official proceedings.

By activating the camera surveillance system and starting data management

In this case, too, the Applicant indicated the date of 18 November 2019 as

Start of "trial run".

Given that the complaint complained by the camera surveillance system is privacy

was a data protection authority procedure with the same content

ongoing NAIH / 2020/2729. The Authority therefore decided in Case NAIH / 2020/2007 number

closed the investigation on 16 July 2020 and the findings are set out in

It was further examined ex officio in case NAIH / 2020/2729. Joining the cases a

Authority Applicant NAIH / 2020/2729/11. notified on 16 July 2020 under number.

II.

Applicable legal provisions

CL of 2016 on General Administrative Procedure. (hereinafter: the Act)

the authority, within the limits of its competence, checks the provisions of the law

compliance with the provisions of this Regulation and the enforcement of the enforceable decision.

Pursuant to Article 2 (1) of the General Data Protection Regulation

the general data protection regulation applies to data processing.

According to Article 4 (1) of the General Data Protection Regulation, "personal data" means identified or

any information relating to an identifiable natural person ("data subject"); identifiable by a

a natural person who, directly or indirectly, in particular by an identifier, e.g.

name, number, location data, online identifier or physical, physiological,

genetic, intellectual, economic, cultural or social identity

identifiable by a factor.

According to Article 4 (2) of the General Data Protection Regulation, "data processing" means the processing of personal data

or any operation on automated or non - automated data files, or

a set of operations such as collecting, recording, organizing, segmenting, storing, or transforming

change, query, view, use, transmit, distribute or otherwise

harmonization or interconnection, restriction, deletion,

or destruction.

Personal data pursuant to Article 5 (1) (b) of the General Data Protection Regulation

collected for specified, explicit and legitimate purposes and not processed

in a way incompatible with those objectives; not in accordance with Article 89 (1)

considered incompatible with the original purpose for the purpose of archiving in the public interest, scientific

and further processing for historical research or statistical purposes ('for purposes

constraint ").

Pursuant to Article 5 (1) (c) of the General Data Protection Regulation, personal data are:

they must be appropriate and relevant to the purposes of the processing, and

should be limited to what is necessary ("data saving").

Pursuant to Article 5 (2) of the General Data Protection Regulation, the controller is responsible for

must be able to comply with the principles set out in

('accountability').

According to Article 6 (1) (f) of the General Data Protection Regulation, personal data

is lawful only if and to the extent that at least one of the following is met:

the processing is in the legitimate interests of the controller or of a third party

necessary, unless the interests of the data subject take precedence over those interests

or fundamental rights and freedoms which call for the protection of personal data,

especially if the child concerned.

Pursuant to Article 13 of the General Data Protection Regulation

1. Where personal data concerning the data subject are collected from the data subject, the controller shall:

at the time of obtaining personal data, make the following available to the data subject

all information:

(a) the identity and contact details of the controller and, if any, of the controller 's representative;

(b) the contact details of the Data Protection Officer, if any;

(c) the purpose of the intended processing of the personal data and the legal basis for the processing;

(d) in the case of processing based on Article 6 (1) (f), the controller or a third party

legitimate interests of a party;

(e) where applicable, the recipients or categories of recipients of the personal data, if any;

7

(f) where applicable, the fact that the controller is a third country or international organization

personal data and the Commission's Compliance Office

the existence or absence of a decision in accordance with Article 46, Article 47 or Article 49 (1)

in the case of the transmission referred to in the second subparagraph of

the means of obtaining the guarantees and the means of obtaining a copy thereof, or

reference to their availability.

