

NATIONAL DATA PROTECTION COMMISSION

OPINION/2020/12

The Institute of Registries and Notaries, I.P. (IRN) has requested the National Data Protection Commission (CNPd) to issue an opinion on a protocol that aims to regulate the access of the Municipal Police of Vieira do Minho (PMVM) to vehicle registration, for the purpose of monitoring compliance with the Civil Code. Road and complementary legislation on public roads under the jurisdiction of the respective municipality.

The request is made under paragraph 7 of article 27-E of Decree-Law no. 54/75, of 12 February¹, which regulates car registration.

The IRN, the Institute for Financial Management and Justice Equipment, I.P. (IGFEJ), and the Municipality of Vieira do Minho.

Pursuant to Clause 1.a of the protocol, the PMVM is authorized to access the vehicle registration information by consulting the respective database, located in the IGFEJ, for the exclusive purpose of carrying out the competence that is fully entrusted to it in supervision of compliance with the provisions of the Highway Code and complementary legislation

The following data are accessed: name, habitual residence, identification document number and date and fiscal identification number, when available, or company name, registered office and number of legal person, owner, lessee or usufructuary, to the encumbrances or charges (n. 1 of Clause 1.a).

Access to the database is done by vehicle registration and must identify the case number or the report to which they refer, without which the searches will not be able to proceed (cf. no. 1 of Clause 2.a) .

The accesses are registered in the system (fogs) for two years for audit purposes.

Access is processed through two types of channel, alternatively, in both cases with the implementation of IPSEC tunnels to ensure data confidentiality.

¹ As amended by Decree-Law No. 182/2002, of 20 August.

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Pursuant to Clause 3.a of the protocol, PMVM must comply with the legal provisions contained in the RGPD and Law No. 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. It is also foreseen that if the PMVM uses the subcontractor to execute the protocol, it will be bound, namely, to guarantee the security of the treatment, to ensure that the people involved assume a commitment to confidentiality and to inform the IRN of all the necessary information. 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.

Also under the terms of the protocol, the PMVM undertakes to previously communicate to the IRN the identification of the end users, by indicating the name and category/function, for the attribution of individual credentials to access the system. The IRN forwards this information to the IGFEJ for creating and changing users (cf. Clause 5.a).

I - Appreciation

1. Under the terms of subparagraph d) of no. 2 of article no. 27-D of Decree-Law no. 54/75, personal data from the car registration may be communicated, in order to carry out the respective attributions, the entities responsible for monitoring compliance with the provisions of the Highway Code and complementary legislation.
2. Also in accordance with paragraphs 2 and 3 of article 27-E of the same diploma, these entities may authorize the consultation of data transmission online, provided that security guarantees and subject to the conclusion of a protocol that defines the limits and conditions of access.

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3. The possibility for the PMVM to access the car registration derives from the combined provisions of Articles 4(1)(b) and 5(1) of Law 19/2004 of 20 May (Municipal Police Law), with Article 5(1)(d)t and No.3(b) of Decree-Law No. 44/2005, of 23 February, which amends the Highway Code, which confer powers on the municipal police to supervise compliance with the provisions of the Highway Code and complementary legislation in the territory of the respective municipality, on public roads under the jurisdiction of the municipal council.
4. To that extent, it is considered that there is a basis of legitimacy for this processing of data, in the form of access, under Article 6(1)(e^ of Regulation (EU) 2016/679 of April 27 - General Data Protection Regulation (GDPR).

5. Given that it is the IGFEJ that, in practice, manages the identities of users of the Municipal Police, with the IRN being the entity responsible for processing personal data from the car registration, the IGFEJ's obligation to maintain a updated list of users, with a short pre-established frequency making this list available to the IRN, so that it has accurate knowledge of users with access permission at all times, allowing it to carry out its auditing action.

6. As regards the security measures envisaged for the transmission of data, they seem generally appropriate.

7. 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.

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II - Conclusion

The CNPD considers that the Municipal Police of Vieira do Minho has legitimacy for access to personal data from the vehicle registration, within the limits and conditions recommended by this protocol, in addition to the observations made in point 1.5. of the present opinion, so it understands that there is no impediment to its conclusion.

Approved at the plenary meeting of February 4, 2020

Filipa Calvão (President)