

La Liga GDPR Report

Introduction

In June 2019, Liga de Fútbol Profesional, better known as La Liga, was fined €250,000 euros by the Spanish Data Protection Agency (AEPD). The AEPD issued the penalty because La Liga's mobile app violated Article 5.1 a) by untransparently collecting microphone sounds. [1] This mobile app captures 5 seconds of microphone data every minute. La Liga plans to appeal this decision.

Background

In June 2018, news broke out that La Liga was using its official mobile app to 'spy' on users by collecting audio fragments through the microphone. La Liga responded early on by saying that this feature was used to detect fraud by identifying bars that are illegally showing football games through app [3]. Nevertheless, the AEPD agreed to initiate an investigation.

To be brief, this section organizes important details about the investigation like the parties involved and the GDPR articles mentioned.

Parties Involved

La Liga is the sole *data controller* in this situation. It was their decision to build a program using microphone data to detect fraud.

This microphone-handling logic runs in La Liga's mobile app on the Android OS and sends data to a company whose name is censored. This company receives audio fingerprints mobile apps and compares them to real-time broadcasts sent from La Liga's servers. This anonymous company runs their servers on Amazon Web Service. All 3 companies provide

well-defined services for handling data and are therefore data processors.

The microphone data processing affected 50 thousands users in Spain. La Liga frequently mentions that the feature is only available on Android 6.0+ in Spain and therefore does not affect all 10 million users worldwide. [1] So nearly all data subjects are residents of Spain and the Spanish AEPD is the only authority involved in this case.

GDPR Articles

This section describes the most important articles violated or mentioned in La Liga's defenses.

Violations

The AEPD fined [1] La Liga for Article 5.1 a), which states that "personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency');". [2] In other words, they are fining La Liga for not making it clear to users that and when personal data like microphone audio is being collected.

La Liga mentions in their defense that they require users to consent twice to microphone usage, once through the app and another through the Android system. The AEPD emphasizes that consent when the app is installed or first used is not enough; some icon or indicator is necessary to show every moment that the microphone is used. [1]

While the AEPD only fined La Liga for Article 5.1 a), they also found that La Liga violated Article 7.3 by failing to make withdrawing consent possible. La Liga quickly produced an in-app "Subscription Center" for withdrawing consent and updating permissions. As a result, the AEPD

only produced a file of the of the sanction rather than a fine. [1]

Related Articles

Throughout the process, La Liga frequently mentions that the microphone data is pseudonymised (Recital 26, Article 4) and that the data is used to combat fraud, a legitimate interest (Article 6.1 f)). La Liga consulted professors and other technical experts to explain why the coarseness of the geolocation data and the irreversibility of the audio processing makes the data pseudonymous. [1]

The AEPD counters the pseudonymous argument by mentioning that because the initial microphone data before the downstream fingerprinting can contain personal conversations, La Liga must at least be transparent about the fact that they are collecting data. The AEPD also mention that while fraud is a 'legitimate interest', because the activation of the microphone can occur in people's homes, La Liga is still collecting data unrelated to its business interests. [1]

Discussion

On the AEPD's Arguments

The core parts of the AEPD's arguments are centered around time and place. Organizations cannot allow collect personal data far after it asks for consent without a clear indicator. Organizations cannot collect personal data for legitimate interests like fraud well outside of reasonable locations.

From a developer's perspective, this is a simple boundary to have. There are APIs out there which make it straightforward to define logic on when and where to collect personal data like microphone data. [4,5]

At the same time, this seems to set the precedent that there is some hierarchy for personal data. Most people would rather have a company collect location data rather than collect microphone data. If La Liga had not been collecting geolocation data, would the AEPD have required them to collect such data in order to avoid using the microphone recklessly?

On the Fine's Severity

While La Liga is a large organization with an operating profit of €945 million, the AEPD initially sought a penalty of €500 thousand before reducing it to €250 thousand. [1]

To an outsider's view this may seem small. However, the issue did only affect 50,000 La Liga app users. In addition, the AEPD's arguments make it seem that La Liga only violated the GDPR by collecting microphone data in personal locations. Overall, it seems like the bad publicity along with a 6 digit fine is large enough to dissuade La Liga from cutting corners again.

This doesn't necessarily mean that the GDPR is unnecessary, but that the fine in this case doesn't need to be far larger to have the right effect on other companies doing similar things.

Conclusion

La Liga was fined for improperly handling microphone data in an untransparent way. This seems to suggest that there's some hidden hierarchy about what personal data matters more than others. Future cases on audio data could result in it being handled differently than less invasive identifiers like location and IP address.

References

- [1] AEPD Resolution PS/00326/2018. Retrieved from https://www.aepd.es/resoluciones/PS-00326-2018_ORI.pdf
- [2] General Data Protection Regulation (GDPR) <https://gdpr-info.eu/>
- [3] La Liga de Fútbol usa el micrófono del teléfono de millones de aficionados para espiar a los bares. Retrieved from https://www.eldiario.es/tecnologia/Liga-Futbol-microfono-telefono-aficionados_0_780772124.html
- [4] Location and context overview. Retrieved from <https://developer.android.com/training/location>
- [5] MediaRecorder overview. Retrieved from <https://developer.android.com/guide/topics/media/mediarecorder>