2. In addition to the information referred to in paragraph 1, the controller shall process personal data

at the time of acquisition, in order to ensure fair and transparent data management

provide the data subject with the following additional information:

(a) the period for which the personal data will be stored or, if that is not possible, that period

aspects of its definition;

(b) the data subject's right to request from the controller the personal data concerning him or her

access to, rectification, erasure or restriction of the processing of data, and

may object to the processing of such personal data and to the portability of the data concerned

the right to

(c) information based on Article 6 (1) (a) or Article 9 (2) (a);

in the case of data processing, the right to withdraw the consent at any time, which

does not affect the lawfulness of the processing carried out on the basis of the consent prior to the withdrawal;

(d) the right to lodge a complaint with the supervisory authority;

(e) that the provision of personal data is required by law or by a contractual obligation

based on or a precondition for concluding a contract and whether the person concerned is obliged to be personal

provide information on their possible consequences

failure to provide data;

(f) the fact of automated decision-making referred to in Article 22 (1) and (4), including:

profiling and, at least in these cases, the logic used

understandable information on the significance of such processing and on the data subject

its expected consequences.

2005 on the rules for the protection of persons and property and the rules governing the activities of private investigators

year XCCCIII. is not applicable pursuant to Section 30 (3) of the Act (hereinafter: the Act)

an electronic surveillance system in a place where surveillance may violate human dignity,

in particular in changing rooms, changing rooms, washrooms, toilets, hospital rooms and social

in the accommodation of the institution.

Section 9 (2) of Act I of 2012 on the Labor Code (hereinafter: Mt.)

according to the employee's right to privacy may be restricted if the restriction is an employment relationship

absolutely necessary for reasons directly related to its purpose and proportionate to the achievement of the objective. THE

the manner, conditions and expected duration of the restriction of the right to privacy, and the circumstances justifying the necessity and proportionality of the employee in writing in advance must be informed.

Mt. 11 / A. § (1), the employee's conduct related to the employment relationship can be checked. In this context, the employer may also use technical means, a inform the employee in writing in advance.

The Ákr. Pursuant to Section 103 (1) of the Act concerning the procedures initiated upon request provisions of Art. It shall apply with the exceptions set out in Sections 103 and 104.

8

Act CXII of 2011 on the right to information self-determination and freedom of information. law (hereinafter: the Information Act) pursuant to Section 61 (1) (a), the Authority shall in the context of the data processing operations set out in may apply the legal consequences set out in the Data Protection Regulation.

Pursuant to Article 58 (2) (b) and (i) of the General Data Protection Regulation, the supervisory the data controller or processor acting under the corrective powers of the competent authority if breached the provisions of the Regulation or Article 83

impose an administrative fine accordingly, depending on the circumstances of the case in addition to or instead of the measures referred to in Paragraph 2 of the same Article

In accordance with point (d), the supervisory authority, acting in its corrective capacity, shall instruct the controller or the processor to carry out its data processing operations, where appropriate in a specified manner and bring it into line with the provisions of this Regulation.

The conditions for the imposition of an administrative fine are set out in Article 83 of the General Data Protection Regulation. contained in Article. Infotv. 75 / A. § 83 of the General Data Protection Regulation.

taking into account the principle of proportionality in particular in the legislation on the processing of personal data or requirements laid down in a binding act of the European Union

Article 58 of the General Data Protection Regulation

in particular by alerting the controller or processor.

The Ákr. Pursuant to Section 104 (1) (a), the Authority shall ex officio in its area of competence

initiate proceedings if it becomes aware of a circumstance giving rise to such proceedings;

under paragraph 3 of the same paragraph, the ex officio procedure is the first procedural act

starts on the day of the execution of the contract, the notification of the initiation to the known customer may be omitted if the

the authority shall take a decision within eight days of the initiation of the procedure.

### III. Decision

the. Legal basis of the examined data management

According to the definition in Article 4 (1) of the General Data Protection Regulation, one

man's face, his image is considered personal data, the taking of the image as well as the data

and any operation carried out shall be considered as data processing within the meaning of Article 4 (2).

Given that the viewing angles of the cameras are designed to be observed

outside the premises and the property located there

employees are also monitored at the workplace on the basis of documents sent to the Authority

the rules on camera surveillance must also be taken into account for the legality of the case

in connection with its assessment. In assessing this, the following employment law rules apply.

