

I. Order

1. The Economics, Innovation, Public Works and Housing Commission asked the National Data Protection Commission (CNPD) to issue an opinion on Bill No. 718/XiV/2.a, which “changes the property regime horizontal, making the eightieth amendment to the Civil Code, and the amendment to Decree-Law no. 268/94, of 25 October with subsequent amendments» presented by the Parliamentary Group of the Social Democratic Party.
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 57, 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, paragraph 2 of article 4, and paragraph aj of paragraph 1 of article 6, all of Law No. 58/ 2019, of 8 August, which implements the GDPR in the domestic legal order.

II. Analysis

3. The Bill introduces changes in the legal regime of horizontal property, highlighting here only the rules with relevance to the regime of protection of personal data. However, both Article 2 and Article 3 of the Draft Law provide for regulatory changes that imply new personal data processing operations, under the terms of Article 4(1) and 4) of the GDPR.
4. Thus, starting with the amendment to the Civil Code, resulting from article 2 of the Project, note the provisions of new subparagraph p) of paragraph 1 of article 1436, where, among the list of new functions assigned to the condominium administrator, it is foreseen “Issuing, within a maximum period of 5 days, a declaration of debt by the owner, whenever requested by the same, namely for the purposes of disposal of the fraction”.
5. This provision therefore provides for the duty to issue a declaration of debt, which contains personal data relating to the identification of the joint owner, as well as to his/her possible capacity as a debtor. This processing operation of these personal

data does not give rise to reservations, from the perspective of the protection of personal data, not only because the data subject himself requests it, but also because it may prove to be adequate and necessary for the execution of the regime provided for in article 1424. °, in particular, paragraphs 1 and 4, in the wording now designed, which regulate the boundaries of responsibility between the alienating owner and the owner acquiring an autonomous fraction for the expenses necessary for the conservation and enjoyment of the common parts of the building and payment for services of common interest.

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6. To that extent, the processing of data appears to be legitimate and the personal data on which it concerns are presented as adequate, necessary and not excessive in relation to the intended purpose, in accordance with subparagraphs a) to c) of no. 1 of article 5 of the GDPR.

7. Regarding the amendment introduced by Article 3 of the Draft Law on the Horizontal Property Regime - regime defined in Decree-Law No. 268/94, of October 25, amended by Decree-Law No. 81/2020 , of 2 October, it is important to take into account the new paragraph 2 of article 3 of the aforementioned regime. There, it is imposed on the owner of an autonomous fraction to notify the condominium administrator of the disposition of the fraction, "by registered mail sent within a maximum period of 15 days from the same, and this information must contain the full name and identification number tax of the new owner". It is specified, in paragraph 3 of the same article, that the failure to comply with this duty "makes the alienating joint-owner liable for the value of the expenses inherent to the identification of the new owner and for the charges incurred with the delay in the payment of the charges that are due after the alienation ».

8. This processing operation of these personal data does not raise reservations, from the perspective of the protection of personal data, also complying with the principle of minimization of personal data, enshrined in point c) of paragraph 1 of article 5 of the RGPD.

9. In fact, even if the communication of personal data by a third party is involved, the truth is that the data are adequate and necessary for the performance of the administrator's functions and, given the direct connection between the act of purchase and sale of the fraction and the knowledge by the alienating joint owner of the acquirer's data, such communication proves to

be an adequate and effective means of ensuring, before the condominium administrator, the clear delimitation of the responsibility of each one for the expenses inherent to the fraction, appearing not to have to the data subject's rights prevail over such interests.

III. Conclusion

10. On the above grounds, the CNPD considers that the personal data processing operations provided for in the Bill do not jeopardize the legal regime for data protection.

Lisbon, March 19, 2021

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