

Romania – Fine for infringement of the GDPR in relation to GPS monitoring of employees

In February 2023, the Romanian Data Protection Authority (DPA) completed an investigation into a company based in Romania that acts as a data controller. During the investigation, the DPA established that the company had infringed Article 5(1) (a),(c),(e) and (2) as well as Article 6 of the General Data Protection Regulation (GDPR). The data controller was fined EUR 5,000. We summarise some of the key aspects communicated by the DPA on the matter:

The investigation followed a complaint by an employee that the employer processed the plaintiff's personal data by means of the GPS system installed on his company vehicle, without having been informed about the monitoring of the vehicle, the purpose and legal basis of such processing and the retention period of the personal data thus collected. The plaintiff also argued that the information obtained from the GPS system was used by the employer for purposes other than monitoring his assigned company vehicle.

During the investigation, the employer was found to have processed location data relating to the plaintiff – an employee of the data controller – in an excessive manner and outside the employee's working hours through the GPS monitoring system installed on his company vehicle, without having demonstrated that it had previously exhausted other less intrusive methods to achieve the purpose of the processing and without proving that the employee had been fully informed of the processing of the data through the GPS system, in breach of the relevant GDPR provisions.

At the same time, the DPA ruled that the employer had stored the data provided by the GPS system beyond the storage period provided for in Article 5 of Law No 190/2018, without providing evidence that there were justified reasons for exceeding the 30-day period, and thus the employer had violated the provisions of the GDPR.

It was also determined that the employer used the personal data of the employee provided by the GPS system for a purpose other than the one for which it had originally collected such data.

At the same time, pursuant to Article 58(2)(d) of the GDPR, the DPA ordered the data controller to take:

- corrective measures to ensure compliance with the GDPR regarding the collection and further processing of personal data by reassessing the necessity of achieving the proposed purposes through the use of location data from the GPS tracking system installed on the company vehicles of the data controller's employees and by avoiding excessive data collection, by observing the obligations laid down in the GDPR and Law no. 190/2018;
- corrective measures to ensure compliance with the GDPR regarding the collection and further processing of personal data by limiting the period of data storage in accordance with the purposes of data processing, by observing the obligations laid down in the GDPR and Law no. 190/2018;



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Processing of employees' personal data using GPS tracking systems

The DPA noted in various reports that the use of geolocation devices involves a certain risk to the rights and freedoms of employees. Therefore, employers are required to assess the related risks before installing such surveillance systems in order to establish whether their use is necessary, as well as to demonstrate the legitimate interest of the employer in its capacity as the data controller. Consequently, according to the DPA, it is necessary to conduct a data protection impact assessment (DPIA) of the controller's specific situation whenever the implementation of GPS tracking systems would result in the personal data of employees being processed.

For more information

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