**Republic of Argentina – National Executive Branch**

Year 2017 – Year of Renewable Energies

**Resolution**

**Number:** RESOL-2017-17-APN-MT

CITY OF BUENOS AIRES

Friday, January 6, 2017

**Reference:** File No. 1-2015-1739670-2016 – Video Inspection: "General Protocol for the Operation of Recording Devices in Labor Inspections”

GIVEN the Labor Contract Law No. 20.744, the Labor Regime Law No. 25.877, the ILO Convention on Labor Inspection No. 87, the Personal Data Protection Law No. 25.326, Decree No. 1558/2001 on the Protection of Personal Data by the PEN, the Labor Hygiene and Safety Law No. 19.587, Law 25.212, Provision No. 10/2015 on the Conditions of Legality for the Activities of Collection and Subsequent Processing of Digital Images of Individuals for Security Purposes, and Provision No. 20/2015 on the Conditions of Legality for the Collection of Personal Data through UAVs or Drones, both issued by the National Directorate for the Protection of Personal Data of the Ministry of Justice and Human Rights of the Nation, Resolution No. 283/2012 of the Ministry of Security of the Nation, and Resolution No. 527/2015 of the National Civil Aviation Administration, and

CONSIDERING:

That, under the provisions of Articles 28º, 29º, 31º, and 34º of Law No. 25.877, the Comprehensive Labor and Social Security Inspection System (SIDITYSS, by its acronym in Spanish) is created, intended for the control and inspection of labor and social security compliance throughout the national territory, to guarantee the rights of workers as provided in Article 14 bis of the National Constitution and the International Conventions ratified by the Republic of Argentina. Thus, the Ministry of Labor, Employment, and Social Security of the Nation is designated as the enforcement authority of said System throughout the national territory, responsible for coordinating the actions of all services, making recommendations, and developing improvement plans.

It is noted that the inspection services of the Comprehensive Labor and Social Security Inspection System (SIDITYSS) must be equipped with adequate resources to ensure the real and effective delivery of the service, and that union representatives are granted the authority to accompany the inspector during the inspection and to be informed of the results thereof. This System empowers inspectors to carry out any probative measures they may consider necessary, including the identification of individuals present at the inspected workplace, and obligates the Ministry of Labor, Employment, and Social Security (MTEYSS, by its acronym in Spanish) to strengthen the labor inspection service.

Meanwhile, Convention No. 81 of the International Labour Organization (Convention concerning Labor Inspection), in paragraph c of its Article 12, specifies that inspectors who duly verify their identity shall be authorized to " to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed."

Furthermore, Law No. 25.326, as regulated by Decree No. 1.558/2001, in its Articles 14 and 17, states that the data holder, upon verification of identity, has the right to request and obtain information about their personal data included in public or private databases intended to provide reports, and authorizes those responsible for or users of public databases to deny access, rectify, or delete such data to protect the defense of the Nation, public order and security, or the protection of the rights and interests of third parties, stipulating that "information about personal data may also be denied to public data bank users when it pertains to investigations concerning the fulfillment of tax or social security obligations..."

Law No. 19.587 on Labor Hygiene and Safety, in its Articles 4 and 80, establishes that occupational hygiene and safety shall include technical standards and sanitary, precautionary, protective, or any other measures aimed at: (a) protecting life, preserving, and maintaining the physical and psychological integrity of workers; (b) preventing, reducing, eliminating, or isolating risks in various workplaces or positions. Furthermore, every employer must adopt and implement appropriate hygiene and safety measures to protect the life and integrity of workers.

Law No. 25.212, in Articles 11 and 13 of Annex II, mandates that actions arising from violations provided for in this law shall be prescribed after two (2) years and that the ongoing prescription shall be interrupted by the detection of the violation through the pertinent record, by the issuance of an order to initiate a summary proceeding, and by the commission of new violations. Additionally, it mandates that the funds collected as a result of the sanctions imposed under this law shall be allocated to improving labor administration services.

Provision No. 10/2015 of the National Directorate for the Protection of Personal Data of the Ministry of Justice and Human Rights of the Nation, in Articles 1, 2, 3, and 4 of its Annex I, determines that the collection of individuals’ digital images for security purposes would be lawful only if the collection of personal images and sounds does not result in a disproportionate intrusion into their privacy.