Pursuant to Section 42 (2) (a) of the Labor Code, the employee is obliged to do so on the basis of the employment contract

to perform work under the direction of the employer. In accordance with this, Section 52 (1) b) of the Mt.

and (c) defined as the employee's fundamental duty that the employee

is obliged to be at the disposal of the employer during his working hours and his work is generally expected

expertise and diligence, rules, regulations, instructions and

carried out as usual. In order to comply with these legal obligations, Mt. 11 / A. § (1)

provides for the possibility for the employer to involve the employee in the employment relationship

check for related behavior. This entitlement necessarily goes hand in hand

processing of personal data.

Data management related to employer control from the provisions of the Mt., employment

data management independent of employee consent due to its nature. With your consent

In this context, it should be noted that its general data protection regulation

must be voluntary according to its definition<sup>2</sup>. Regarding voluntary contributions

however, established under Article 29 of the Repealed Data Protection Directive<sup>3</sup>

Data Protection Working Party<sup>4</sup> (hereinafter referred to as the "Data Protection Working Party") in several resolutions

also explained that the volunteer in the employee-employer relationship is questionable

possibility of consent. In the world of work, therefore, there is a different legal basis than the data subject's consent,

the use of data processing based on the legitimate interest of the employer is justified.

Pursuant to Article 6 (1) (f) 5 of the General Data Protection Regulation

thus, personal data can be processed if the processing is carried out by the controller (or

third party), unless those interests

preceded by the right of data subjects to the protection of personal data.

It is important that the employer, as data controller, has a discretionary interest in invoking this plea

must be done.<sup>6</sup> Carrying out a balance of interests is a multi-step process in which

the legitimate interest of the controller, ie the employer, and the counterweight to the weighting must be identified

the data subject, the employee, the fundamental right concerned, and finally the weighting

it must be established whether personal data can be processed. Where the balance of interests

as a result, it can be concluded that the employer's legitimate interest precedes the employees

the right to the protection of personal data, a camera system that can be operated in this way.

Article 4 (11) of the General Data Protection Regulation: " consent of the data subject 'means the voluntary, specific and

an informed and unambiguous statement giving the statement or confirmation concerned

by giving unequivocal express consent to the processing of personal data concerning him or her. "

2

On the protection of individuals with regard to the processing of personal data and on the free movement of such data



3

Prior to the date of application of the General Data Protection Regulation, the Data Protection Working Party shall:  
an independent European adviser on data protection and privacy issues  
replaced by the European Data Protection Supervisor.

4

Article 6 (1) (f) of the General Data Protection Regulation: "Processing of personal data only if and to the extent that  
lawful if at least one of the following is met: the processing is lawful by the controller or a third party  
necessary to safeguard the interests of the person concerned, unless those interests take precedence over such interests  
interests or fundamental rights and freedoms which necessitate the protection of personal data, in particular where  
affected child. "

5

The Data Protection Working Party 6/2014 provides assistance in carrying out the balance of interests. number, the data  
controller

Opinion on the concept of legitimate interests under Article 7 of Directive 95/46 / EC, in which the general  
during the period of application of the Data Protection Regulation. The opinion can be obtained from the following link:  
[https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2014/wp217\\_en.pdf](https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2014/wp217_en.pdf)

6

10

From the "principle of accountability" under Article 5 (2) of the General Data Protection Regulation  
however, as a result, the employer must prove that the electronic he is using  
monitoring system is compatible with the principle of purposeful data management and the balancing of interests  
its outcome resulted in the primacy of the legitimate interest of the controller. This is a requirement  
designates the framework for the purpose of an electronic monitoring system at the workplace  
to operate.

Requested in the data protection regulations sent to the Authority as the legal basis for the monitoring

legitimate interest has been indicated. Required for data management based on the legitimate interest of the data controller the balancing test is included separately in the data management rules sent to the Authority. THE data management of a built-in camera system that necessarily monitors employees He therefore requested Article 6 (1) (f) of the General Data Protection Regulation as his legal basis applied. The use of this legal basis is accepted by the Authority as appropriate in the workplace in connection with a camera system for the protection of persons and property it makes no further findings.

b. The purpose of the examined data management

The data processing in the replies of the Applicant to the Authority and in the attached documentation to protect the security of buildings and their property, and

marked personal protection purposes. Thus, the purpose of operating the camera system is not to monitoring and influencing the work of employees, but also protecting people and property.

