

NATIONAL COMMISSION, 'DATA PROTECTION

OPINION/2020/87

The Institute of Registries and Notaries, I.P. (IRN) has requested the National Data Protection Commission (CNPd) to issue an opinion on a protocol that aims to regulate the access of VITRUS AMBIENTE, E.M., S.A., (VITRUS) to car registration.

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 Decree-Law n.º 54/75, of 12 February¹, diploma that regulates car registration.

The IRN, the Institute of Financial Management and Justice Equipment, I.P. (IGFEJ) and VITRUS.

Under the terms of Clause 1,a of the protocol, VITRUS is authorized to access vehicle registration information by consulting the respective database, located on the IGFEJ, for the exclusive purpose of pursuing its legal competence, within the scope of inspection of compliance with the provisions of the Highway Code and other complementary legislation, on public roads, including parking, under the jurisdiction of the Municipality of Guimarães.

The following data are accessed: «name, habitual residence, number and date of the identification document and tax identification number, when available, or company name, registered office and number of legal person, of the owner or lessee or usufructuary by date of the occurrence of the fact, and when technically available' (Article 1(1)).

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 infraction notice to which they refer (cf. no. 1 of Clause 2.a).

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

Pursuant to Clause 3.a of the protocol, VITRUS must comply with the legal provisions contained in 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 the free movement of such data and which repeals Directive 95/46/EC (General Regulation on Data Protection) and Law No. purpose for which the consultation was authorized, which must

¹ As amended by Decree-Law No. 111/2019, of 16 August.

limit yourself 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.

It is also foreseen, in the same clause, that, if VITRUS 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 commitment 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 or inspections conducted by the IRN or by another auditor mandated by the IRN. Access is carried out through two types of alternative channels, in both cases with the implementation of IPsec tunnels, to guarantee data confidentiality.

Also under the terms of the protocol, VITRUS undertakes to previously communicate to the IRN the identification of the users of access to the database, by indicating the name, category/function and NIF, with a view to attributing credentials to connect to the system, and each user will receive, in a closed letter, a personal password, which will make him responsible for the use he makes of the service. IGFEJ will assign an application user and respective password to VITRUS to access the w[^]se/v/ces available.

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

1 - Appreciation

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

VITRUS is, under the terms of the General Regulations for Limited Duration Parking Zones², the entity responsible for supervising compliance with vehicle parking and road traffic regulations, including the participation of traffic accidents, in the territorial area of the Municipality of Sintra.

² Cf. program contract awarded between the Municipality and the municipal company on December 29, 2014, duly approved by the Municipal Assembly of December 15, 2014, on a proposal from the respective Chamber.

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In accordance with point d) of paragraph 2 of article 27-D of the Highway Code, personal data from the car registration must be

communicated, in order to carry out the respective attributions, to the entities responsible for supervising the Code. of the road.

Paragraphs 2, 3 and 7 of article 27-E of the same diploma also allow these entities to be authorized to consult data transmission lines, provided that security guarantees are observed and subject to the signing of a protocol.

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

Paragraph 4 of article 27-H of the Motor Vehicle Registry requires that the entities competent to consult this registry keep an updated list of persons authorized to access the database. In this way, VITRUS is obliged to maintain 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 arises from the law, but it must also be included in this protocol, insofar as it will have a boosting effect on its compliance and will allow the IRN, at any time, to determine to the IGFEJ that the access credentials are deactivated.

The intervention of the IGFEJ in this protocol stems from the attribution provided for in subparagraph m) of paragraph 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 appear to be appropriate.

II - Conclusion

The CNPD considers that VITRUS AMBIENTE, E.M., S.A. has legitimacy for access to the personal data of the car registration, within the limits and conditions recommended by this protocol, so it understands that there is no impediment to its execution.

Approved at the meeting of July 28, 2020

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