It is not necessary to obtain the prior consent of the data holder if "the data collection is carried out by the State in the exercise of its functions, and, in principle, the notification of the requirements of Article 6 of Law No. 25,326 in the Official Gazette (following Article 22 of Law No. 25,326) is sufficient." The images and sounds may not be used for a purpose other than or incompatible with the purpose for which they were collected; the information collected must be adequate, relevant, and not excessive in relation to the purpose for which it was obtained; and it stipulates that the data controller must adopt the necessary technical and organizational measures to ensure the security and confidentiality of the personal data.

Resolution No. 527/2015 establishes the National Civil Aviation Administration as the competent authority over drones and UAVs.

Technological advancements offer the opportunity to implement new and creative actions that contribute to the improvement of both working conditions and the effectiveness of inspection efforts.

It is important to cite as a relevant precedent the implementation of the General Protocol for the Operation of Video Cameras in Public Spaces through Resolution No. 283/2012 of the Ministry of Security of the Nation.

The importance of institutional planning aimed at proactive efficiency, the professionalization of human resources, and the integration of appropriate technologies into state inspection activities are substantial measures for strengthening the effective protection of the human right to security.

The use of video cameras is fundamentally premised on the valuable contribution of appropriate technological tools to enhance the capabilities of preventing and verifying labor and social security violations.

Recognizing the relevance of the aforementioned protocol and its alignment with the legal provisions and safeguards established by the National Personal Data Protection Law No. 25.326, it adheres to the regulatory guidelines concerning procedure, compatible processing, confidentiality, protection, and safeguarding of information, and the exclusive fulfillment of the specific purpose for which it was created. The information obtained is subject to security measures, authenticity, integrity, confidentiality requirements, and the duty of confidentiality, in alignment with the provisions of Article 23 and related provisions of the aforementioned legal framework.

The General Directorate of Legal Affairs, under the SUBSECRETARIAT OF COORDINATION of the MINISTRY OF LABOR, EMPLOYMENT AND SOCIAL SECURITY, has taken the appropriate action within its jurisdiction.

This resolution is issued in the exercise of the powers conferred by Article 43 of Law No. 26.940 and subsection 8 of Article 23 of the Law of Ministries No. 22.520 (as amended by Decree No. 438/92) and its amendments.

Therefore,

THE MINISTER OF LABOR, EMPLOYMENT AND SOCIAL SECURITY RESOLVES:

Article 1º.- The "General Protocol for the Operation of Filming Devices in Labor Inspection Matters," attached as Annex IF-2017-00051060-APN-SECT#MT, is hereby approved and forms an integral part of this resolution.

Article 2º.- The images and sounds obtained through filming devices, such as drones, UAVs, and bodycams, under the terms and conditions established in the approved Protocol, shall form part of the records prepared by the labor administrative authority.

Article 3º.- The "Labor Inspection Videovigilance Data Bank" is hereby created, with the National Directorate of Inspection being designated as the responsible entity, which shall be in charge of complying with Article 22 of Law No. 25.326.

Article 4º.- Following Article 11 of Annex II of Law No. 25.212, the records of images and sounds obtained shall be archived for a period of two (2) years or the longer statute of limitations applicable to the type of infraction. The statute of limitations shall be interrupted by the detection of the infraction, the issuance of an order to initiate a summary proceeding, and/or the commission of new infractions by the original violator.

Article 5º.- It is established that according to Article 17 of Law No. 25.326, access to the recorded information may be denied to the data holder to protect the defense of the nation, public order and security, the protection of the rights and interests of third parties, or when ongoing judicial or administrative proceedings related to the investigation of tax or social security obligations, health and environmental control functions, criminal investigations, or administrative infractions may be hindered.

Article 6º.-The Subsecretariat of Labor and Social Security Inspection is hereby authorized to issue the regulatory and supplementary rules for this resolution.

Article 7º.- Provincial bodies and/or entities belonging to the Autonomous City of Buenos Aires responsible for labor inspection are invited to adhere to this resolution.

Article 8º.- Communicate, publish, and send to the National Directorate for the Protection of Personal Data of the Ministry of Justice of the Nation for its registration in the National Database Registry, and archive.

ALBERTO JORGE TRIACA

Minister

Ministry of Labor, Employment and Social Security

**Republic of Argentina – National Executive Branch**

Year 2017

**Annex**

**Number:** IF-2017-00051060-APN-SECT#MT

CITY OF BUENOS AIRES

Monday, January 2, 2017

**Reference:** File No. 1-2015-1739670-2016 – Annex Resolution – Video Inspection Protocol

**GENERAL PROTOCOL FOR THE OPERATION OF RECORDING DEVICES IN LABOR INSPECTIONS**

This Protocol establishes the general guidelines regarding the operation of recording devices during inspections conducted by the inspectorate of the Ministry of Labor, Employment, and Social Security of the Nation, outlining criteria for the placement and use of such devices, the handling and confidentiality of recorded images and sounds, applicable procedures, the operation of monitoring centers, and specific cases of communication and referral to the competent judicial authorities and the Public Prosecutor's Office.