In this regard, it is important to mention that workplace camera surveillance is absolute

respect for human dignity, therefore, cameras for workers and

not to operate on a permanent, non-targeted basis

may. It is also illegal to use an electronic monitoring system that

aimed at influencing the behavior of employees at work, employees

permanent surveillance and control with cameras. The reason is that for control purposes

observation typically violates the principle of necessity proportionality, as the employer has a number of

there is another way to live according to Mt. 11 / A. § (1). Therefore,

it is not possible to operate cameras that are exclusively for the workers and the work performed by them

activity is monitored on a permanent basis. Exceptions are workplaces where a

the life and physical integrity of workers may be in imminent danger and may therefore be operated exceptionally

camera, for example, in an assembly hall, smelter, industrial plant, or other source of danger

facilities containing It should be emphasized, however, that only in that case

an operable camera to protect the life and physical safety of workers in the event of danger

it actually exists and is direct, that is, the potential danger cannot be constitutional

acceptable data management purpose. However, all this must be proven by the employer

balancing test.

11

In the case of surveillance for property protection purposes, the employer must also certify this

in the balance of interests, that there are in fact circumstances justifying the

placement of certain cameras and otherwise the intended purpose cannot be achieved. The protection of property

An additional important requirement for the purpose of monitoring is to pay special attention to the employer

must be such that the angle of view of the camera in question is essentially aimed at the property to be protected,

and should not, as a result of the above, become a means of monitoring the performance of workers

suitable tool.

In addition, it is also not possible to use an electronic monitoring system in a room

which has been designated for the purpose of taking breaks between employees. An exception to this

it may be the case that there is some valuable property to be protected in this room,

in connection with which an employer interest can be demonstrated (for example, employees

the equipment was damaged several times and the damage had to be borne by the employer). In this

In this case, a camera can be placed in the room for this specific purpose, but then the

The employer must also pay particular attention to the principle of data protection

be such that the angle of view of the camera can only be directed at the property to be protected.

Based on your requested responses and the submitted images transmitted by the placed cameras

it can be established that they are the storage premises at the premises, the goods stored there and the

the courtyard and the parking spaces there are monitored. An exception to this is called [...]

room, as here a larger desk, chairs and

also a computer workstation, which Requested response based on short-term administration

activities (for example, publishing of warehouse materials, receipt by computer

documentation).

The purpose of the installation of [...] 's camera is also the protection of persons and property

high-value small machines, tools,

parts are stored. In the case of a recording attached by the Applicant, there are several in the room

worker is also visible.

Regarding the angle of view of this camera, it can be stated that its lower-right part is administrative

furniture and objects that are part of a workstation, while the one on the upper left is the one you want to protect

small appliances, tools and parts, as well as cabinets and shelves suitable for storing them

are visible.

According to the applicant's declaration, [...] is not a room designated for breaks. If

that would be the case under the Requested Camera Surveillance Privacy Policy

camera could not be operated. Nevertheless, the Applicant's request and was received by the Authority

in connection with a further complaint, it can be stated that it was also used for this purpose by the employees, a

with short-term administrative work. For example, according to the applicant's statement, there are several employees

has also been called upon by the site 's logistics manager to spend less time on

in the room.

Irrespective of the allegations in the application and in the complaint, it can be stated that the angle of view of the camera

installed in [...] is such that the workers (the

37 people in the period) requested to view the images of the cameras

through your authorized employees. This is because the angle of view of the camera is more than just

high - value assets to be protected or storage units containing them (mediated by

upper left half of the image), but also the workstation for administrative purposes (lower right half of the transmitted image)

12

hangs in. The constant observation of the latter part of the room is neither the protection of property nor the

nor is it justified in order to protect the life and physical integrity of workers, as there is only physical

there is administrative work that does not pose a real threat to health, and there is significant storage of valuables

it doesn't happen either.

The suitability of the image transmitted by the camera for monitoring the intensity of work are also likely to be the subject of an independent complaint. The system is suitable to ensure that it does not serve to unduly monitor employees by the intermediary by those authorized to view the image (in this case, these are the logistics manager and the warehouse manager) a Responsible as the data controller operating and operating the system belongs to.

