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OPINION/2020/39

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Eanco de Fortugal asked the National Data Protection Commission (Cí!PD) to
to comment on the Notice project that aims to regulate government systems
and internal control and define the minimum standards of ethical reference on which it must be based
the organizational culture| of credit institutions and financial societies cClr'n headquarters
in Fortugal, its subsidiaries, as well as investment companies headquartered in
third countries and equity management companies when
considered parent companies in the terms of subparagraph q) of article 2,"-À of the General Regulation of the
Credit Institutions and Financial Societies-

The finalized request and the present opinion are part of the attributions and competences
of the CNPD, as the national control authority for the processing of personal data,
in accordance with the provisions of paragraph 1 rJ of article 57 and paragraph 4 of the former 36." of the
Regularenento {l.JE} 203.6/679 of the European Parliament and of the Council, of 27 April
2üL6 (General Regulation on Data Protection - RGPD), in conjunction with the
provided for in Article 3, Article 4(2) and Article 6(3)(aJ), all of
[-ei n.o 58/20].9, of August 1st (which aims to ensure the execution, not ordering
junídica ir:terr-la, from the RGFD)"
,4 appreciation of the Cl.'üPD is limited to the rules that provide for or regulate the treatment of
personal data"

!1" Appreciation

ÜPno;"this appreciation aims to replace Notice n-" 5/2CI08 and Notice n." L0/2CI11-l- of the tsanco de Portugal, taking into account the evolution of negation that has taken place at the Europol level! and national, in the banking domain, from reports related to organizational culture, to internal government, to the assessment of the adequacy of employees of the administration and supervisory bodies, to the risk management and internal control system, the assessment of the holders of {unctions essentials, related parties and conflicts of interest, subcontracting, participation in irregularities, remuneration policies and practices and the dissemination of public information, hetrn with the guidelines of the European Banking Authority on these matters" The Bank of Portugal intends that these matters will now be dealt with Process PAR/2020115 I 1v.

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nu!"n sole Advise to regulate and guide the internal organization of institutions subject to supervision.

The Avlso Froieto foresees, in a general way, the obligation to institute internal control, risk management, compliance, monitoring and auditing internal whose implementation, by the obligated institutions, will certainly give rise to processing of personal data. However, the Project does not address the aspects essential elements of these data processing and, in most cases, does not materialize the data treatable personnel.

A\$slrn, the protocol contains provisions ELre convening the processing of data from identification of candidates for positions in management and inspection bodies {see- if n-' 5 of article 5.*) and the members of the administration and inspection bodies (n-* 2 of article 7.*). Likewise, no L of the former 33" is available, applicable to the parties related to the institution, that the administrative body is responsible for ensure that the institution identifies" a complete and up-to-date list, its parts related and equivalent parts to related parties, including the number of

tax identification; also in subparagraph &j of no. 3, the duty to identify the entities whose relationship with the institution allows them to influence its management, namely members of the administrative and supervisory bodies and collaborators of the institution or of other entities belonging to the same group"

Also Article 41, concerning the 'Process of identification of the 'producers', if [it is necessary to provide that the administrative body of the institutions defines and approves iln'] process of identifying employees who have a national impact on the nisco profile of the institution, this identification being the object of annual review, and must be repeated to the competent supervisory authority. In other rules, it is foreseen, for the purpose of internal inspection and risk analysis, access and other treatment operations necessary information for the purpose {r"gl, article 6." fl-* 3, and article 2E-}"

It should be noted that the aforementioned data processing meets the legal basis in the article 6 no. 1 atínea cl." of the GDPR, Lrrna as they arise from legal obligations provided for in the General Regime of Credit Institutions and Finrancelnal Societies - approved by [Decree-Law n"* 298192, of 3] January, amended by the last by Decree-l-ei n"" \44/?ü1gr of September 23 - competing for its denial to the Bank of Fortugali.

i Cf. Article 11(1)(t)

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Only with regard to the systematization of information, provided for in paragraph 1 of article 63, it is foreseen the treatment of more detailed personal information concerning the composition of the bodies of administration and inspection, including, in accordance with the annex to the Notice, between others, the following categories of data: identification data, gender, date of births, nationality, academic qualifications and professional path.

fldao questioning the suitability and necessity of such data for the elects of the evaluation the adequacy of the brains of the administration and supervision bodies, as well as the holders of essential functions in credit institutions, provided for in articles 30, 30,'-

A and 33"-4, ffi.* 3, from the RGICSF, as part of the principle of data minimization enshrined in subparagraph r.ido n"" l of article 5"" of the RGPD, CITiFD only points out that, in headquarters of the Prc.ieto de aviso or the annexed serl, a greater densification of the relevant data categories to assess suitability, professional assessment and independence, for the purposes of articles 30-D, 3L'E 33".-A of the RGICSF, in the perspective to provide greater certainty as to the scope and object of the data transfers personal" ilt.

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In light of the above grounds, the CNFD considers appropriate and necessary the categories of data provided for in the annex to the Project, relative to the duration of the stated in its article 63 "o. In the rnal, in view of the absence of provision in the Notice Project of the essential elements of data processing resulting from the application, by the obligated institutions, of the provisions foreseen therein, the C\IPD limits itself to indicating the convenience of filling this gap, with a view to promoting greater certainty as to the scope and object of data processing"

Lisbon, March 30, 2020

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Maria Cândida Guedes de Oliveira (Rapporteur)