1. GENERAL COORDINATION. The National Inspection Directorate shall exercise general coordination and supervision of the coordination and monitoring centers for video cameras and the guidelines for their use during inspections carried out by its inspection corps.
2. FRAMEWORK FOR ACTION. PRINCIPLES OF LEGALITY AND RIGHT TO PRIVACY. The right to supervise, monitor, and use video cameras during inspections (video inspection) is exclusively limited to competent public authorities, who are functionally and normatively responsible for the system they oversee. They must ensure that the system operates in accordance with principles of legality and respect for individuals' privacy. To this end, the competent authority shall conduct a privacy and personal data protection impact assessment for the activities planned for the video inspection devices, which will serve as the basis for designing the Procedure Manual.
3. USE AND HANDLING OF IMAGES AND SOUNDS. PURPOSE. The use and subsequent handling of images and sounds obtained are intended to form part of the inspection act and contribute to the prevention and detection of labor and social security violations. Their use is a relevant contribution to the operational inspection functions, respecting the constitutional principles of legality and reasonableness, in conjunction with effectively protecting individuals' right to privacy and private property.
4. CONDITIONS FOR THE USE OF DEVICES. The use of recording devices for inspection purposes is based on the adaptation of new technologies and the principles of transparency in inspection tasks. It is prohibited to follow, analyze, and/or record information for discriminatory purposes, including cases of affiliation with or membership in political, social, union, and/or labor organizations, racial and ethnic origin, political opinions, religious, philosophical, or moral beliefs, union affiliation, and information related to health or sexual life.
5. DETECTION OF IMAGES AND SOUNDS AND COMMUNICATION TO AUTHORITIES. Upon detecting images and sounds that reasonably indicate the possible commission of illegal acts, immediate communications must be made to ensure efficient intervention by the competent authorities, implementing appropriate measures to safeguard, maintain the confidentiality of, and secure the recorded images and sounds.
6. COMPLIANCE WITH DIRECTIVES AND REQUESTS FROM INTERVENING AUTHORITIES. The coordination and monitoring centers for recording devices must comply with the functional directives of the National Inspection Directorate and the objectives set by the regulations regarding respect for individuals' privacy, ensuring that operators at these centers do not release the recorded images and sounds to the media.
7. CERTIFICATION OF DEVICES. CONNECTION WITH OTHER DEVICES. Video recording devices must be certified to preserve the material collected by them and to link it to the inspection act. The images and sounds recorded by video recording devices must be connected to the inspection management system.
8. PROCEDURE MANUAL. CONTENTS. The competent authority shall implement a Procedure Manual that will establish specific guidelines regarding its operation; rules for handling, confidentiality, and safeguarding of recorded images and sounds; competencies, duties, and responsibilities of the officials and public agents assigned to these tasks; communication mechanisms to administrative and judicial authorities; and other operational requirements inherent to the activity.
9. FUNCTIONS IN MONITORING CENTERS. APPLICABLE PRINCIPLES. Officials and public agents assigned to the tasks of tracking, monitoring, and coordinating video recording devices must respect principles of confidentiality, professional ethics, and legality in handling the images and sounds received, within the framework of the comprehensive protection of individuals' right to privacy (Article 19 of the National Constitution and Law No. 25,326). To this end, they shall sign a sworn declaration of commitment to confidentiality.
10. TRAINING AND SPECIALIZATION OF PERSONNEL. Personnel assigned to tasks of tracking, monitoring, and coordinating video recording devices, as well as the inspection corps, shall receive training and possess the technical and legal expertise commensurate with the responsibilities of the functions to be performed. The National Inspection Directorate must implement courses and academic activities to ensure their specialization in the subject.
11. PROTECTION OF PERSONAL DATA. Any processing of personal data carried out in the course of the inspection, whether at the time of video recording or its subsequent storage or transfer to third parties, must comply with the requirements outlined in the procedures, data handling, duty of confidentiality, and protection, and safeguarding of information. It must exclusively fulfill the specific purpose of its creation, operation, and registration in the data bank required by National Law on the Protection of Personal Data No. 25,326, corresponding/concordantes and regulatory provisions, and applicable local or provincial regulations.

Ezequiel Sabor

Secretariat

Secretary of Labor

Ministry of Labor, Employment and Social Security