In view of the above, the Authority concludes that the name of the Applicant is [...] the angle of view of the camera installed in the room is suitable for unreasonable surveillance of workers, thus incompatible with the original purpose of the protection of persons and property. Through the camera therefore infringes Article 5 (1) (b) of the General Data Protection Regulation principle of "purpose limitation".

In addition, since the said camera is aimed not only at the assets to be protected, but also at a wider spectrum of vision is included in the image it conveys, thus enabling the room the Authority considers that the principle of data protection - the general principle of Article 5 (1) (c) of the Data Protection Regulation.

In view of the above, the Authority requested the Applicant, in the operative part of this Decision, to change the angle of view of the camera installed in the [...] room of the [...] site so that it is not suitable for unjustified monitoring of workers and in accordance with be for the protection of persons and property during the installation of the system.

#### c. Informing the data subjects about the data management examined

An essential requirement for the processing of data related to camera surveillance at work, to ensure that data management is appropriate, transparent and easy to understand receive information. In this connection, the following must be taken into account:

Pursuant to Section 9 (2) of the Labor Code: "On the manner, conditions and the expected duration and the circumstances justifying its necessity and proportionality the worker must be informed in advance in writing. "

Mt. 11 / A. § (1), if the employer also uses technical means a

employees, they must inform them in advance in writing.

Article 13 (1) to (2) of the General Data Protection Regulation states that data processing

what information should be made available to employees in relation to

In the case of data processing related to camera surveillance, the general data protection regulation

According to the system of requirements provided by the employees, the following is particularly important

circumstances must be reported:

-

the person (legal or natural) operating the electronic monitoring system

determining

13

-

the contact details of the Data Protection Officer, if any

person

-

the location of each camera and the purpose for which it is intended

the area or subject being observed, or whether you are direct or obstructed by the camera

whether the employer carries out a fixed observation,

-

the legal basis for data processing,

-

determining the legitimate interest of the controller,

-

the storage period of the recording,

-

the persons entitled to access the data and whether the recordings are made

to which persons and bodies, in which case the employer may forward it,

-

on the rules for reviewing recordings and whether to record recordings

what purpose the employer may use,

-

on the rights of employees in electronic communications

in the context of the monitoring system and how they can exercise their rights,

-

about information self-determination

enforcement tools.

their rights

violation

in case of

what kind of

In connection with the obligation to provide information, it is also necessary to emphasize that the employer

for each camera, you must specify exactly what that camera is like

the purpose of the camera's viewing angle.

This allows the employer to justify to employees why it is considered

it is necessary to monitor the area. The practice of a

employer generally informs employees that it is electronic

uses a monitoring system in the workplace.

An additional requirement in the context of adequate information is that the employer is obliged

to place an alert on the fact that the area is electronic

monitoring system.

Applicant notified by the Authority at the request of the [...] site of the camera system

immediately after its installation and commissioning on 18 November 2019

it was suitable for image capture, which began at this time.

Applicant distinguishes between the periods of operation of the system. "Trial" and "sharp

although it did not comment on the exact duration of the trial run. Requested

However, according to the statement, there was no difference between the "sharp" and the

"Trial operation", so the system operated in the same way during the relevant period. The two

In this period, the conditions for data management were the same.

On the "trial operation" of the on-site camera system and related data management

information about the start of the contract was not sent to employees on November 18, 2019

before.

Applicant attached to his application his employment contract on the day of his entry

Data management information provided by the applicant. The prospectus is general, not specific to the

14

a document focusing on camera data management, but also the employee's personal information

contains information on the general management of Up to one paragraph in the prospectus

Some issues of camera data processing (eg legal basis, retention period, purpose,

prohibitions). This shorter summary document does not include those listed above

all categories as it is not with a camera system at a specific site

is only a general guide. According to the applicant, the site is a warning

no signs were posted, with any further, more specific information available

connection.

