

National Data Protection Commission

OPINION/2022/105

I. Request

1. The Institute of Registries and Notaries, i.P. (IRN) came to ask the National Data Protection Commission (CNPD) to issue an opinion on a protocol that aims to regulate Peniche City Council access to the car registration database.
2. The request is made pursuant to paragraph d) of paragraph 2 of article 27-D and paragraphs 2, 3 and 7 of article 27-E of Decree-Law no. 54 /75, of February 121, diploma that defines the Car Registration System.
3. The parties to the protocol are the IRN, the Institute of Financial Management and Justice Equipment, I.P. (IGFEJ) and the Municipality of Peniche.
4. Under the terms of Clause 1 of the Protocol, the Municipality of Peniche is authorized to access vehicle registration information through an online consultation of the respective database, located at the IGFEJ, for the exclusive purpose of pursuing the competence that is legally committed within the scope of monitoring compliance with the provisions of the Highway Code and complementary legislation on public roads under its jurisdiction, including parking, removal and collection of abandoned vehicles, in the area of the Municipality of Peniche.
5. The following data are accessed: «name, habitual residence, number and date of the identification document and tax identification number, when available, or firm, headquarters and legal person number, of the owner or lessee or usufructuary, and also the charges and charges" (No. 1 of Clause 1a).
6. Access to the database is done through a search by vehicle registration number and is conditioned to the mandatory identification of the case number or the report to which they relate, (cf. no. 1 of Clause 2.a).
7. For auditing purposes, accesses are registered for a period of two years, in accordance with the provisions of Clause 2(2) of the protocol.
8. Pursuant to Clause 3 of the Protocol, the City Council of ÇPeniche must observe the legal provisions in force on the protection of personal data contained in Regulation (EU) 2016/679 of the European Parliament and of the Council, of April 27, 2016 , on the protection of natural persons with regard to the processing of personal data and the free movement of such data

and which repeals Directive 95/46/EC (General Data Protection Regulation) and Law No. 58/2019 , of 8 August, namely with regard to

1 As amended by Decree-Law No. 182/2002, of 20 August.

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respect the purpose for which the consultation was authorized, which 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, in the same clause, that, if the City Council resorts to a subcontractor to execute the protocol, it is bound, namely, to guarantee the security of the treatment, to ensure that the people involved assume a commitment to confidentiality and to inform the IRN of all the information necessary to demonstrate compliance with the obligations set forth in the RGPD, including facilitating and contributing to audits or inspections conducted by the IRN or by another auditor mandated by this mandate.

10. Access is carried out through two types of alternative channels, in both cases with the implementation of IPsec tunnels, to guarantee the confidentiality of the data.

11. Still under the terms of the protocol, the City Council of Peniche undertakes to communicate in advance to the IRN the identification of users accessing the database, by indicating the name, category/function and NIF, with a view to assigning login credentials to the system, and each user will receive, in a sealed letter, a personal password, which will make him responsible for the use he makes of the service.

12. The protocol is concluded for a period of one (1) year, tacitly renewable for equal periods.

II. appreciation

13. As for the article, the possibility for municipalities to access the vehicle registration stems from the combined provisions of

paragraph d) of paragraph 1 and paragraph a) of paragraph 3 of article 5 of Decree-Law no. 44/2005, of February 27th, last amended by Decree-Law No. 146/2014, of October 9th.

14. The Municipality of Peniche is, pursuant to article 5, paragraph 1, paragraph d) and paragraph 3, paragraph a) of Decree-Law no. 44/2005, of 23 February, the entity responsible for supervising compliance with the rules for parking vehicles on public roads and spaces and for road traffic, including the participation in road accidents and the removal and collection of abandoned or improperly parked vehicles, in the territorial area of the Municipality of Peniche.

15. In accordance with paragraph d) of paragraph 2 of article 27-E of the regime relating to the Automobile Registration, the personal data of the automobile registration must be communicated, for the pursuit of the respective attributions, to the entities in charge of inspection of the Highway Code. Paragraphs 2, 3 and 7 of article 27-E of the same diploma also allow these entities to be authorized to consult a data transmission line, provided that the security guarantees are observed and subject to the signing of a protocol .

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

17. As for the communication of individual users of Peniche City Council to the IRN, the CNPD verifies that in addition to the name and category/function, it is also planned that the user's tax identification number (NIF) and mailing address be communicated to the IRN of the user, «with a view to assigning user names ("usernames") and respective keywords ("passwords") for connection to the system» (cf. paragraph 1 of Clause 5a).

18. As already stated in previous CNPD opinions, the relevance of processing the "NIF" data by the IRN for the purposes indicated in Clause 5.a. The "NIF" constitutes an identification number of citizens for tax purposes, not understanding at all the collection by the IRN of that personal data of the users, whose accesses to the car registration are carried out in the exercise of legal competences in a professional context.

19. Therefore, the CNPD considers that it is not only appropriate and necessary to collect the NIF of users for the purpose of

assigning access credentials, in violation of the principle of data minimization, recognized in article 5, paragraph. 1, paragraph c), of the RGPD, as none of the legality conditions of those provided for in article 6, paragraph 1, of the RGPD have been verified, so that the IRN does not have legitimacy to process the TIN of users of the Clearinghouse Municipality of Peniche to which they access the car registration in the performance of their professional duties.

20. In relation to the "email" data, it may be relevant to process it for direct contact with the user within the scope of user management. However, if the email address were to be used as a username, the CNPD understands that such a solution should be rethought, since the (professional) email address is personal data known by a wide range of people, the which significantly weakens a single-factor authentication made up of two elements from the outset. Thus, if the "email" data is collected for the purpose of individualized contact within the scope of user management (for example, password recovery), then this purpose must be specifically provided for in the text, and in any case, it must also be added that this is the professional email address, as only this should be used in this context.

21. Regarding the retention period of system access records for auditing purposes (logs), while it is indicated that the logs referred to in Clause 2.a have a conservation period of two years, therefore a fixed period (minimum and maximum), the log conservation period referred to in Clause 5.a refers to a minimum period of two years, leaving the maximum period open. It is also suggested for reasons of greater clarity that in paragraph 4 of Clause

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5.a, where it is stated that «each invocation performed by the user identified in the previous number is registered in the audit system for a minimum period of two years», is replaced by "(...) performed by the user to which the numbers refer previous

22. Still regarding users, the protocol must provide, possibly by addition to clause 5.a, that Peniche City Council undertakes to maintain, at all times, an updated list of users, which is communicated to the IRN/IGFEJ at the beginning of the execution of the protocol and later whenever there are changes to that list, adding or eliminating users.

23. With regard to security measures relating to the transmission of data, without prejudice to the need for permanent verification of their compliance, they appear to be appropriate.

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

III. Conclusion

25. The CNPD considers that there is legitimacy for access by the Peniche City Council to personal data from the vehicle registration, within the limits and conditions recommended by this protocol, with the changes resulting from this opinion.

26. With regard to the processing of “NIF” data, the CNPD considers that the IRN does not have legitimacy to process this personal data of users in the context of the performance of their professional duties, so the text of the protocol must be amended in accordance.

27. It is recommended to amend paragraph 4 of Clause 5.a with a view to clarifying it.

28. A rule should also be introduced regarding the conservation by the Municipality of Peniche of an updated list of users, which must be communicated to the IRN for access control purposes.

Approved at the meeting of November 15, 2022

Filipa Calvao (President)