

NATIONAL DATA PROTECTION COMMISSION

OPINION/2019/30

I. Order

The Insurance and Pension Funds Supervisory Authority sent the National Data Protection Commission (CNPd) the Draft Regulatory Standard that defines the procedures and requirements in terms of adequate qualification and continuous professional improvement and the functioning of the technical committee for the purposes of recognition of courses on insurance, pursuant to the new legal regime for the distribution of insurance and reinsurance, approved by Law No. 7/2019, of 16 January.

The request made and the opinion issued now derive from the attributions and powers of the CNPD, as an independent administrative entity with powers of authority to control the processing of personal data, conferred by subparagraph c) of paragraph 1 of article 57 and by the paragraph 4 of article 36 of Regulation (EU) 2016/679, of 27 April 2016 (General Regulation on Data Protection - RGPD), in conjunction with the provisions of paragraph 1 of article 21. ° and no. 1 of article 22, both of Law no. 67/98, of 26 October, amended by Law no. 103/2015, of 24 August (Personal Data Protection Law) .

II. appreciation

The CNPD has nothing to oppose, from a data protection perspective, to the provisions contained in this Draft Regulatory Standard.

It only points out the need, especially in the context of courses totally or partially taught at a distance referred to in paragraph 3 of article 2 of the Project, to adopt adequate measures to verify the identity of trainees that minimize the risk of misuse of personal data.

In fact, the CNPD continues to be aware of situations in which the transmission of a copy or digitalization of the civil identification card is presented as a condition for the provision of a service, especially online, to prove the identity of the person interested in the service.

AV. D. CARLOS I, 134 - lo | 1200-651 LISBON | WWW.CNPD.pt | TEL:+351 213 928 400 | FAX:+351 213 976 832

Case No. PAR/2019/25

1v.

Since there are risks associated with such transmission, which, moreover, the national legislation wanted to protect, this can only happen with the consent of the cardholder (Cf. article 5, no. 2, of the Citizen's Card Law - Law No. 7/2007, of 5 February, last amended by Law No. 32/2017, of 1 June).

Simply, this consent is not legally relevant, as it is not free, if, in the absence of its expression, the contract is not concluded and the service is not provided. It is recalled that Article 4(11) of the GDPR prescribes that consent, provided for in Article 6(1)(a) of the GDPR, only serves to legitimize processing of personal data if it is free, informed, specific and explicit.

Thus, the CNPD recommends the introduction, in paragraph 3 of article 2 of the Project, of a paragraph imposing that the procedure for verifying the identity of trainees obeys the principles enshrined in article 5 and paragraph a) of the Article 6(1) of the GDPR, as well as the provisions of Article 5(2) of Law No. 7/2007 - from which it follows that it cannot be required (except by law) the reproduction of the citizen's card and that the cardholder's consent is only relevant if alternative forms of identity verification are presented.

Lisbon, June 6, 2019