
Intellectual Property, Media and IT

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Amendment to the regime for the exercise of the private security and self-protection activity – Law no. 46/2019 of July 8



I. Amendment to the regime for the exercise of the private security and self-protection activity – Law no. 46/2019 of July 8

On July 8th, 2019, law no. 46/2019 was published, changing the regime of the exercise of the private security and self-protection activity, and proceeding to the first amendment to law no. 34/2013 of May 16.

In addition to the material scope already known on the private security and self-protection activity, there is an explicit reference to the inclusion of the measures that must be adopted by entities, public or private, for the protection of persons and goods and the prevention of criminal practices.

An exclusion is added to the scope of the law, and consequently "*the management and monitoring of security systems and the implementation of surveillance and access control adopted in spaces for housing purposes*" is included in the list of exclusions.

In particular, the private security activity exercised by private security companies can only be exercised by legal persons, under private law, duly authorized, whose social activity consists solely in the provision of private security services and that, regardless of the corporate designation it adopts, carries out a provision of services activity to third parties of one or more private security and self-protection services.

Among the remaining changes, the following are to be highlighted:

- A prohibition is added, being mentioned that "*private security companies exercise their private security activity in an exclusive basis, which cannot be accumulated with any other activities, notwithstanding the legal regime applicable to them*";
- The director of security's functions as well as the functions of the person responsible for the self-protection service, shall be exercised exclusively in one single entity that holds a license or a permit, not being possible to accumulated with the position of director, contrary to what was previously foreseen;
- Concerning security measures, it is established that works contracts and contracts for the acquisition of goods or services entered into by public bodies responsible for the management of facilities classified as critical infrastructures or sensitive points, by *Banco de Portugal* and by the *Imprensa Nacional – Casa da Moeda (INCM - Portuguese Mint)*, shall be accompanied by special safety measures where any of the following circumstances occur:
 - Involve access or intervention in security areas;
 - Are related to the production, coinage and issuance of banknotes and coins;



- Are related to safety material and equipment, to the installation and maintenance of video surveillance devices and security and protection systems.
- The provision, with relevance for the real estate sector, that "*the necessary adaptation works in the establishments, with purpose of adopting the security measures, are communicated to the owner of such space, who may not oppose to such works, unless they are likely to cause structural or stability risks in the building*";
- The addition of a maximum period of 48 hours for the destruction of the captured images after the 30-day period for their preservation;
- The revocation of the obligation of information regarding the existence and location of video cameras (however, the obligation of information regarding the submission of the space to video surveillance is maintained);
- The characteristics of the surveillance systems are foreseen, which are:
 - Ability of direct access to real-time images by security forces and services, for the purposes of preventive or criminal investigation actions, reporting the occurrence;
 - An alarm system that allows the competent security forces and services to be alerted in the event of imminent disturbance, risk or threat to the safety of persons and goods that may justify their intervention;
 - Registration of accesses including identification of those who access them and guarantee of the inviolability of data relating to the date and time of collection.
- The safety control at the exit of a site, through appropriate technical means, with respect for the principles of adequacy and proportionality, is now required to fulfil the following requirements cumulatively:
 - Is carried out in places where activities are developed which, by their very nature, represent a security risk;
 - Is intended for the prevention of theft of goods in the workplace, or of goods that are particularly accessible to third parties;
 - Privilege means that do not involve physical contact with the person targeted by the control that is carried out;
 - Existence of warnings, at the entrance and exit of the site, of the possibility of its occurrence.
- The addition of the possibility for private security officers to carry out intrusive inspections to people by palpation and searches to the transported goods, provided that they do so under the supervision of the security forces;



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- It is established that the activity registry and the service contracts must be stored for a period of five years after the end of its term;
- The provision that whomever hires a private security services is jointly liable with the private security companies, in the event of tort or risk, for the damage caused by the private security personnel in their facilities and services.
- Whomever hires a private security services shall be jointly liable with the hired companies for the payments due to workers who perform the service, as well as for their contributing obligations in tax and social security matters.



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