

I. Order

The Office of the Secretary of State for the Presidency of the Council of Ministers asked the National Data Protection Commission (CNPd) to issue an opinion on the draft Decree-Law that aims to establish the obligation to declare a cut, extraordinary cut, thinning or start. of trees of forest species in Portugal mainland, intended for commercialization and self-consumption for industrial processing, as well as the traceability of woody material intended for the first processing industry and for export,

The request made and the present opinion fall within the attributions and powers of the CNPD, as the national authority for the control of the processing of personal data, in accordance with the provisions of subparagraph c) of paragraph 1 of article 57 and n. 4 of article 36 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Regulation on Data Protection - RGPD), in conjunction with the provisions of article 3. , in paragraph 2 of article 4 and in subparagraph a) of paragraph 1 of article 6, all of Law no. internal legal order, of the GDPR).

The assessment of the CNPD is limited to the rules that provide for or regulate the processing of personal data,

II. appreciation

The Project under analysis aims to review the legal regime established by Decree-Law No. obtaining essential information for the management of the national forest heritage. This review is part of the objective of simplifying and reducing bureaucracy of administrative procedures and their dematerialization, complying with the measure of Simplex+ «Communication+agile of tree felling for the industry».

Thus, Article 4(1) of the Draft Law imposes on operators the duty to declare to the Instituto da Conservação da Natureza e das Florestas, I.P. (ICNF, IP), through the Cutting Manifest Information System (SiCorte), the cut, the extraordinary cut, Process PAR/2Q20/27 j IV.

the thinning or uprooting of trees of forest species, as well as the communication and identification, through this system, along the supply chain of woody material until the first transformation, the operations referred to in points a), d) and f) of the Article 3 for which they are responsible and to provide this information to the competent authority whenever requested (cf. Article 4(3)).

In this Draft Decree-Law, from a data protection perspective, the provisions contained in Articles 5 to 7 stand out, which is why

it is important to analyze them.

In paragraph 1 of article 5, it is determined that the processing of the procedures and formalities provided for in the diploma is carried out electronically through the electronic data platform SiCorte, using the electronic one-stop shop provided for in articles 5 and 6. ° of Decree-Law no. 92/2010, of 26 July, in its current wording, accessible through the ePortugal Portal and on the ICNF, IP website.

Paragraph 3 of the same article determines that the treatment, security, conservation, access and protection of personal data contained in SiCorte are governed by Law No. GDPR national legal order. It should be noted that the essence of the legal regime for these personal data processing is contained in the GDPR itself, so it is strongly recommended that this precept expressly refers to this European Union diploma and not only to the national law that complements its application in the our legal system. As is done in Article 6 of the Project, when the interconnection of personal data is regulated.

In turn, paragraph 1 of article 6 of the draft law, under the heading «Data Interconnection» establishes that the transmission of personal data from SiCorte must be the subject of a Protocol between ICNF, IP, and the entities , services or public bodies, approved by the member of the Government responsible for the area of forests and the sectoral area, which establishes the responsibilities of each intervening entity, either in the act of transmission or in other treatments to be carried out.

These protocols must define, under the terms of paragraph 2 of the same article, namely, the categories of data subjects and the object of the interconnection, «as well as their elements and the conditions of access, communication and processing of data by those entities ». In addition to the law delegating to the administrative protocols plan the definition of essential elements of data processing that here

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provides, such as the categories of data subjects and the categories of personal data, which should, strictly speaking, be defined in legislation, the wording of this final part of the precept raises doubts, from the outset as to what the "elements" are that The CNPD therefore recommends the reformulation of this precept, in order to clarify the content of the aforementioned Protocols, clarifying the data processing provided for therein and densifying their essential elements, with a view to promoting greater certainty regarding the scope and object of the processing of the data in question. Also because it refers to the definition in the protocol of the essential elements of the processing of personal data, the CNPD recalls the obligation to consult this entity within the scope of the procedure aimed at issuing or amending the protocols, pursuant to Article 36(4) of the

GDPR.

A further note, regarding paragraph 3 of this article, which states that the transmission of the information provided for therein complies with the principles and rules applicable to the processing of personal data under the terms of the RGPD, «of Law No. August and Law No. 59/2019, of August 8". However, this last law approves the rules on the processing of personal data for the purposes of prevention, detection, investigation or prosecution of criminal offenses or the execution of criminal sanctions, transposing Directive (EU) 2016/680 of the European Parliament and of the Council, of April 27, 2016, and therefore not applicable to the data processing provided for in this Project. It is therefore recommended to eliminate the reference in the final part of paragraph 3 of article 6 of the Project to Law n.º 59/2019, of 8 August.

III. Conclusion

Based on the above grounds, the CNPD recommends:

- 1 - The express reference to the RGPD, in addition to Law No. 58/2019, of August 8, in paragraph 3 of article 5 of the Project;
- 2 - The reformulation of paragraph 3 of article 6 in order to clarify the data processing provided for therein and densifying its essential elements;
- 3-The elimination of the reference to Law no. 59/2019, of August 8, in paragraph 3 of article 6 of the Project.

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Lisbon, April 15, 2020

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