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NATIONAL DATA PROTECTION COMMISSION

OPINION/2020/18

I. Order

Through the Office of the Assistant Secretary of State and Internal Administration, on January 30, 2020, the National Data Protection Commission (CNPd) requested an opinion on the request for use by the Public Security Police (PSP).), «Video cameras in the monitoring of incidents that may occur during the Carnival of Torres Vedras in the period between 21.02.2019 and 26.02.2019».

The use of video camera surveillance systems by security forces and services in public places of common use, for capturing and recording images and sound and their subsequent processing is regulated by Law No. 1/2005, of 10 January , amended and republished by Law No. 9/2012, of 23 February.

The installation of fixed cameras, under the terms of this Law, is subject to authorization by the member of the Government responsible for the requesting security force or service, preceded by an opinion from the CNPD.

II. appreciation

Preliminary note: scope of competence of the CNPD

Pursuant to Article 3(2) of Law No. 1/2005, of January 10, as amended by Law No. 9/2012, of February 23 (hereinafter, Law No. 1 /2005), the present opinion of the CNPD is limited to the pronouncement on the compliance of the request with the rules regarding the security of the treatment of the collected data, as well as on the special security measures to be implemented, adequate to guarantee the entry controls in the installations, data carriers, insertion, use, access, transmission, introduction and transport, as well as verification of compliance with the duty to provide information and to whom the rights of access and rectification may be exercised.

In accordance with the provisions of the same legal precept and in paragraphs 4, 6 and 7 of article 7 of that law, the CNPD's opinion is also subject to respect for the prohibition of installing fixed cameras in areas that, despite located in public places, whether, by their nature, intended to be used in guarding or the use of video cameras when the capture of images and sounds covers the interior of a house or inhabited building or its dependence.

Process PAR/2020/9 1v.

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The CNPD must also verify that all persons appearing in recordings obtained in accordance with this law are guaranteed the rights of access and elimination, with the exceptions provided for by law.

Pursuant to paragraph 7 of article 3 of the same law, the CNPD may also formulate recommendations with a view to ensuring the purposes set out in the law, subjecting the issuance of a totally positive opinion to the verification of full compliance with its recommendations.

1. The protection of the privacy of private life

It is intended to install and use a video surveillance system, made up of twelve fixed cameras, with rotating and zoom capability, in the historic area of the city of Torres Vedras, specifying in the grounds contained in the PSP letter that accompanies the request for the opinion of the exact locations of your installation and the area covered by each of them. In relation to the request made last year, there was an increase in the number of chambers (4) and a change in the location of some of them.

While it is not up to the CNPD to comment on the suitability and necessity of using the aforementioned video surveillance system in the described context, the CNPD focuses on aspects of the processing of personal data over which the law recognizes its advisory competence. One of the relevant aspects for the purpose of protecting privacy concerns the capture of images of areas intended to be used in protection and the capture of images and sounds from the interior of the house or inhabited building or its dependence.

It is stated in the letter from the PSP accompanying the request for an opinion that "Video surveillance cameras will not focus on private spaces or in which reserve, intimacy and private life must be preserved [...]", shortly afterwards specifying that «The system allows configuring the placement of masks in all cameras, so that logical masks will be configured in all cameras and plans to be used, preventing[n] from viewing images of private spaces or in which the reservation must be preserved of people. The placement of masks considers all the planes covered by the fixed and rotating cameras" (Cf. point II of the aforementioned letter).

Despite the fact that the historic area of the city of Torres Vedras, on which the video surveillance system will focus, includes

houses or buildings intended for housing, since the placement of logical masks is declared in order to prevent the viewing of images of spaces

Process PAR/2020/9 2 t

NATIONAL DATA PROTECTION COMMISSION

private or reserved, the CNPD considers that the provisions of Article 7(6) of Law No. 1/2005 are respected.

As for sound capture, it is clarified, in point III of the aforementioned letter, that the video surveillance system to be installed does not have that purpose, emphasizing that it only aims to capture image ('for the exclusive capture of image, without sound capture'), so also in this regard, as stated, the CNPD considers that the provisions of paragraph 7 of article 7 of that legal diploma are complied with.

2. The rights of data subjects

With regard to the guarantee of citizens' rights, it is declared that notices will be placed, in accordance with the provisions of Ordinance No. PSP will use the aforementioned video surveillance system (cf. point VI of the letter).

Attention is drawn to the fact that rights are defined today in Law no. criminal offenses or the execution of criminal sanctions, transposing Directive (EU) 2016/680 of the European Parliament and of the Council, of 27 April 2016. This is specifically aimed at the data subjects' right to information, more densified in article 14 of Law No. 59/2019, of 8 August.

Furthermore, the person responsible for the treatment is identified in the letter, specifying that interested parties may exercise their rights of access and deletion of data, provided for in article 11 of the LPDP (cf. point IV of the letter) in the letter. .

3. Technical characteristics of cameras and security measures

Security measures are also described regarding the capture, transmission and conservation of images, as well as access to them, noting that the transmission is encrypted and that the operations carried out are subject to registration, thus allowing their auditing, as requires Ordinance No. 372/2012, of 16 November (cf. points III and VII of the official letter).

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Process PAR/2020/9 2v.

The security measures, as described, appear to be adequate, although it should be noted that the protocol for encrypting the transmission of images is not specified in the aforementioned PSP letter.

The images will be kept within the limits defined in Article 9(1) of Law No. 1/2005.

III. CONCLUSION

On the grounds set out above and within the strict scope of its powers, the CNPD has nothing to oppose to the processing of data resulting from the use of video cameras in the monitoring of incidents that may occur during the Carnival of Torres Vedras in the period between 21.02.2019 and 26.02.2019.

Approved at the plenary meeting of February 11, 2020

Filipa Calvão (President)