

The Institute of Registries and Notaries, I.P. (IRN), asked the National Commission for Data Protection (CNPd) issuance of an opinion on a protocol aimed at regulate the access of Loulé Concelho Global, E.M., Unipessoal, S.A., to the register car.

The request is made under subparagraph d) of paragraph 2 of article 27-D and paragraphs 2, 3 and 7 of article 27-E of the Motor Vehicle Registration¹.

The IRN, the Institute of Financial Management and Equipment of the Justice, I.P. (IGFEJ), and Loulé Concelho Global, E.M., Unipessoal, S.A (LCG).

Under the terms of Clause 1 of the protocol, LGG is authorized to access the information vehicle registration by consulting the respective database online,

located at IGFEJ, for the exclusive purpose of pursuing its competence

legal, within the scope of monitoring compliance with the provisions of the Code of road and others

complementary legislation, on public roads,

including

parking, under the jurisdiction of the Municipality of Loulé.

For the purpose indicated above, the following personal data are accessed: name, habitual residence, identification document number and date and identification number tax identification, when available, or firm, registered office and corporate number, of the owner, lessee or usufructuary, as well as the encumbrances or charges.

Accesses to the database, which are registered in the system for two years, in order to allow audits to be carried out, are carried out by vehicle registration and must compulsorily identify the number of the case or the report to which respect, without which research will not be able to proceed (cf. Clause 2).

Access is carried out through two types of channels, alternative, in both cases with implementation of IPSEC tunnels, to ensure data confidentiality.

Pursuant to Clause 3 of the Protocol, LCG undertakes to comply with the provisions legal provisions on the protection of personal data contained in Regulation (EU)

2016/679, of April 27, 2016, General Regulation on Data Protection

(RGPD), and Law no. 58/2019, of 8 August, in particular with regard

for the purpose, not using the information for other purposes, not transmitting the

information to third parties, nor making any interconnection of personal data and the

adopt the necessary security measures.

1 Decree-Law No. 54/75, of 12 February, last amended by Decree-Law No. 111/2019, of 16 February August

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In the same Clause (nº 3) the possibility of LCG subcontracting

third-party entities for the execution of this protocol, being bound to ensure

compliance and establishment of all technical and organizational measures

necessary to maintain the security of personal data against any access

illegal or unauthorized treatment, ensure that the persons involved are

subject to confidentiality and to inform the IRN of all information

necessary to demonstrate compliance with the obligations under the GDPR,

including, facilitating and contributing to audits and inspections, conducted by the IRN,

or by another auditor appointed by this auditor.

Also under the terms of the protocol, LCG undertakes to previously communicate to the IRN the

identification of users of access to the database, by indicating the

name, category/function and NIF, with a view to granting

connection to the system, and each user will receive, in a closed letter, a

personal password, which will make you responsible for your use of the service. THE IGFEJ will assign an application user and respective password to LCG to access the available web services.

I. Appreciation

The possibility for municipalities to access car registration stems from the combined provisions of subparagraph d) of paragraph 1 and subparagraph a) of paragraph 3 of article 5 of the Decree-Law no. 44/2005, of 27 February, lastly amended by Decree-Law no. 146/2014, of October 9th.

The LCG is, under the terms of the General Regulations for Parking Areas in Limited Duration² the entity responsible for supervising compliance with the vehicle parking and road traffic regulations, including the participation of road accidents, in the territorial area of the Municipality of Loulé

According to subparagraph d) of paragraph 2 of article 27-D of the Highway Code, the data details of the car registration must be communicated, for the pursuit of the respective attributions, to the entities responsible for supervising the Code of Road. Paragraphs 2, 3 and 7 of article 27-E of the same diploma also allow these entities are authorized to consult on the data transmission line,

² Approved in ordinary session of the Municipal Assembly of Loulé, on 21 April and published in the Diário da República, 2nd series, no. 84, of 30 April 2010.

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provided that security guarantees are observed and conditioned to the execution of protocol.

Thus, there is a basis of legitimacy for this data processing personal data, in terms of access, under Article 6(1)(e) of the GDPR.

Article 27-H(4) of the Motor Vehicle Registration requires that entities with

authority to consult that register maintain an up-to-date list of authorized persons to access the database. Therefore, LCG is obliged to keep this list, which must be updated in order to limit the possibility of undue access by users who no longer have the legitimacy to access. Naturally, this obligation stems from the law, but its transposition into Clause 5 will have a potentiating effect on its compliance and will allow the IRN, at any time, can determine to the IGFEJ that the access credentials be deactivated.

The IGFEJ's intervention in this protocol stems from the attribution provided for in paragraph m) of no. 2 of article 3 of Decree-law no. 164/2012, of 31 July.

With regard to security measures, without prejudice to the need for permanent verification of their compliance, they seem appropriate.

II. Conclusion

Thus, with the above observations, the CNPD considers that there is no impediment to the conclusion of the protocol.

Lisbon, April 17, 2020

Filipa Calvão (President, who reported)

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