



WOJCIECH RAFAŁ WIEWIÓROWSKI
ASSISTANT SUPERVISOR

Mr Stefano IANNITTI
Head of Security Department
European GNSS Agency (GSA)
Janovskeho 438/2
17000 Prague
Czech Republic

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WW/UK/ALS/sn/D(2017)1181 C 2016-1052
Please use edps@edps.europa.eu for all
correspondence

Subject: Prior-checking Opinion regarding video-surveillance at the GSA headquarters (EDPS case 2016-1052)

Dear Mr Iannitti,

On 15 November 2016, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001¹ ("the Regulation") on video-surveillance at the GSA headquarters from the Data Protection Officer (DPO) of the GSA.²

The EDPS has issued Guidelines concerning the processing of personal data for video-surveillance³ ("the Guidelines"). Therefore, this Opinion analyses and highlights only those practices which do not seem to be in conformity with the principles of the Regulation and with the Guidelines. In the light of the accountability principle guiding his work, the EDPS would nonetheless like to highlight that *all* relevant recommendations made in the Guidelines apply to the processing operations put in place for video-surveillance at GSA.

1. Facts and analysis

1.1. Providing information to the public / policy online

Information must be provided to the public about the video-surveillance in an effective and comprehensive manner; for the list of items required by law to be included, see Article 12 of

¹ OJ L 8, 12.1.2001, p. 1.

² As this is an ex-post case, the deadline of two months does not apply. The case was suspended between 16 November 2016 to 25 April 2017. This case has been dealt with on a best-effort basis.

³ Available on the EDPS website: https://edps.europa.eu/sites/edp/files/publication/10-03-17_video-surveillance_guidelines_en.pdf.

the Regulation. The Guidelines (section 11.1) recommend a multi-layer approach combining the following two methods:

- **on-the-spot notices** to immediately alert the public to the fact that monitoring takes place and provide them with essential information about the processing, and
- a detailed data protection notice posted on the Institution's intranet and internet sites for those who wish to know more (to avoid duplication of efforts, the Institution may post the public version of its **video-surveillance policy** online instead of preparing a separate data protection notice).

According to your notification (and confirmed by the email received from the GSA DPO on 24 April 2017), "...no policy CCTV has been implemented yet at GSA. Such policy will be adopted in the future following the recommendation in the EDPS video-surveillance guidelines."

- Regarding the **on-the-spot notice**, according to the Guidelines (section 11.2), the signs within the building must be in the language generally understood by staff members and most frequent visitors; signs outside the buildings (if any areas outside are monitored) must also be posted in the local language. The notification (section 7) differentiates between indoor and outdoor spaces: whereas for the first, the GSA plans to place on-the-spot notices in English, the GSA foresees Czech on-the-spot notices for the latter. Given that the notification refers to capturing images in indoors and outdoor spaces of the GSA headquarters (see e.g. section 5), the EDPS recommends posting the on-the-spot notice in both *English and Czech* for all indoor and outdoor spaces of the GSA headquarters covered by video-surveillance.
- Whilst the detailed data protection notice posted on the GSA internet (provided on 24 April 2017) is quite comprehensive and refers to almost all mandatory items listed in section 11.3 of the Guidelines, the EDPS nonetheless recommends the publication of a **comprehensive video-surveillance policy as provided in Appendix 1 to the Guidelines**. This will allow GSA to
 - appropriately clarify the different circumstances and safeguards applicable to the transfer to a variety of recipients, including national authorities;
 - to clarify the number, location, technical specifications (e.g. resolution) and recording times of the cameras as well as the coverage of Czech territory (see section 6 of the Guidelines) and
 - to take into account the optional items referred to in section 11.3 of the Guidelines (including this Opinion).

The EDPS recommends

- posting the on-the-spot notice in both *English and Czech* for all indoors and outdoor spaces of the GSA headquarters covered by video-surveillance;
- the publication of a comprehensive video-surveillance policy as provided in Appendix 1 to the Guidelines;

and expects to receive documentary evidence of implementation for the latter point.

1.2. Retention period of one month

Under Article 4(1)(e) of the Regulation, recordings must not be retained longer than necessary for the specific purposes for which they were made (see Guidelines section 7.1.1). The EDPS takes note that the GSA diverges from the standard one week retention period stipulated for typical security purposes in section 7.1.2 of the Guidelines.

The EDPS accepts in this context, that, due to the high volume of classified information handled at the GSA and “...*the sensitive nature of the tasks carried out and of the information managed, images recorded from CCTV systems are kept for a period of one month from the day they were recorded*” (see data protection notice and notification section 13).

With the GSA headquarters being located in Prague (Czech Republic), the EDPS would, however, recommend not referring to an analogy with the *Belgian* law of 21 March 2007 governing the installation and use of surveillance cameras to argue that requests from judicial authorities and/or the local police generally takes a certain amount of time (see currently notification section 13).

The EDPS suggests contacting the Czech national data protection authority on the matter (see also sections 4.4 and 6.5 of the Guidelines) with a view to further clarify the parameters of cooperation. In the light of the judgment of the Court in case C-212/13 (*Ryneš*), the EDPS would like to draw your attention to the special expertise of the Czech national data protection authority as regards the monitoring of public spaces and areas which do not belong to the CCTV operator (although the precedent case referred to was not about a CCTV system owned by a public authority).

The EDPS **suggests** contacting the Czech national data protection authority on the matter with a view to further clarify the parameters of cooperation.

1.3. Monitoring on Member State territory

According to additional information received on 25 April 2017, “the CCTV system covers also public areas around the building”.

In the light of Article 4(1)(c) of the Regulation, it must be ensured that monitoring of the areas immediately adjacent to an institution’s building is kept to the absolute minimum that is necessary to meet the institution’s security needs (see section 6.5 of the Guidelines).

As further outlined in the Guidelines (section 6.5), in all cases where monitoring goes beyond entry and exit points, an impact assessment should be carried out, security needs must be demonstrated and additional safeguards must be in place. In addition, the opinion of the national data protection authorities and other competent authorities and stakeholders should also be considered.

The EDPS **suggests** conducting an impact assessment insofar the monitoring of the areas immediately adjacent to GSA’s building goes beyond entry and exit points.

2. Conclusions

In this Opinion, the EDPS has made two recommendations to ensure compliance with the Regulation, as well as two suggestions for improvement. Provided that both recommendations are implemented, the EDPS sees no reason to believe that there is a breach of the Regulation.

The EDPS expects **implementation and documentary evidence** thereof within **three months** of the date of this Opinion for the recommendation made in this Opinion to **publish a comprehensive video-surveillance policy as provided in Appendix 1 to the Guidelines**, to ensure that the general public is comprehensively informed under Article 12 of the Regulation.

The EDPS expects **implementation**, but does not require documentary evidence for the second recommendation, i.e. the posting of the on-the-spot notice in both *English and Czech* for all indoors and outdoor spaces of the GSA headquarters.

Additionally, the EDPS **suggests** contacting the Czech national data protection authority on the matter with a view to further clarify the parameters of cooperation and, insofar the monitoring of the areas immediately adjacent to GSA's building goes beyond entry and exit points, to obtain its opinion on the matter. It is for the controller to assess whether or not to implement these suggestions.

Yours sincerely,

(signed)

Wojciech Rafał WIEWIÓROWSKI

Cc.: Ms Matxalen SÁNCHEZ EXPÓSITO, Deputy DPO GSA