

I. Request

1. The Institute of Registries and Notaries, I.P. (IRN) has submitted to the National Data Protection Commission (CNPD) a draft protocol that aims to regulate the access by PORTVIAS - PORTAGEM DE VIAS, S.A., to the information contained in the vehicle registration database, under the terms of the subparagraph e) of no. 2 of article articles 27-D of the Motor Vehicle Property Registry (Decree-Law no. 54/75, of 12 February), and no. 2 of article

11 of Law No. 25/2006, of October 30, replacing for all purposes the Protocol signed on September 15, 2011

2. The CNPD issues an opinion within the scope of its powers and competences as an independent administrative authority with powers of authority to control the processing of personal data, conferred by Article 57(1)(c) of Regulation (EU) 2016/679, of 27 April 2016 - General Regulation on Data Protection (RGPD), in conjunction with the provisions of article 36.T no. 4, of the RGPD and in articles

3 and 4, no. 2, of Law No. 58/2019, of August 8.

3. The IRN, the Institute for Financial Management and Justice Equipment, I.P. are parties to the protocol. (IGFEJ) and PORTVIAS - PORTAGEM DE VIAS, S.A. (PORTVIAS).

4. Pursuant to Clause 1a of the protocol, PORTVIAS «is authorized to access the vehicle registration information, by consulting the respective database online», located in the IGFEJ, for the «exclusive purpose of carrying out the powers that it are committed in articles 10 and 11 of law no. 25/2006, of 30 October».

5. The following data are accessed: «name, habitual residence!, number and date of the identification document and tax identification number (when it appears in the database and as soon as this is technically available), or company, registered office and legal person number, from the owner to the encumbrances or charges by date of occurrence of the fact, and when technically possible». (No. 1 of Clause 2a).

6. Access to the database is made through a search by vehicle registration and is conditioned to the mandatory identification of

the case number or of the report to which they refer, (cf. no. 1 and 3 of Clause 2.a ).

7. As long as access to information by the date of the event is not available, PORTVIAS has access to the history of owners, subject to the implementation of access with a temporal reference.

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8. Pursuant to Clause 3.3 of the protocol, PORTVIAS must comply with the legal provisions contained in the RGPD and Law no. limit yourself to what is strictly necessary, not using the information for other purposes; not to transmit the information to third parties; to take the necessary security measures to guarantee the integrity and proper functioning of the database. Any form of interconnection of personal data is also prohibited.

9. It is also foreseen that, if PORTVIAS uses the subcontractor to execute the protocol, it is bound, namely, to guarantee the security of the treatment, to ensure that the people involved assume a confidentiality commitment and to inform the IRN of all the information necessary to demonstrate compliance with the obligations under the GDPR, including facilitating and contributing to audits or inspections conducted by the IRN or by another auditor mandated by it.

10. Queries will be carried out via Webservice, by PORTVIAS Servers to IGFEJ Servers, IP through a virtual private network (VPN) using the IPSEC protocol.

11. According to Clause 4.a of the protocol, PORTVIAS undertakes to communicate the IP list of the servers that will access the database. IGFEJ, IP will assign a password to PORTVIAS to access the websites made available.

12. For auditing purposes, PORTVIAS undertakes, in each transaction, to send to IGFEJ, I.P. the identification of the user requesting the information and the established audit data. The IGFEJ sends to each user, in a closed letter, his password, The records of access to information, the identification of the user who accessed it, and other audit data, are recorded in the system for two years from the date of completion. of access.

13. The protocol is concluded for a period of one (1) year, tacitly extendable for equal periods. The resolution of the protocol implies the immediate cessation of the authorization of access to the car registration database by PORTVIAS (cf. Clauses 10.a and 11.a).

## II. Analysis

14. Pursuant to subparagraph d) of paragraph 2 of article 27-D of Decree-Law no. of data can be

In the preamble to the Protocol, by mistake, subparagraph e) of paragraph 2 of article 27-D is indicated instead of subparagraph d).

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communicated to the entities responsible for supervising compliance with the rules relating to the collection of tolls on road infrastructure, for the exclusive pursuit of their respective attributions.

15. As can be seen from the text of the protocol, PORTVIAS, by virtue of the contract entered into with EP - Estradas de Portugal S.A. and SCUTVIAS -Autoestradas da Beira Interior S.A. the collection of toll fees owed by users of the Beira Interior and Trás-os-Montes and Alto Douro Motorway concessions is committed, and these contracts include the notification of users of existing debts and the instruction of administrative offense proceedings arising from the non-payment of fees.

16. The possibility for PORTVIAS to access the car registration derives from the provisions of paragraph 1 of article 11 of Law no. when it is not possible to identify the driver of the vehicle at the time of committing the offence, concessionaires, sub-concessionaires, toll fee collection entities and management entities of electronic toll collection systems may request the data from the Automobile Registry referred to in paragraph 2 of the previous article in relation to the entities identified in paragraph 3 of the same article»

17. Under the terms of no. 2 of the same article, the terms and conditions for the availability of this information are defined by a protocol to be signed by those entities and the IRN, IP.

18. To that extent, it is considered that there is a legitimate basis for this processing of data, in the form of access, under Article 6(1)(e) of Regulation (EU) 2016/679, of April 27, 2016 - General Regulation on Data Protection (GDPR).

19. The rule of mandatory indication of the process number that supports access as a condition for the continuation of the research and consequent access to data is highlighted as positive and essential.

20. As for the communication, in each transaction, of the identification of individual users by PORTVIAS to the IRN «and the established audit data, provided for in paragraph 1 of clause 5.a, the CNPD notes that if, on the one hand, it is essential that the controller knows, in each access, which individual user is carrying out the consultation, on the other hand, the protocol must expressly provide in its clause which audit data is the object of registration.

21. The wording of that clause is unclear about who records what and who is responsible for making and maintaining audit records or their content. In this sense, the text of the protocol must establish that it is the IRN itself, via IGFEJ, that monitors accesses to its database for auditing purposes, recording for this purpose, at least, the identification of the individual user associated with the application user, the date and time of access, the data entered for the survey, and the response returned.

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regardless of whether the IRN may also require Portvias to make the same registration on its side for the purpose of controlling the actions of its users by the company. In either case, the audit data would not be sent to the IRN by the company, as is clear from the current text.

22. Also with regard to users, the protocol must provide, possibly by adding to clause 6.8, that Portvias undertakes to maintain, at all times, an updated list of users, which is communicated to the IRN/IGFEJ at the beginning protocol execution and afterwards whenever there are changes to that list, adding or deleting users.

23. As regards the security measures envisaged for the transmission of data, as well as the obligation provided for in paragraph 3 of Clause 3.a, they seem generally appropriate.

24. Regarding the participation of the IGFEJ as a party to this protocol, the CNPD considers this to be fully justified, given its

attributions, provided for in article 3 of Decree-Law No. 164/2012, of 31 July.

### III. Conclusion

25. The CNPD considers that PORTVIAS has legitimacy for accessing personal data from the car registration, within the limits and conditions recommended by this protocol, with the changes resulting from this opinion.

26. Thus, the CNPD understands that the data subject to registration for auditing purposes, associated with the identification of individual users, must be densified in the protocol, and it must be established that these logs are registered by the IRN, as well as by Portvias.

27. A rule should also be introduced regarding the preservation by Portvias of an updated list of users, which must be communicated to the IRN for access control purposes.

Lisbon, August 16, 2022

Maria Cândida Guedes Oliveira (Rapporteur)