The more detailed data protection regulations on the operation of the requested camera systems in 2020.

was sent to employees on April 3 in an email that included a link to

For policies available on your requested internal network. This document is not limited to [...]

for all cameras operated by the Applicant

contains detailed privacy rules. The e-mail is not only for the employees of the [...] site,

but received by all employees (to: [...]), so it is likely to be considered



Requested general “camera” data management policy.

Based on the above, it can be stated that the Applicant handed over to the Applicant upon entry in his data management prospectus, he only informed him in general that he was performing his job you can observe it with a camera. Such general, concise and easy-to-understand information is data management options are to be welcomed and basically expected from data controllers.

However, brief general employee information alone is not enough if specific with data management (in this case with camera surveillance at the specific site) no further guarantees have been given in a more detailed data management policy guaranteeing the rights and freedoms of those concerned. For these additional guarantees or a document describing them are not referred to in the prospectus (eg by link).

No information was provided on the data management at the specific site, and the camera detailed internal rules for monitoring well after the start of data processing, was developed with a delay of several months.

The absence of these additional specific guarantees defeats the purpose of the information, namely that the data subject be aware of the circumstances in which your personal data are processed by the controller.

It is important that the data controller, at the request of the data subject, has additional specific data processing provide more detailed information on your circumstances. The general privacy policy

Article 13 (1) to (2) of the Regulation sets out in detail which shall inform the data subject of the information, of which, however, the the information provided at the time of employee entry was only partially complied with. The briefing is not it included, for example, a balancing test and other references where it did detailed rules would be available. The reason for this is that the regulations only months later, after the start of data management, the workers. The content of the warning sign to be placed in the monitored area is also only subsequently, defined in these regulations.

Article 13 (1) of the General Data Protection Regulation provides that the controller a

at the time of obtaining the personal data, make available to the data subject a

all of the information listed.

15

In the present case, the Applicant was not able to start the data processing (which is the so - called

The date of the start of the 'trial run' on 18 November 2019) to ensure this, as only one very

provided brief and general information on the possibility of camera surveillance by employees

upon entry. Complementing the briefing, specifying it and for all employees

detailed camera data management policy is available only after data management has started

adopted and communicated to stakeholders (3 April 2020). After that the

information has already complied with the requirements of Article 13.

On the basis of the applicant 's request and the results of the joined complaint, it can thus be concluded that a

on-site information on camera data management was inadequate for those working at the site

employees (a total of 37 people in the period under review) all the way to detailed data management

until the issue of the regulations.

In view of the above, the applicant infringed Article 13 (1) of the [...]

for on-site camera data management from 19 November 2019 to 3 April 2020.

because it did not provide sufficient and specific information to the

workers.

d. Findings concerning the sanction applied.

The Authority has examined the type of sanction it intends to impose on the Applicant

for the breaches detected and whether a data protection fine is justified. E

Article 83 (2) of the General Data Protection Regulation and Infotv. 75 / A. §-the

based on Infotv. § 61 (5), considered all relevant to the case

and found that in the case of the infringement discovered in the present proceedings, the Applicant

warning and solicitation is not in itself a sufficiently disproportionate and dissuasive sanction,

it is therefore appropriate to impose a fine.

In determining the need to impose a fine, the Authority considered the infringements

aggravating and mitigating circumstances as follows:

Aggravating circumstances:

-

In connection with the data management activities of the Applicant, the Authority has already done so  
infringement in an official data protection procedure ([...])

-

Regarding its position in the Requested Market and the resources available to it

he is increasingly expected to comply with data protection legislation, including in the workplace

compliance with data management.

-

Infringement of camera data management and insufficient information at the site under investigation is lengthy

Durated: 18 November 2019 - 3 April 2020

-

In setting the amount of the fine, the Authority took into account that:

Infringements of principle by the applicant are covered by Article 83 of the General Data Protection Regulation

(5), it falls into the category of fines with a higher maximum amount

constitute an infringement.

16

Mitigating circumstances:

-

The lack of infringing camera surveillance and information is the data management under investigation

did not affect a very wide range of persons (a total of 37

employee).

