

NATIONAL DATA PROTECTION COMMISSION

OPINION No. 18/2018

I. Order

Through the Office of the Assistant Secretary of State and Internal Administration, on April 23, the National Data Protection Commission (CNPd) requested an urgent opinion on the request for use by the Public Security Police (PSP). , «video cameras in the monitoring of incidents arising from the Eurovision Song Contest 2018 event that will take place at Parques das Nações, Lisbon -28.04.2018 to 15.05.2018».

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

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when the capture of images and sounds covers the interior of an inhabited house or building or its dependence.

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, consisting of seventeen cameras, part of them with rotating capacity, in the area surrounding the Altice Arena pavilion, in Parques das Nações, in the municipality of Lisbon. The cameras will focus on the accesses to the interior of the pavilion, as well as on the public space surrounding the pavilion.

The use of the system is limited in the request to the period between April 28 and May 15 of the current year; however, the adverb is used specifically for this purpose. It is true that the processing of personal data must be guided by the principle of proportionality also with regard to its duration (cf. subparagraphs c) and e) of paragraph 1 of article 5 of Law No. 67/98, 103/2015, of 24 August - Personal Data Protection Law, hereinafter LPDP), the CNPD allows itself to remember that the processing of personal data that the use of the system necessarily implies can only take place as long as it is adequate, necessary and not excessive (cf. paragraph 1 of article 7 of Law n° 1/2005), so, as the treatment is justified with the occurrence of an event temporarily delimited, the use of the adverb, namely, by leaving space for the continuation of data processing beyond that period, seems to clash with the principle of proportionality.

The rationale presented for its use is related to the international dimension of the event, the high concentration of people that it will involve, as well as the intercultural nature and the media visibility of the same, which provide susceptible actions.

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to affect the security of people, including terrorist acts, finding, to that extent, support in subparagraphs c) and e) of paragraph 1 of article 2 of Law n.º 1/2005.

However, to the extent that cameras installed in public spaces affect or are likely to affect spaces for reserved use or inside inhabited houses or buildings), a careful balance must be made between the interest of people's safety and the right to the privacy of private life, which can only be affected exceptionally, under the terms defined in paragraphs 6 and 7 of article 7 of Law No. 1/2005. That was, according to what was stated in the request submitted by the PSP, safeguarded through the placement of logical masks, whose manipulation, removal or deactivation is not allowed to the agents operating the cameras. Furthermore, it is stated that the cameras are used for capturing images, so it appears that there is no capture of sound, in accordance with the provisions of paragraph 7 of article 7 of the same legal diploma, which forbids by rule such capture.

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. 10 of the LPDP.

The person responsible for the treatment is also identified, specifying that interested parties may exercise their rights of access and deletion of data, provided for in article 11 of the LPDP.

3. Technical characteristics of cameras and security measures

As mentioned above, it is declared that logical masks will be placed in the cameras that focus on protected areas or interiors of inhabited buildings, considering the CNPD that the technical characteristics of the equipment do not give rise to reservations. The security measures in the transmission of images (with encryption) and in terms of access to them are adequate, noting that the operations carried out are subject to

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of registration, thus allowing their auditing, as required by Ordinance No. 372/2012, of 16 November.

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

III. CONCLUSION

On the above grounds, the CNPD has no objection to the processing of data resulting from the use of video cameras to monitor any incidents on the occasion of the Eurovision Song Contest 2018 in the area surrounding the Altice Arena pavilion, between 28.04.2018 and 05.15.2018.

This is the opinion of the CNPD.

Lisbon, April 27, 2018

Filipa Calvão (President, who reported)

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