

I. Order

1. The Office of the Secretary of State for Justice submitted to the National Data Protection Commission (hereinafter CNPD), for an opinion, the draft Ordinance that regulates the electronic promotion of registration acts relating to ships from Madeira (MAR) within the competence of the Private Commercial Registry Office of the Free Trade Zone of Madeira and the certificate, in electronic format, of records relating to ships registered with MAR carried out in that registry.

2. The CNPD issues an opinion within the scope of its attributions and competences as an independent administrative authority with powers of authority to control the processing of personal data, conferred by subparagraph c) of paragraph 1 of article 51, in conjunction with subparagraph b) of paragraph 3 of article 58, and with paragraph 4 of article 36, all of Regulation (EU) 2016/679, of 27 April 2016 - General Regulation on Data Protection (hereinafter GDPR), in conjunction with the provisions of Article 3, Article 4(2) and Article 6(1)(a), all of Law No. 58/ 2019, of 8 August, which implements the GDPR in the domestic legal order.

II. Analysis

3. Law no. 56/2020, of 27 August, introduced amendments to Decree-Law no. 96/1989, of 28 March, which creates the International Register of Ships in Madeira (MAR), providing for the possibility for interested parties to electronically submit requests for registration documents relating to ships registered in MAR within the competence of the Commercial Registry Office, private to the Free Zone of Madeira, as well as the possibility of making available, in electronic form, the certificates of registrations carried out in that conservatory, under the terms to be defined by Ordinance of the Member of the Government responsible for the area of justice¹, which is now implemented.

4. Pursuant to article 4 of the Draft Ordinance, requests for registration acts may be submitted by interested parties electronically, on the website referred to in article 2, through electronic authentication carried out through a qualified digital certificate, filling in electronic form and delivery of the documents required for registration. However, considering that the forms

and documents will contain personal data, as they include identification information, electronic signature and contact details of the owners or charterers of the vessels when they are natural persons (cf. subparagraphs b), e) and g)

¹ See paragraph 2 of Article 14, °-B, added by Law No. 56/2020, of 27 August.

Av. D. Carlos 1,134.1° 1200-651 Lisbon

T (+351) 213 928 400

F (+351) 213 976 832

geral@cnpd.pt

www.cnpd.pt

CNPD

National Data Protection Commission

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of article 3 of the Project), it is important that appropriate technical and organizational measures are defined to guarantee the security of this information, taking into account its electronic support, in light of the provisions of paragraph J), paragraph 1 of article 5, and points a), b) and c), paragraph 1, of article 32, both of the GDPR, in compliance with the principles of completeness and confidentiality.

5. It should be noted that the Project provides for the electronic filling of the necessary elements for the request for registration acts and for the registration certificate request, but does not include a model of the electronic form referred to in article 4, so the CNPD recommends the implementation of the data included in this form, in compliance with the principle of data minimization provided for in subparagraph c) of paragraph 1 of article 5 of the GDPR.

6. Regarding the electronic authentication of users on the website for requests for registration acts, the diploma provides that it is carried out through digital certificates, which is marked as positive. It is strange, however, that for the purposes of requesting a registration certificate, the Project enshrines a different solution, and here the identification of the applicant is made by indicating the name or company and e-mail address, without the need for electronic authentication. , pursuant to Article 12(2). As the underlying reason for this duality of options is not reached, the CNPD recommends reformulating this section in order to indicate that the identification of the applicant in these cases is also subject to electronic authentication.

7. In turn, under the terms of article 13 of the Project, after the request for a certificate and once the payment of the due fee has been confirmed, the certificate is made available to the applicant in electronic format. The Project, however, does not provide for the existence of a code that allows the applicant to verify its data, as has been the practice in similar situations. Thus, taking into account the importance of this mechanism to ensure the quality of information, the CNPD recommends its express consecration.

8. Finally, it is important to ensure the existence of logs on the operations carried out for audit purposes, and the period for their conservation must be set in the Draft Ordinance.

III. Conclusion

9. Based on the above grounds, the CNPD recommends:

The. The reformulation of article 4 in order to specify the data that make up the form for requesting registration acts;

B. The amendment of paragraph 2 of article 12, providing for electronic authentication of applicants for a registration certificate;
and

ç. The introduction of an item that provides for the existence of logs on the operations performed.

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T (+351) 213 928 400

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geral@cnpd.pt

www.cnpcl.pt