

1. The Institute of Registries and Notaries, I.P. (IRN) came to request the National Data Protection Commission (CNPd) to issue an opinion on a protocol that aims to regulate the access of the Vila Velha de Ródão City Council (CMVVR) to the car registration, for the purposes of monitoring compliance with the Code of the Road and complementary legislation on public roads under its jurisdiction.

2. The request is made pursuant to paragraph 7 of article 27-E of Decree-Law no. 54/75, of 12 February, the diploma that regulates vehicle registration.

3. The parties to the protocol are the IRN, the Institute of Financial Management and Justice Equipment, I.P. (IGFEJ), the General Secretariat of the Ministry of Internal Administration (SGMAI), the National Road Safety Authority (ANSR) and the Municipality of Vila Velha de Ródão.

4. Under the terms of Clause 1 of the protocol, the CMVVR «is authorized to access vehicle registration information by consulting the respective database online», located at the IGFEJ, for the «exclusive purpose of pursuing the competence assigned to it legally committed in monitoring compliance with the provisions of the Highway Code and complementary legislation».

5. The following data are accessed: «name, habitual residence, identification document number and tax identification number, when technically available, or signature, headquarters and legal person number, of the owner, lessee or usufructuary, to the encumbrances or charges ». (No. 1 of Clause 1a).

6. Access is made in real time, through the Traffic Offenses System - SCoT2, under the responsibility of ANSR, through communication via webservice between the technological infrastructures of the Ministry of Justice and the Ministry of Internal Administration, supported respectively by the IGFEJ and by the SGMAI.

7. For this purpose, the IGFEJ will assign an access accreditation to the ANSR, as manager of the SCoT, and which, to that extent, manages the individual users of the system, assigning them access credentials to the SCoT.

8. Therefore, for auditing and security purposes, ANSR, through SGMAI, undertakes to send the IGFEJ, in each transaction, the identification of the user who wants to access the information, the number of

1 In the wording provided by Decree-Law No. 111/2019, of August 16.

2 This system, aimed at dematerializing the management of administrative offenses, allows the processing and remote access to information from mobile devices.

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corresponding process or notice, in addition to other audit data established by the IRN and the IGFEJ. Searches can only be done by vehicle registration. Records (logs) are also made of the accesses made, which are kept for a period of two years for auditing purposes (cf. Clause 2.a).

9. Pursuant to Clause 3 of the protocol, the CMVVR must observe the legal provisions contained in the RGPD and Law No. 58/2019, of August 8, namely in terms of respecting the purpose for which the consultation was authorized, 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.

10. It is also envisaged that if the CMVVR resorts to a subcontractor to carry out 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 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 this mandate.

11. Still under the terms of the protocol, CMVVR and ANSR undertake to control the access of information users, through individual access accreditation, and both entities and SGMAI must establish internal rules regarding the security and confidentiality of data assigned. As the entity authorized to access the vehicle registration database, the CMVVR is solely

responsible for accessing the information and for its subsequent use (cf. Clause 5.a).

I. Assessment

12. Pursuant to paragraph d) of paragraph 2 of article n° 27-D of Decree-Law no. 54/75, personal data from the vehicle registration may be communicated, in order to carry out the respective attributions, entities responsible for monitoring compliance with the provisions of the Highway Code and complementary legislation.

13. Also in accordance with paragraphs 2 and 3 of article 27-E of the same diploma, these entities may authorize consultation on-line data transmission, provided that security and safety guarantees are observed. conditioned to the execution of a protocol that defines the limits and conditions of access.

14. The possibility for the CMVVR to access the vehicle registration stems from the combined provisions of article 5, paragraph 1, subparagraph d) with paragraph 3, subparagraph a) of Decree-Law no. 44/2005, from February 23rd.

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15. To that extent, it is considered that there is a legitimacy basis for this data processing, in the form of access, pursuant to article 6(e) of Regulation (EU) 2016/679, of April 27, 2016 - General Data Protection Regulation (GDPR).

16. As for the conditions of legitimacy for access through the SCoT and for ANSR's intervention, these are considered to be met, insofar as, as provided for in paragraph 1 of article 2 of Regulatory Decree no. 28/2012, of March 12, ANSR's mission is "the application of road traffic offences". It also has the attribution, under the terms of paragraph e) of paragraph 2 of the aforementioned diploma, "to ensure the processing and management of records raised for violations of the Highway Code and complementary legislation". For this purpose, it owns, coordinates, manages and finances the SCoT, in accordance with the provisions of Joint Dispatch No. 19081/2008, of 17 July.

17. Still within the framework of the transfer of powers to local authorities, approved by Law no. 50/2018, of 16 August, came Decree-Law no. 107/2018, of 29 November, to carry out the transfer of powers for municipal bodies in the field of public parking, providing in article 4, paragraph 1, subparagraph a) that the SCoT is used "for the collection of administrative offense records".

18. Given that the IGFEJ only provides accreditation for a generic user (the ANSR) and not for individual users, who are directly managed by ANSR, it is considered an adequate safeguard measure, on the part of the IRN, the requirement that user identification be provided, as well as information regarding the case number or notice that triggers the search, as it allows you to know the individual user for auditing purposes and, on the other hand, to prevent unjustified accesses, exercising better access control.

19. It should be noted that, under the terms of paragraph 4 of article 27-H of the decree-law that regulates vehicle registration, the entities that can consult the vehicle registration, in this case the CMVVR, «are obliged to keep an updated list of the persons authorized to access the databases». Although this is a legal obligation that derives expressly from the text of the law, the CNPD understands that its transposition into Clause 5.a of the protocol, in addition to paragraphs 1 and 2, may have a potentiating effect on its compliance.

20. With regard to the security measures provided for the transmission of data, as well as the obligation provided for in paragraph 3 of Clause 5.a, they appear generally appropriate.

21. As for the participation of the IGFEJ as a party to this protocol, the CNPD considers it to be fully justified, given its attributions, provided for in article 3 of Decree-Law no. 164/2012, of 31 July. Likewise, SGMAI's participation is based on the attributions conferred upon it by the

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paragraphs a) and d) of paragraph 9 of article 2 of Regulatory Decree no. 29/2012, of March 13, as amended by Decree-Law no. 112/2014, of March 11 July.

II. Conclusion

22. The CNPD considers that there is legitimacy for the Vila Velha de Ródão City Council to access personal data from the vehicle registration, within the limits and conditions recommended by this protocol, and therefore understands that there is no impediment to its celebration.

Approved at the meeting of November 15, 2022

Filipa Calvao (President)