

J NATIONAL DATA PROTECTION COMMISSION

I - Order

OPINION/2020/112

The Economy, Innovation, Public Works and Housing Commission asked the National Data Protection Commission (CNPD) to comment on Bill No. (PEV), which aims to make the second amendment to the Framework Law on independent administrative entities with functions to regulate the economic activity of the private, public and cooperative sectors, attached to Law No. 67/2013, of 28 August, amended by Law No. 12/2017, of May 2.

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

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

II - Appreciation

The bill in question aims to amend the Framework Law on independent administrative entities with functions to regulate the economic activity of the private, public and cooperative sectors, attached to Law No. 67/2013, of 28 August, in the wording introduced by Law No. 12/2017, of 2 May.

In terms of the explanatory memorandum, this bill aims to strengthen the role of the Assembly of the Republic in the process of appointing and dismissing members of the board of directors of independent administrative entities, as well as in the process of dissolution of the board itself, and to provide greater transparency to these processes, in order to guarantee the effectiveness of its role in supervising the activities of these entities.

In order to pursue these purposes, amendments are made to the provisions of article 17, which regulates the composition of the board of directors and the appointment of the respective members, and to article 20, which regulates the duration and termination of the respective mandate. .

Process PAR/2020/78 1v.

Of the articles in question, only 17th mentions, in paragraph 5, a matter relating to the processing of personal data, with the provision that the resolution of the Council of Ministers appointing the members of the board of directors of independent administrative entities is ' published in the Diário da República, together with a note on the academic and professional curriculum of the nominees, as well as the conclusion of the opinion of the Assembly of the Republic'.

Comparing this text with the one currently in force, it appears that a small wording adjustment is made, without any repercussions on the precepts. Thus, where in the current law one reads academic and professional curriculum of the nominees and _the conclusion of the opinion reads, now "... academic and professional curriculum of the designated, as well as the conclusion of the opinion...".

Although no changes are made to the current regime, the CNPD believes that the precept should be densified in order to clarify that the note on the academic and professional curriculum must be purged of any personal data that, despite having been provided by the office holders, are not necessary and adequate for the purposes in view. Among others, in compliance with the principle of data minimization, enshrined in point c) of no.

Regarding paragraphs 2 and 3 of the aforementioned article 17, the CNPD has nothing to report, limiting itself to identifying the duplication that appears to result from the proposed amendment to paragraph 3, if the provisions of the current No. 4.

III - Conclusion

On the grounds set out above, the CNPD recommends only densifying the provisions of paragraph 5 of article 17, in order to prevent personal data other than merely professional and academic ones from being published.

Approved at the meeting of September 23, 2020

Filipa Calvão (President)