



USE OF PERSONAL PORTABLE CAMERAS BY POLICE OFFICERS

Decree-Law n.º 2/2023, of January 2

This decree-law defines the conditions for the use of portable cameras by police officers, for the purpose of capturing and recording images and sound, in the course of police interventions, whenever there is direct interaction of police officers with third parties and when practices are in progress that may constitute the occurrence of a criminal offence or in situations of danger or emergency.

The use of this equipment by police forces presents clear benefits demonstrated by

international experience, both in terms of the reduction of conflict in police interventions and in the pursuit of criminal investigations, with the images captured becoming an important means of evidence.

However, it is also necessary to take into account the concerns regarding data protection as well as people's rights to privacy and image, which is why the use of these cameras must be subject to an exhaustive framework that delimits the situations in which the police officers may use this equipment, thus ensuring the

respect for individual rights, freedoms and guarantees, as well as the personal dignity of those whose images will be collected. These concerns justified that the National Commission for Data Protection had to be heard before the drafting of this legal document.

PLACING, ACTIVATING, SIGNALING AND USING OF PORTABLE CAMERAS FOR INDIVIDUAL USE (CPUI)

Article 5

The CPUI should be fixed to the uniform, appearing close to the front and upper part of the torso, or, if this does not guarantee image capture, fixed to the police officer's equipment, in a visible manner and without obstacles that prevent the full coverage of its angle of capture.

Article 7

It states that the CPUIs are carried in standby mode and the recording mode can only be activated when at least one of the following circumstances occurs:

- a) The commission of a criminal offence;
- b) Actual and unlawful aggression directed against the police officer himself or against third parties;
- c) Disobedience and resistance to legal and legitimate orders from a police officer, in the exercise of police functions;

- d) A situation of danger or emergency or in an operation involving risk for the police officer or for third parties;
- e) Action to capture or prevent the escape of a person suspected of committing a crime punishable by imprisonment;
- f) Operation to arrest an escaped person or a person subject to an arrest warrant or to prevent the escape of a person regularly arrested or detained;
- g) Situation of alteration of public order.

On the other hand, it is **mandatory** to use the CPUI to record police interventions when any of the following situations occur:

- a) The use of public force on any citizen, namely when the procedure of physical restraint or handcuffing is applied;
- b) The recourse or use of any coercive means or police weapons, especially firearms;
- c) The issuing of orders to suspects regarding the cessation of illegal or aggressive behaviors and the adoption of security positions.

Finally, permanent or indiscriminate recording of facts that are not related to probative police interest is **forbidden**, namely:

- a) During routine police activity; or
- b) Informal conversations held with citizens or other police officers.

Article 9

It provides that the use of CPUI for image and sound recording includes a verbal announcement, which must be made unequivocally and at a time prior to the activation of the CPUI recording mode, whenever the nature of the service and the circumstances allow it.

MANAGEMENT AND STORAGE OF CAPTURED DATA

The image and sound recordings collected may only be accessed within the scope of criminal proceedings or within the scope of disciplinary proceedings against security

forces personnel, and in any other situation they must be destroyed 30 days after their recording.

FINAL NOTES

It is expected that this law will bring many changes in the Portuguese criminal procedure, facilitating the evidential regime resulting from police interventions, although it is also important not to forget and guarantee the respect for citizens' rights, namely regarding their privacy and data protection.

Pedro Brás Ribeiro
pedro.br@caldeirapires.pt