

f NATIONAL COMMISSION « ON DATA PROTECTION

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OPINION/2020/121

I. Order

The Institute of Registries and Notaries, I.P. (IRN) has submitted to the National Data Protection Commission (CNPd) a draft protocol that aims to regulate the access of EPORTO -Estacionamentos Públicos, S.A. (EPORTO, S.A.) to vehicle registration, for the purpose of monitoring compliance with the Highway Code and complementary legislation on public roads under the jurisdiction of the Municipality of Porto.

The CNPD issues an opinion within the scope of its powers and competences as an independent administrative authority with authority to control the processing of personal data, conferred by Article 57(1)(c) of Regulation (EU) 2016/ 679, of 27 April 2016 - General Data Protection Regulation (RGPD), in conjunction with the provisions of articles 3 and 4, no. 2, of Law No. 58/2019, of August 8th.

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

Under the terms of Clause 1a of the protocol, EPORTO, S.A. «will be authorized to access vehicle registration information, by consulting the respective database», located in the IGFEJ. 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, owner or lessee or usufructuary, by date of occurrence of the fact, when technically available'. (No. 1 of Clause 1a).

The consultation has “the exclusive purpose of pursuing the competence that is legally entrusted to it in the scope of management, operation, maintenance and inspection, regarding the infractions provided for in article 71 of the Highway Code, under a public service concession regime (.. .), for as long as the concession contract entered into with the respective Municipality is in force» (cf. no. 3 of Clause 1a).

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Access to the database is made by searching by vehicle registration, and by date of occurrence, when technically available,

and is conditioned to the mandatory identification of the case number or the report to which they refer (cf. n. 1 of the Clause 2.a).

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.

Under the terms of Clause 3.a of the protocol, EPORTO, S.A. must comply with the legal provisions contained in the RGPD and Law No. 58/2019, of 8 August, namely as regards the purpose for which the consultation was authorized, which must 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.

It is also expected that, if EPORTO, S.A. uses the subcontractor to implement the protocol, is bound, in particular, 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 out in the GDPR, including facilitating and contributing to audits or inspections conducted by the IRN or another auditor mandated by the IRN.

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).

Also according to Clause 5.a of the protocol, under the heading "Users", EPORTO, S.A. undertakes to previously communicate to the IRN the identification of the users of the database, indicating name and category/function, with a view to assigning the respective credentials to access the system. Access is individualized and each user is responsible for the use made of the service. Requests for creating and changing users are forwarded by the IRN to the IGFEJ to execute the requests.

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The protocol is concluded for a period of one (1) year, tacitly renewable by equals.

periods. The resolution of the protocol implies the immediate cessation of the authorization to access the car registration database by EPORTO, S.A. (cf. Clause 10.a and No. 2 of

Clause 9.a).

II. appreciation

1. Under the terms of subparagraph d) of no. 2 of article no. 27-D of Decree-Law no. 54/75, of 12 February¹, diploma that regulates car registration, the personal data of the vehicle registration may be communicated, in order to carry out their respective attributions, to the entities responsible for supervising compliance with the provisions of the Highway Code and complementary legislation.

2. 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.

3. The possibility that EPORTO, S.A. accessing the car registration results from the combined provisions of article 5, no. current wording.

4. The Municipality of Porto signed a public service concession contract with EPORTO, S.A., on December 11, 2015, for the management, operation, maintenance and inspection of the offenses provided for in article 71 of the Highway Code.

5. 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).

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

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6. The mandatory rule of indicating 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.

7. The rule regarding individualized access per user, using unique credentials, and respective /ogs, is also underlined as adjusted, allowing the activity of each user to be tracked at all times.

8. As regards the security measures foreseen for the transmission of data, as well as the obligation foreseen in paragraph 3 of Clause 5.a, they seem generally appropriate.

9. 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

The CNPD considers that there is legitimacy for access by EPORTO, S.A. to personal data vehicle registration, within the limits and conditions recommended by this protocol, so that understands that there is no impediment to its celebration.

Approved at the meeting of October 7, 2020

Filipa Calvão (President)