

## FRENCH NATIONAL ASSEMBLY REJECTS CNIL'S VIDEO SURVEILLANCE JURISDICTION

*In French cities, video surveillance systems in public places have been in use for some years. There is a growing concern over the risks that the use of video cameras in public places might pose to individuals' privacy and how individuals will be able to protect their rights. Where video images are connected to a name-linked file, then the CNIL, France's Data Protection Authority, has jurisdiction and has been issuing advice on this issue since 1991. But where video images are not directly connected to a name-linked file, should the CNIL still have jurisdiction? The CNIL says yes but the government says no. The legislature must decide.*

France's Data Protection Authority, the Commission Nationale de l'Informatique et Libertés (CNIL) issued a formal policy statement on June 21st this year explaining why videosurveillance is covered by the data protection law of 6th January 1978.

The CNIL's position is that video surveillance falls within its competence and jurisdiction whenever images of people are captured. Such images are personal data even if they are subject to only indirect identification together with other criteria, such as a vehicle number plate.

However, Interior Minister, Charles Pasqua, disagreed and introduced a Public Security bill into the Senate, the legislature's upper chamber, which would take videosurveillance out of the CNIL's jurisdiction. According to Article 8 of the bill, a visual image is not regarded as personal data under the Informatique et Libertés (data protection) law, unless the image relates directly to a personal file.

In the National Assembly debate, on October 6th and 7th, the Minister explained that he had nothing against the CNIL but it was a question of appropriate jurisdiction for

different technical issues. The government would instead bring video surveillance systems within the competence of the Prefect, the state's representative in each *département* or regional government, with the advice of an administrative commission. An opposition member suggested that this solution would make the Prefect both the judge and a party to any dispute.

This could particularly be a problem over the right of access to data because this right would be subject to a number of exemptions:

- the rights of third parties
- the requirements of public security
- where legal proceedings are in progress or where preliminary investigations are taking place which might lead to legal proceedings.

The National Assembly, like the Senate on 8th July, voted to support Article 8 of the bill as proposed by the Minister of the Interior which would exclude France's Data Protection Authority from jurisdiction over video surveillance, unless the data "is used for the constitution of a name-linked file."

The Senate is scheduled to debate the bill again on November 8th.

### The CNIL's Policy on Videosurveillance

Concerns over the increasing violence and feeling of insecurity led the mayors of some French cities to request from the government the installation of video surveillance cameras in public areas considered to be vital for public safety. Generally, the cameras are connected to a central office and operated by remote control. The central office may record the captured images. The system used nowadays is the France-Telecom's ISDN network, which allows long distance transmission of images, as long as the subject is not moving very fast. It seems that French law relating to data protection does not directly apply to these systems.

Video cameras have been installed by the Paris transport authority (RATP - Regie

autonome des transports parisiens) in the metro, in Avignon, and in Levallois-Perret.

Video surveillance cameras has been examined by the CNIL since 1991. Deliberation No. 91.13 of 12 February 1991, was favourable to the installation of security systems in Avignon, as long as signs were installed informing the public of the presence of the system and that the system should not be used beyond its objectives.

In the Paris metro, cameras were installed to improve the security of passengers and personnel and to be used within the framework of police assignments. The cameras capture the images and send them to the central office, which is then able to reveal those who commit offences. This procedure aims at facilitating the questioning and identification of a suspect of an offence. The Commission gave a favourable opinion to this experimental proceeding in Deliberation No. 91.103 of 5 November 1991. Certain conditions were imposed on the use of video surveillance cameras in the underground:

1. The incidents should not be recorded;
2. the image should not be kept for more time than needed;
3. such information should be kept under control of the judicial authority in cases of police related transmissions; and
4. right of access to the information should be given as long as the information is maintained.

In the city of Levallois-Perret, the Commission was also favourable to the

installation of video surveillance cameras for an experimental period of six months. No. 93-001 of 12 January 1993, renewed its earlier opinion of 17 December 1991. The Commission considered that the presence of cameras constitutes, in principle, a risk to individuals' liberties and fundamental principles to "come and go" (d'aller et venir).

This risk is aggravated by the development of new technologies and by the manipulation of images captured and stored in the cameras. Therefore, the Commission approved the use of video surveillance systems, but advised that the systems should be used only:

- within the framework of police matters,
- that the population of the city should be periodically informed that such information system exists and is in use, and
- that steps should be taken to avoid the installation of cameras in the entrances of private residences.

**The basis of the CNIL's policy on videosurveillance is explained in a dossier in French, *Video-Surveillance et Protection de la Vie Privée et des Libertés Fondamentales* by Vice-President Mme. Louise Cadoux and published by the CNIL, 21, rue Saint-Guillaume, 75340, Paris Cedex 07. Telephone: + (33) 1 45 44 40 65. Fax: + (33) 1 45 49 04 55.**

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