

No 506370

FRENCH REPUBLIC

MUNICIPALITY OF NICE

ON BEHALF OF THE FRENCH PEOPLE

Mr Stéphane Eustache
Reporting Judge (Rapporteur)

The Conseil d'État, ruling as the Supreme Administrative
Court
(Litigation Section, 10th and 9th Chambers combined)

Mr Frédéric Puigserver
Consultant Judge (Rapporteur public)

Based on the report of the 10th Chamber
of the Litigation Section

Session of 09 January 2026
Decision of 30 January 2026

Having regard to the following proceedings:

By an application and a new statement of case, registered on 18 July and on 13 November 2025 with the Litigation Secretariat of the Conseil d'État, the Municipality of Nice requested that the Conseil d'État:

1°) quash as ultra vires Resolution no 2025-032 of 15 May 2025 of the French Data Protection Authority (Commission nationale de l'informatique et des libertés, CNIL), in so far as it concerns the conditions governing the implementation of an algorithmic processing of personal data known as the “school entrance intrusion zone”;

2°) order the CNIL to pay the sum of €5,000 under Article L. 761-1 of the French Code of Administrative Justice.

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Having regard to the other evidence adduced;

Having regard to:

- the French Constitution, in particular its Preamble;
- the French Internal Security Code;
- French Law no 78-17 of 06 January 1978;
- Decree no 2019-536 of 29 May 2019;
- the French Code of Administrative Justice;

Having heard, in open court:

- the report of Mr Stéphane Eustache, Master of Petitions,
- the legal opinion of Mr Frédéric Puigserver, Consultant Judge;

SCP L. Poulet, Odent, counsel for the Municipality of Nice, having addressed the court after the legal opinion;

Whereas:

1. Following an inspection carried out on 5 April 2023 at the premises of the Municipality of Nice, the President of the French Data Protection Authority (Commission nationale de l'informatique et des libertés, CNIL) formally required that municipality, on 13 November 2024 and under the provisions of Article 20 of the Law of 6 January 1978 on data processing, data files and individual liberties, to submit a data protection impact assessment (DPIA) concerning the algorithmic processing of video-surveillance images known as "line crossing" and "intrusion zone", and to refer these proposed processing operations to the Commission for an opinion pursuant to Article 90 of the same law. By its Resolution no 2025-032 of 15 May 2025 setting out its opinion on the conditions for implementing such processing operations, the CNIL considered, in points 9 to 13 of that opinion, that the implementation of the algorithmic processing of personal data known as "school entrance intrusion zone" was not permitted under the legislation currently in force. To that extent, the Municipality of Nice has sought the quashing as ultra vires of this resolution.

Formal legality:

2. Firstly, Article 3 of the Decree of 29 May 2019, implementing the French Law no 78-17 of 6 January 1978 on data processing, files and individual liberties, provides as follows: "*The Commission may validly deliberate only if a majority of its serving members participate in the meeting.*" Article 4 of this same Decree provides as follows: "*The Resolutions of the Commission shall be adopted by an absolute majority of the members present (...).*" Article 12 of the Rules of Procedure of the CNIL provides as follows: "*Except for decisions relating to elections, resolutions are adopted on the basis of a draft resolution and, where appropriate, a report. These documents shall be transmitted to the members of the Commission*

and to the Government Commissioner by any means, including electronically, at least eight days before their examination in plenary session.”

3. The evidence submitted shows that by letter dated 6 May 2025, the members of the Commission were convened to the meeting of 15 May 2025 for the purpose of examining a draft resolution setting out an opinion on the conditions for the implementation by the Municipality of Nice of an algorithmic processing of personal data entitled “line crossing” and “intrusion zone”; that twelve members of the Commission, which comprises eighteen members, deliberated on that draft; and that it was adopted by an absolute majority of the members present. Under these conditions, and as the applicant does not refer to any precise and substantiated element demonstrating a breach of the rules referred to in point 2 – which the contested opinion was not required to recall – the plea alleging a procedural defect must be dismissed.

4. Secondly, it follows from the very wording of points 9 to 13 of the contested resolution that the CNIL set out the legal and factual grounds on which it based its conclusion that the algorithmic processing known as “school entrance intrusion zone” could not be implemented under the legislation currently in force. Accordingly, and in any event, the plea alleging insufficient reasoning must be rejected.

Substantive legality:

5. Article L. 251-1 of the French Internal Security Code provides as follows: *“Video-protection systems meeting the conditions laid down in Article L. 251-2 constitute personal data processing operations governed by this Title, by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (...) and by French Law no 78-17 of 6 January 1978 on data processing, files and individual liberties.”* Article L. 251-2 of this same Code provides as follows: *“Video-protection systems may be implemented on public roads by the competent public authorities in order to ensure: / 1° the protection of public buildings and installations and their surroundings; / (...) / 4° the detection of offences against traffic regulations;/ 5° the prevention of threats to the safety of persons and property in places particularly exposed to risks of assault (...) / 6° the prevention of acts of terrorism under the conditions laid down in Chapter III of Title II of this Book; (...).”*

6. The evidence submitted shows that the personal data processing operation known as “school entrance intrusion zone” consists, first, in detecting, continuously and automatically in real time, the presence of vehicles parked unlawfully in front of school entrances during opening hours by means of an algorithm, within images from a video-surveillance system monitoring public roads implemented pursuant to the aforementioned provisions of Article L. 251-2 of the French Internal Security Code, and, secondly, in alerting the municipal police services, by the same means, of the occurrence of such an event, with the aim of preventing disturbances to public order and, in particular, ensuring the safety of those establishments.

7. Contrary to the municipality’s submissions, although the aforementioned provisions of Article L. 251-2 of the French Internal Security Code permit the implementation of video-surveillance systems on public roads, they cannot, in the absence of any express provision, be interpreted as authorising the implementation of algorithmic processing operations enabling

the systematic and automated analysis of images collected in public spaces by means of such systems. Moreover, no other provision authorises the implementation of such processing operations. Accordingly, and even if, as the municipality argues, the proposed processing operation cannot be classified as a “high-risk” artificial intelligence system within the meaning of Article 6 of Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence, the CNIL was entitled, without committing an error of law or exceeding its powers, to consider that it could not be implemented under the national law currently in force.

8. It follows from all of the foregoing that the Municipality of Nice cannot request that the resolution it is challenging be quashed. Its application must therefore be dismissed, including its claims for the application of the provisions of Article L. 761-1 of the French Code of Administrative Justice.

OPERATIVE PROVISIONS:

Article 1: The Municipality of Nice’s application is dismissed.

Article 2: The Municipality of Nice and the French Data Protection Authority shall be notified of this decision.

Decision made following deliberations at the session held on 09 January 2026 at which sat: Mr Pierre Collin, Deputy President of the Litigation Section, presiding; Mr Bertrand Dacosta and Ms Anne Egerszegi, Chamber Presidents; Mr Nicolas Polge, Mr Vincent Daumas, Ms Rozen Noguellou, Mr Christophe Barthélemy and Mr Bruno Delsol, State Councillors, and Mr Stéphane Eustache, Master of Petitions-Reporting Judge.

Handed down on 30 January 2026.

The Presiding Judge:
Signed: Mr Pierre Collin

The Reporting Judge:
Signed: Mr Stéphane Eustache

The Secretary:
Signed: Ms Thamila Mouloud