

National Data Protection Commission

OPINION/2021/107

I. Order

1. O Instituto dos Registos e do Notariado, I.P. (IRN) requested the National Data Protection Commission (CNPd) to issue an opinion on a protocol that aims to regulate the access of the Municipal Police of Póvoa do Varzim (PMPV) to car registration, for the purpose of monitoring compliance with the Highway Code. and complementary legislation on public roads under its jurisdiction.

2. The request is made under paragraph 7 of article 27-E of Decree-Law no. 54/75, of 12 February¹, which regulates car registration.

3. The IRN, the Institute for Financial Management and Justice Equipment, I.P. are parties to the protocol. (IGFEJ) and the Municipality of Póvoa do Varzim.

4. Under the terms of Clause 1a of the protocol, the PMPV «is authorized to access the vehicle registration information, by consulting the respective database online», located in the IGFEJ, for the «exclusive purpose of pursuing the competence that is legally committed to it within the scope of the management and inspection of paid urban public parking, as well as the instruction and decision of road administrative offenses for minor infractions related to prohibited, improper or abusive parking in parks or parking areas, roads and other public spaces provided they are under municipal jurisdiction».

5. The following data are accessed: «name, habitual residence, identification document number and date and tax identification number, when available, or company name, registered office and number of legal person, owner or lessee or usufructuary by date of occurrence fact, and when technically available'. (No. 1 of Clause 1a).

6. Access to the database is made through a search by vehicle registration and is conditioned to the mandatory identification of the case number or of the administrative offense report to which they refer (cf. no. 1 of Clause 2.a).

7. For audit purposes, accesses are recorded (logs) for a period of two years, in accordance with the provisions of paragraph 2 of Clause 2a of the protocol.

¹¹ Lastly amended by Decree-Law No. 111/2019, of 16 August.

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PAR/2021/96

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8. Pursuant to Clause 3.a of the protocol, PMPV must comply with the legal provisions contained in the RGPD and Law No. that it should be limited to what is strictly necessary, not using the information for other purposes; not to transmit the information to third parties; to take the necessary security measures to guarantee the integrity and proper functioning of the database. Any form of interconnection of personal data is also prohibited.

9. It is also foreseen that, if the PMPV uses the subcontractor to execute the protocol, it is bound, namely, to guarantee the security of the treatment, to ensure that the people involved assume a confidentiality commitment and to inform the IRN of all the information necessary to demonstrate compliance with the obligations under the GDPR, including facilitating and contributing to audits or inspections conducted by the IRN or another auditor mandated by it,

10. Access to the car registration database is via VPN between the two bodies, using the name/password combination associated with each user, and the implementation of IPSec tunnels is also mandatory (cf. Clause 4.a) .

11. Also according to Clause 5.a of the protocol, PMPV undertakes to previously communicate to the IRN the identification of users accessing the database, indicating name and category/function, with a view to attributing the respective access credentials to the system. Requests for creating and changing users are forwarded to the IGFEJ to execute the requests, which must keep the list of users updated and make it available to the IRN.

12. Pursuant to paragraph 4 of Clause 5.a of the protocol, PMPV is responsible for accessing the data and for its subsequent use.

13. The protocol is concluded for a period of one (1) year, tacitly extendable for equal periods. The resolution of the protocol implies the immediate cessation of the authorization of access to the car registration database by the Municipal Police of Oeiras (cf. Clause 11, a and no. 2 of Clause 10.a).

il. Analysis

14. Under the terms of subparagraph d) of no. 2 of article no. 27, °-D of Decree-Law no. 54/75, personal data from the car registration may be communicated, in order to carry out the respective attributions, the entities responsible for monitoring compliance with the provisions of the Highway Code and complementary legislation.

PAR/2021/96

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National Data Protection Commission

15. Also in accordance with paragraphs 2 and 3 of article 27-E of the same diploma, these entities may authorize the consultation of data transmission online, provided that security guarantees and subject to the conclusion of a protocol that defines the limits and conditions of access.

16. The possibility for PMPV to access the car registration derives from the combined provisions of Article 5(1)(d) with No.3(a) of Decree-Law No. 44/2005, of February 23.

17. To that extent, it is considered that there is a basis of legitimacy for this processing of data, in the form of access, under Article 6(1)(e) of Regulation (EU) 2016/679, of April 27, 2016 - General Data Protection Regulation (GDPR).

18. The rule of mandatory indication of the process number that supports access as a condition for the continuation of the research and consequent access to data is highlighted as positive and essential.

19. The rule regarding individualized access per user, using unique credentials, and respective logs, always allowing tracking of each user's activity, is also underlined as adjusted.

20. As regards the security measures envisaged for the transmission of data, as well as the obligation provided for in paragraph 3 of Clause 5.a, they appear generally to be appropriate.

21. Regarding the participation of the IGFEJ as a party to this protocol, the CNPD considers this to be fully justified, given its attributions, provided for in article 3 of Decree-Law No. 164/2012, of 31 July.

III. Conclusion

22. The CNPD considers that the Municipal Police of Póvoa do Varzim has legitimacy for access to personal data from the vehicle registration, within the limits and conditions recommended by this protocol, and therefore understands that there is no impediment to its execution.

Lisbon, August 18, 2021

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