-

Only an image transmitted by a single camera ([...]) at the site may be suitable for

unjustified monitoring of workers.

Other circumstances considered:

-

The Authority also took into account the fact that the Applicant cooperated in all respects

Authority in the investigation of the case, although this conduct is not - as the law

obligations were not exceeded either, he said

as a circumstance.

In setting the amount of the fine, the Authority took into account that

Net sales of HUF [...] (HUF [...]) in the business year between January 1, 2019 and December 31, 2019

volt. In setting the fine, it took into account the duration of the infringement

taking into account the Authority's business year 2019 and the fact that the year 2020 is not yet available

public data available. Based on the above, the amount of the fine imposed according to the gravity of the infringement

proportionate shall not be considered excessive.

The Authority shall inform Infotv. Pursuant to Section 61 (2) (c), the decision is the Applicant ID

disclosure of his data, as it is not affected

a wide range of people.

ARC.

Other issues

The powers of the Authority shall be exercised in accordance with Infotv. Section 38 (2) and (2a), its jurisdiction is

covers the whole country.

The Ákr. § 112 and § 116 (1) and § 114 (1), respectively

there is an administrative remedy against him.

The rules of administrative litigation are laid down in Act I of 2017 on the Procedure of Administrative Litigation (a

hereinafter: Kp.). A Kp. Pursuant to Section 12 (2) (a), the Authority

The administrative lawsuit against the decision of the Criminal Court falls within the jurisdiction of the court. Section 13 (11)

The Metropolitan Court shall have exclusive jurisdiction pursuant to On civil procedure

on the 2016 CXXX. Act (hereinafter: Pp.) - the Kp. Pursuant to Section 26 (1)

applicable - legal representation in a lawsuit falling within the jurisdiction of the tribunal pursuant to § 72

obligatory. Kp. Pursuant to Section 39 (6), unless otherwise provided by law, the application

has no suspensory effect on the entry into force of the administrative act.

A Kp. Section 29 (1) and with this regard Pp. Applicable in accordance with § 604, electronic

CCXXII of 2015 on the general rules of public administration and trust services. Act (a

hereinafter: E-Administration Act), the customer is legal in accordance with Section 9 (1) (b)

representative is required to communicate electronically.

17

The time and place of the submission of the application is Section 39 (1). THE

Information on the possibility of requesting a hearing is provided in the CM. Section 77 (1) - (2)

based on. The amount of the fee for an administrative lawsuit shall be determined in accordance with Act XCIII of 1990 on

Fees. law

(hereinafter: Itv.) 44 / A. § (1). From the advance payment of the fee is

Itv. Section 59 (1) and Section 62 (1) (h) shall release the party instituting the proceedings.

74/2020 on certain procedural measures in force during an emergency. (III. 31.)

According to Section 35 of the Government Decree (hereinafter: Government Decree), unless otherwise provided by this

Decree

the emergency does not affect the running of the time limits.

According to Section 41 (1) of the Government Decree, the court is hearing at the time of the emergency

acting outside. If the lawsuit were to be heard outside the time of the emergency, the plaintiff would then

may request the court to adjudicate the emergency instead of adjudicating

postpone until the end of

(a) the court has not ordered, at least in part, the suspensory effect of the administrative act,

(b) the action has suspensory effect and the court has not ordered the suspension of the suspensory effect

el,

(c) no interim measure has been ordered.

The Ákr. According to § 132, if the debtor does not comply with the obligation contained in the final decision of the authority fulfilled, it is enforceable. The decision of the Authority With the communication pursuant to Section 82 (1) it becomes final. The Ákr. Section 133 of the Enforcement - if by law or government decree unless otherwise provided by the decision-making authority. The Ákr. Pursuant to § 134 a enforcement - if local in a law, government decree or municipal authority matter the decree of the local government does not provide otherwise - it is carried out by the state tax authority. Infotv. Pursuant to Section 60 (7), a specific act included in the decision of the Authority obligation to perform, to behave, to tolerate or to stop implementation of the decision shall be carried out by the Authority.

Budapest, October 14, 2020

Dr. Attila Péterfalvi

President

c. professor