

PAR/2021/131

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CNPD

National Data Protection Commission

OPINION/2022/16

I. Order

1. On 16 December 2021, the Directorate-General for European Affairs of the Ministry of Foreign Affairs submitted to the National Data Protection Commission (CNPD), for an opinion, the text of the Agreement on the Common Aviation Area (EAC) between the European Union and its Member States, on the one hand, and Ukraine, on the other hand (hereinafter referred to as the Agreement).
2. The Agreement was published in the Official Journal of the European Union on 3 November 2021.
3. The CNPD issues this opinion within the scope of its attributions and competences, as the national authority to control the processing of personal data, in accordance with the provisions of Articles 57(1)(c) and 58, no. 3, point b), of Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016 (General Regulation on Data Protection - hereinafter GDPR), in conjunction with the provisions of articles 3, 6, no. 1, subparagraph a), and no. 2, all of Law no. , of the GDPR.
4. The objective of the Agreement under review is, as stated in its article 1, "the gradual creation of an EAC between the European Union, its Member States and Ukraine, based in particular on identical rules in the areas safety, air traffic management, environment, consumer protection, computerized reservation systems, as well as social aspects. To this end, this Agreement lays down the rules, technical requirements, procedures administrative procedures, basic operational rules and implementing rules applicable between the Parties".
5. In this regard, "Air transport" means "the transport of passengers, baggage, cargo and mail by aircraft, separately or in combination, for remuneration or lease, including, for the avoidance of doubt, scheduled air services and non-scheduled (charters) and full load services" (Article 2(3) of the Agreement).
6. The Agreement is structured by five titles, which are as follows: (I) General Provisions (Articles 1 to 4); (II) Regulatory Cooperation (Articles 5 to 15); (III) Economic Provisions (Articles 16 to 27); (IV)

1 OJ L 387, Year 64, p. 3 - 57.

II. Analysis

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Institutional Provisions (Articles 28 to 35); (V) Entry into Force, Denunciation and Final Provisions (Articles 36 to 40)

7. In this agreement there is no specific provision on the processing of personal data and the free movement of such data (Article 1(1) of the GDPR), especially by fully or partially automated means (Article 1(1) 2 of the GDPR).

8. And even though the execution of some activities regulated in this Agreement implies the processing of personal data, with different purposes, in the sense defined in paragraphs 1) and 2) of article 4 of the RGPD, such treatments are regulated in other legal instruments.

III. Conclusion

9. Thus, as the purpose of this agreement is not to regulate the processing of personal data, the CNPD has nothing to report.

Approved at the February 16, 2022 meeting

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Filipa Calvão (President)