

# Uniontrad Company GDPR Violation, France

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## Abstract

On June 13th 2019, a little over a year after GDPR went into effect, France's data protection agency (CNIL) filed its third ever fine against a tiny translation firm, Uniontrad Company. CNIL followed up on long standing employee complaints from 2013 to 2017 alleging that Uniontrad Company had been continuously videotaping employees at their desks. Complaints were filed before GDPR went into effect, but upon an audit in 2018 CNIL found the company did not comply with previous warnings and fined them €20,000 under GDPR. [1, 2, 4] What makes this case remarkable, is not the scope of the data or the size of the fine, but rather that one of the largest EU countries was willing to enforce GDPR against such a small company.

## 1 Background

France's data protection agency's fine against Uniontrad Company is an example of GDPR being used to enforce the data privacy of employees at work. This is not an example of systematic surveillance or insufficiently secure infrastructure. Rather, this case shows that GDPR protects workers against sloppy and insecure monitoring by their employer that does not respect their privacy. A company does not have to be a tech company, or even misuse large amounts of user data, to be in violation of GDPR. This shows that GDPR is fundamentally about securing individuals privacy and consent.

Moreover, this fine shows that no case is too little. Uniontrad Company is a small translation company based in Paris which at the time of the fine employed nine people and which turned no profit. This shows that GDPR is capable of addressing the complaints of a handful of people against a small, but abusive, employer. GDPR therefore should be seen closer to a bill of privacy rights rather than a simply a regulation of huge companies processing data of millions of people.

## 2 GDPR Violation

Uniontrad set up a CCTV camera monitoring the workstation of several employees. [1, 2] At least one CCTV at fault was likely intended to monitor a cabinet of important documents. However, multiple translator's workstations were in direct view of the camera resulting in them being continuously recorded. [1, 2, 4]

Regardless of the camera's purpose, several employees complained and sent multiple reports to CNIL between 2013 and 2017. CNIL responded by notifying the company that it should comply with the various French laws pertaining to employee surveillance, but took no further action. Finally in 2018, the data protection agency inspected the office and issued a warning compelling the company to change its surveillance system. [2] The main reasoning for violation were:

- The CCTV cameras allowed for continuous surveillance of employees while working and were not limited to security functions. This was a violation of Article 5(c) since the continuous recording of employees was unnecessary and avoidable. [2]
- Employee's being recorded had not been asked for their consent. There were no notices or signs informing the data subjects that they were being recorded. [2] This is a violation of Article 6.
- The company had clearly not respected the complaints and requests by the data subjects to not be recorded. [2] This is a violation of Articles 17 & 18.
- There was no policy in place for security of the recorded data or how the recordings were being handled or deleted. Moreover, upon investigation it became clear that the data was stored on a computer with an insecure password available to many employees. [2] This is a violation of Article 32.

In this case the company is both the data controller and data processor since they recorded, stored and likely viewed the

video tapes itself. The legality of the fine was mainly based on Article 5(c) since the recordings were clearly unnecessary to the function of the CCTV security system. [2]

After receiving notice they were in violation of GDPR the company took minimal effort to comply, and it only placed a sign in the lobby informing visitors of the existence of CCTV. [2,3] CNIL followed up again and issued a fine on the grounds outlined above. The final settlement was for €20,000 since the company employed only nine people and since it was profit negative. [1,2,4]

### 3 Discussion

The main question of interest to this case, which was not directly addressed by the official report, is how important was GDPR in enforcing this case. France had existing office surveillance regulations under which employees had filed their original complains in from 2013 to 2017. [2] However, importantly CNIL took no concrete steps to rectify the situation. It was only in 2018 after GDPR went into effect did CNIL move quickly to enforce change. [2,3] Since GDPR is a strong general protection of privacy, CNIL was likely able to take serious action quickly. [2,3] For instance, upon the original complains between 2013 and 2017 the office only sent letters to Uniontrad Company requesting change. However, with GDPR they were able to issue a single warning and give Uniontrad Company two months to comply or face fines. The company did not comply and was fined. [2,3]

One interesting legal reason GDPR was used instead of specific worker surveillance regulation, was that CNIL did not have to challenge Uniontrad Company's assertion that the camera's were solely for the purpose of security. [3] Even if Uniontrad Company's only purpose with their camera was to provide security of an important cabinet of documents, the mere fact that employees (the data subjects) were also captured provided CNIL with the authority to act. [2]

Given the fact the cabinet being recorded just happen to be placed in a way that the camera recorded many employees' workstations, it's likely Uniontrad Company had ulterior motives. Especially since the company had years to fix what seems like an easy problem. [2]

However, without a strong inherent right of privacy, the company could likely hide behind an excuse that the camera was intended for security. It's very possible the same case could have been brought under existing french employee surveillance laws, but it would probably be more difficult and potentially not worth it for such a small company. [3]

On one hand, this case could be seen as a case of weak enforcement. The data protection agency received numerous complaints and only took action after 6 years and many ignored warnings. [2] Moreover, the fine seems quite small for six years worth of failed compliance. However, the case after the implementation of GDPR was resolved quickly and cleanly. Hopefully, Uniontrad Company will be a precedent of France using GDPR taking swift action against small claim privacy violations. It remains to be seen, however, if this will be the case.

### References

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