

NATIONAL COMMISSION

DATA PROTECTION

OPINION No. 17/2018

ORDER I.

Through the Office of the Assistant Secretary of State and Internal Administration, an opinion was requested from the National Data Protection Commission (hereinafter abbreviated as CNPD) on the request for authorization to install and use video surveillance in the building of the private residence of His Excellency the President of the Republic.

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.

At issue is the request for authorization to use two fixed cameras on Avenida Vasco da Gama, Cascais. The request is accompanied by a document that includes all the relevant information for the assessment of the legal-administrative claim, based on the existence of an introduction, and annexes A, B, C, D, E, F, G, H, and I , respectively.

II. SCOPE OF COMPETENCE OF THE CNPD

Object of the opinion to be issued under the terms of article 3 of Law No. 1/2005, of 10 January

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 CNPD's opinion is limited to pronouncing 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 entrance controls in the premises , data carriers, insertion, use, access, transmission, introduction and transport

Rua de São Bento, 148-3º • 1200-821 LISBON Tel: 213 928400 Fax: 213 976 832

www.cnpd.pt

PRIVACY LINE Weekdays from 10 am to 1 pm

Case No. 4077/2018 1v.

and also regarding the verification of compliance with the duty to inform and before whom the rights of access and rectification can 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 involves the interior of the house or inhabited building or its dependence.

The CNPD must also verify that all persons appearing in recordings obtained in accordance with this Law are guaranteed access and elimination rights, 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.

III. ASSESSMENT

1 - The right to informational self-determination and the protection of privacy

In the document, the plans contained in the images that are intended to be obtained through the installation and use of video cameras are duly exposed.

Furthermore, the two fixed video cameras allow the capture of pedestrian circulation on the sidewalks of Avenida Vasco da Gama, as well as the capture of motor vehicles circulating in the carriageway, which is understandable given the purpose inherent to the installation of the system. .

Bearing in mind the reasons justifying the need and convenience of installing the video surveillance system, referred to in Annex D, and bearing in mind the interests of safeguarding the operational, technical and tactical security of the residence of His Excellency the President of the Republic, and as an organ of sovereignty under the terms of paragraph 1 of article 110 of the Constitution of the Republic, the CNPD believes that the installation and use of the video surveillance system is adequate, necessary and proportionate.

Case No. 4077/2018 2

NATIONAL DATA PROTECTION COMMISSION

If the existence of a compression of the fundamental rights of the data subjects on which the perimeter covered by the

cameras may affect is certain, it is no less correct to say that such compression does not affect, with regard to the criteria to be evaluated by the CNPD, any of the precepts mentioned in point II.

Added to this note is another, linked to the concern shown by the Public Security Police to safeguard precisely the possible intrusion into neighboring homes, which is embodied in the affixing of “protection masks”, as described in Annex A of the information attached to the request. of opinion and better illustrated in figures 5 and 6 also included in this annex.

It should be remembered, as a supplementary note, that the existence of sound capture is not admitted anywhere in the request for an opinion and in the information that completes it.

As for the rights of data subjects, these are exercised with the data controller, in this case, the Public Security Police, in accordance with the combined provisions of paragraphs 1 and 3 of article 10 of Law No. 1/2005 . It is recommended, however, that this be brought to the attention of the data subjects, through the addition of a note with this indication to be installed next to the signs indicating the existence of video surveillance.

2 - The technical characteristics of the equipment

It is intended that the images collected by the video surveillance equipment are transmitted to the security infrastructure (“guard house”) located on the main facade of the residence of His Excellency the President of the Republic, where police elements of the Installations Security Division are located.

From the perspective of the CNPD, transmission and monitoring from the security infrastructure may be adequate, provided that the inviolability of the facilities is guaranteed.

Finally, no reference is made to auditability mechanisms of the video surveillance recording and playback system. To guarantee said auditability, the system must record all the operations carried out on the system, namely the consultation of images recorded in the archive, the insertion, alteration or removal of visualization masks and the operations of exporting images from the user interface. .

Rua de São Bento, 148-3° Tel: 213 928 400 www.cnpd.pt

1200-821 LISBON Fax: 213 976 832

PRIVACY LINE Weekdays from 10 am to 1 pm

Case No. 4077/2018 2v.

IV. OF THE CONCLUSIONS

1. In the strict scope of the powers legally assigned to the CNPD by Law No. 1/2005, of 10 January, amended by Law No. 9/2012, of 23 February, and on the above grounds, it is understood that the system described and object of the opinion does not conflict with the matters that the CNPD must know.

2. The technical conditions that allow the traceability of the system must be guaranteed.

This is the opinion of the CNPD.

Lisbon, April 24, 2018

José Grazina Machado (Rapporteur Member)

V