

Case No. 9649/2018

AUTHORIZATION No. 7114/2018

The entity Herdeiros E Viuva-Guilherme Ferreira Moura, Lda, notified the CNPD of a treatment of biometric data whose purpose is to control the attendance of workers.

The treatment processes the following data: Name / Employee number / time / date and time of entry/exit date and time.

The fingerprint template is registered, resulting from the algorithmic interpretation of points physiometrics, which is stored on a local terminal.

The information is processed in a system located in each establishment, being accessible in Rua Sousa Trepa 56 to 58 4780-554 Santo Tirso

There is no Workers' Commission.

The CNPD has already commented on the principles applicable to the processing of biometric data for access control and attendance of workers in its Determination of 26 February, 2004, as well as on the legal framework, the grounds for legitimacy and the measures to be taken. take for correct compliance with the Data Protection Act. From these principles, the following treatment limits:

☐ The reversal of biometric data is not allowed, that is, the decoding and reproduction of the image of the biometric feature.

☐ The processing must be carried out with respect for privacy (Article 2) and for specific, explicit and legitimate purposes (art. 5, no. 1 al. b); the data must be adequate, relevant and not excessive in relation to the purpose and proportionate with objectives to be achieved (art. 5.º n.º 1 al. c)

☐ The biometric data capture operation cannot be carried out in violation of the personal identity of the worker (art. 26 of the CRP), with injury to his physical integrity (art. 25.º no. 1 of the CRP) or with an intrusion into the privacy of private life.

☐ The collection operation cannot be translated into discrimination or violation of the duty of

respect and dignity of the worker.

☐ False rejection and acceptance rates must be adequate to the pursuit of the purpose

declared.

☐ Biometric information cannot be used for any purpose other than the

attendance/access/attendance and access control.

Since the biometric data is an adequate means to ensure a "legitimate purpose" of the entity

employer - attendance/access/attendance and access control - considers the CNPD that the

use of this technology does not involve any violation of the personality rights of the

worker.

The data collected is necessary for the purpose it is intended to achieve - the control of

attendance – not appearing to be excessive. No data other than

those expressly authorized.

The equipment for reading biometric data, because the purpose is to control the

attendance, cannot be located in a way that could be used as a means of controlling

the movement of workers within the premises.

The basis of legitimacy for the processing of data for the purpose of controlling

attendance/accesses/assiduity and accesses has as its source the forecast of article 6.º al. e) of the Law

67/98, since the processing is carried out in the "pursuance of the legitimate interests of the person responsible".

Thus, with the limits set, the treatment notified under the provisions of

articles 6, paragraph e), 27, nº 1, 29 and 30, nº 1 of Law 67/98, of 26 October, amended by Law

103/2015, of August 24, in the following terms:

Responsible

Heirs E Viuva-Guilherme Ferreira Moura, Lda

Goal

assiduity

Personal data category

treaties

Name / Employee number / time / entry date and time / date and

exit time.

the fingerprint da template, , resulting from interpretation

dot algorithm

physiometric, without the possibility of

reconstruction of the biometric data.

Form of exercising the right to

access

By request In person / to the person in charge in the following

address/contact: Rua Sousa Trepa 56 to 58 4780-554 Santo

thyrus

Data communication

There is no communication of data to third parties

interconnections

There is not

Cross-border flow to third countries None

data conservation

Period of Exercise of Functions

It is necessary to ensure effective prior information, by the employer, in

in relation to the determining purposes of the collection, the recipients and the conditions of use

of those data, as well as the remaining elements of article 10.º no. 1 of Law no. 67/98.

The employer must create alternative control solutions to address the shortcomings of the

system, especially those resulting from false rejection rates or inability to

for the worker to present his biometric data for authentication or

recognition

The data subject may – when there are substantial and legitimate reasons relating to his/her situation (cf. article 12.º al. a) of Law 67/98) – exercise the right of opposition in relation to the treatment. In this case, you must present the grounds on which the right of opposition is based, it is up to the person in charge to appreciate them, and the CNPD may ultimately intervene in the assessment and weighting of the interests involved (cf. article 6.º al. e) and 12.º al. a) of Law No. 67/98).

Lisbon, 24-05-2018

The president

Filipa Calvão