

The Implementation and Use of Video Surveillance Systems in Portugal

By Magda Cocco and Inês Nolasco, Vieira de Almeida & Associados, Lisbon. The authors may be contacted on tel. + 351 311 34 87, or by e-mail at mpc@vieiradealmeida.pt or idn@vieiradealmeida.pt

Over the past few years, the use of video surveillance systems amongst public and private bodies in Europe has increased significantly.

Having regard to the fact that the employment of video surveillance systems may determine the processing of personal data and the restriction of citizens' rights and fundamental freedoms, namely the protection of privacy and private life, the E.U. Member States have adopted specific laws, opinions, guidelines and codes of conduct governing the use of such systems so as to ensure the protection of personal data.

Portugal is no exception and the Portuguese Parliament has already enacted specific legislation governing the use of such systems by public security agencies in the form of Law 1/2005 of January 10, 2005. In general terms, it determines that such agencies are entitled to use those systems for protection and security purposes.

Recent legislative activities have determined a broader application of Law 1/2005 of January 10, 2005.

Law 39-A/2005 of July 29, 2005 has extended the purposes legitimising the use of video surveillance systems by public security agencies, determining that these systems may also

be employed for purposes related to the prevention and punishment of road infractions and offences.

Moreover, the law has served to highlight the general principles ruling the implementation and use of video surveillance systems for the above-mentioned purpose, establishing *inter alia* that public security agencies are entitled to use video surveillance systems installed by private grantees (*i.e.*, road concessionaires) and by the Portuguese entity in charge of the management of national roads and motorways (Estradas de Portugal, E.P.E. – "EP").

Furthermore, Law 39-A/2005 authorised the Government to enact legislation detailing and ruling the procedures related to the implementation and use of such systems, the associated data processing, as well as the use by public security agencies of the systems installed by private grantees and the EP.

The Government's Decree-Law has already been put forward and approved in September 2005 without having been published or presented to the general public.

Future developments are yet to come. Law 39-A/2005 and the still unpublished Decree-Law have triggered the need to enact legislation that expressly authorises private grantees and EP to install and use video surveillance systems on national roads and highways.

The Portuguese Data Protection Authority (*Comissão Nacional de Protecção de Dados*) has urged the Parliament and Government to pass legislation establishing a general framework on the use of video surveillance systems but this request has not yet been attended.