

National Data Protection Commission

OPINION/2023/48

## I. Request

1. The President of the Commission for Constitutional Affairs, Rights, Freedoms and Guarantees asked the National Commission for Data Protection (CNPD) to issue an opinion on Draft Decree-Law No. 780/XV/1,a, which provides for the criminalization of cyberviolence.

2. The CNPD issues an opinion within the scope of its attributions and competences as an independent administrative authority with authoritative powers for the control of the processing of personal data, conferred by article 44(1)(c) of Law no. ° 59/2019, of August 8.

3. The Bill under analysis was sent to the CNPD on May 24th, with a request that the corresponding opinion be issued in time for it to be analyzed before the date of discussion of the Bill, which will take place on June 1st.

4. The CNPD cannot fail to point out that the setting of a deadline for assessment must be able to ensure effective consultation and the respective weighted pronouncement, which requires preparation and discussion when, as is the case, it is a collegiate advisory body and that the determination of such a short deadline may jeopardize the issuance of such opinions.

## II. Analysis

5. The bill in question, on the initiative of the Free Party, aims to amend the Penal Code by adding an article (article 201.°-A) that enshrines the typification of the crime of cyberviolence, conduct that in the preamble defines itself as "any form of violence carried out online, such as stalking, intimidation or moral harassment".

6. From the point of view of the processing of personal data, it appears that, notwithstanding the need for the repression of this type of criminality to require, even due to the very nature of the prohibited conduct, that such data be processed, some belonging to special categories of both agent and victim data.

7. However, such treatment does not call for special issues related to the processing of personal data that deserve reservation, finding such treatment support in the criminal legislation and criminal procedure in force.

## III. Conclusion

8. The analysis of the Bill under analysis does not raise reservations from the perspective of data protection.

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