

Case No. 9661/2018

AUTHORIZATION No. 7156/ 2018

Municipality of Oliveira do Bairro notified the National Data Protection Commission (CNPd) of a processing of personal data, resulting from the use of geolocation devices in vehicles in the work context for fleet management purposes in external service, for the purpose of criminal involvement in theft.

The geolocation of vehicles is carried out as part of the external technical assistance activity or home/passenger transport/distribution of goods.

The following categories of data are treated: vehicle geolocation data; data relating to vehicle identification; worker identification data.

The controller declared that the security measures are in place provided for in articles 14 and 15 of Law no. 67/98, of 26 October, amended by Law no. 103/2015, of August 24 – Personal Data Protection Law (LPD) and those specifically arising from the Deliberation No. 7680/2014 of the CNPD.

He also stated that there is no Workers' Commission for the purposes of pronouncement under the terms of the no. 4 of article 21 of the Labor Code (CT).

The controller also stated that the data processing notified and here under analysis complies with the limits and conditions established in Deliberation no. 7680/2014 of the CNPD.

The CNPD has already commented, in its Deliberation 7680/2014, of 28 October, on the principles applicable to the processing of personal data resulting from the use of geolocation in the work context.

There, he analyzes in detail the potential of geolocation technologies, their use by employers and the impact they may have on workers' privacy, as well as the provisions

laws applicable to these processing of personal data, establishing consequently, the precepts that frame the use of geolocation devices in

vehicles and the requirements to carry out the processing of personal data resulting therefrom in compliance with the law.

To the extent that a person's location and movement history are given relating to privacy, they are in the nature of sensitive data, pursuant to paragraph 1 of article 7 of the LPD, and may be processed, namely when there is an enabling legal provision.

On the other hand, geolocation technologies allow, in the work context, to monitor workers remotely, so they configure a means of remote surveillance, such as provided for in article 20 of the CT, whose use can only occur for the purpose of protecting people and goods or when particular requirements inherent to the nature of the activity that justify it.

The processing of personal data under consideration here is precisely part of the legal conditions listed above, so its legitimacy is based on the combined provisions of paragraph 2 of article 7 of the LPD and no. 2 of article 20 of the CT.

Personal data processed in accordance with subparagraph c) of the no. 1 of article 5 of the LPD, for the stated purposes, which are specific and legitimate, in accordance with the provisions of subparagraph b) of paragraph 1 of article 5 of the LPD.

In compliance with the principles of transparency and good faith, the controller is obliged to inform workers in advance of the existence of geolocation in the vehicles that it makes available to them for the exercise of their professional activity and/or for personal use, in accordance with paragraph 1 of article 10 of the LPD.

Pursuant to and on the grounds set out in Deliberation No. 7680/2014, the person responsible obliged to comply with the following specific conditions for the processing of data:

☐ The person responsible for the treatment must make available to the CNPD, workers and representatives, a detailed description of geolocation technologies by used, containing an objective description of their operation and which concrete procedures adopted in compliance with this authorization (No. 126);

☐ Personal data arising from the use of geolocation devices cannot be used to monitor worker performance or for any other purpose. purpose, with the controller responsible for taking the necessary measures, including by contractual means with the subcontracted entity and with its employees themselves, to ensure that there is no deviation from the stated purpose (Nos 52, 86, 104, 114);

☐ Whenever there is internal processing of information, it should not be carried out by the human resources department, but by those who are most suitable the pursuit of the ends in view, except in situations where the size of the entities is not demonstrably allow this unambiguous separation (nos. 112 to 114);

☐ Whenever there is subcontracting of services, the controller must choose an entity that gives you sufficient guarantees of compliance with the measures required techniques. Treatment operations must be regulated by a contract, and the controller must give precise instructions allowing the processing to be carried out. processing of data under the required conditions, cf. article 14 of the LPD (nos. 115 and 116);

☐ Personal data must be rendered non-identifiable within 1 (one) week, the controller must take the necessary measures to ensure that result, including with entities subcontracted for the provision of the service, which must make the reports available in a way that does not allow the identification of workers (n° 95, 98 and 100);

☐ After the non-identification procedure, the processing of information is admissible statistics, provided that this is not of a discriminatory nature in relation to the workers (n° 98);

☐ When the vehicle is being used for private purposes, there can be no knowledge and monitoring of your geolocation, so the controller is

obliged to adopt a technical solution that allows the worker to trigger a mechanism

(when you enter private mode) that makes the information about your geolocation

inaccessible to the employer (unless a theft occurs) and re-opened

when to resume professional activity (n.ºs 140, 141, 142, 144, 148);

□ Appropriate measures must be taken to prevent access to information by persons

unauthorized access, and specific access profiles must be established in accordance with the

processing purposes, as well as individual user accounts that allow

uniquely identify the individual (nos. 130 to 132);

□ All access to data generated by geolocation devices must be

duly registered, through logs, that identify who, when and what they accessed,

which must be kept for a period of 90 days (nos. 133 to 135).

Thus, on the basis of Resolution No. 7680/2014, under the conditions determined above and

pursuant to the combined provisions of paragraph 2 of article 7, paragraph a) of paragraph 1 of article 28.

and paragraph 1 of article 20 of the LPD, the CNPD authorizes the following processing of personal data:

Responsible for

treatment

Goal

Municipality of Oliveira do Bairro

fleet management in external service; criminal involvement in case of

theft

Categories of processed data

Vehicle geolocation data; data relating to

identification of

identification of

workers.

vehicle; data from

shelf life

of the data

1 (one) week

data communication to

the 3rd

there is not, without prejudice to the communication to the competent authorities in

car theft case

data interconnections

There is not

Exercise of the right to

access

By written request

responsible, in the following

address/contact: Praça do Município 3770-851 Oliveira do Bairro

next to the

Lisbon, 24-05-2018

The president

Filipa Calvão