

I. Order

1. O Instituto dos Registos e do Notariado, I.P. (IRN) requested the National Data Protection Commission (CNPD) to issue an opinion on a protocol aimed at regulating the Lagos Municipal Police's access to the car registration database.

2. The request is made under subparagraph d) of paragraph 2 of article 27-D and paragraphs 2, 3 and 7 of article 27-E of Decree-Law n° 54 /75, of 12 February¹, diploma that defines the Motor Vehicle Registration Regime.

3. The IRN, the Institute for Financial Management and Justice Equipment, I.P. are parties to the protocol. (IGFEJ) and the Municipality of Lagos.

4. Under the terms of Clause 1,a of the Protocol, the Municipal Police of Lagos is authorized to access vehicle registration information by consulting the respective database, located on the IGFEJ, for the exclusive purpose of pursuing the competence that is legally committed within the scope of the management and inspection of paid urban public parking, in the Municipality of Lagos.

5. The following data are accessed: «name, habitual residence, identification document number and date and tax identification number, when available, or company name, registered office and number of legal person, owner or lessee or usufructuary and also the encumbrances and charges' (No. 1 of Clause 1a).

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 the news report to which they refer (cf. no. 1 of Clause 2.a).

7. For audit purposes, accesses are registered for a period of two years, in accordance with the provisions of paragraph 2 of Clause 2a of the protocol.

8. Pursuant to Clause 3.a of the Protocol, the Lagos Municipal Police must comply with the legal provisions in force on the protection of personal data contained in Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016 , concerning the protection of individuals with regard to the processing of personal data and the free movement of such

data and which repeals Directive 95/46/EC (General Regulation on Data Protection) and Law No. 58/2019 , of 8 August, namely with regard to respecting the purpose for which the consultation was authorized, which should be limited to what is strictly necessary, not using

In the wording given by Decree-Law No. 182/2002, of 20 August.

Av.D. Carlos 1,134.1° 1200-651 Lisbon

T (+351) 213 928 400

F (+351) 213 976 832

geral@cnpd.pt

www.cnpd.pt

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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, in the same clause, that, if the Municipal Police 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 the make the IRN aware 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. Access is carried out through two types of channels, alternative, in both cases with implementation of IPsec tunnels, to guarantee data confidentiality.

11. Also under the terms of the protocol, the Municipal Police of Lagos undertakes to previously communicate to the IRN the identification of the users of access to the database, by indicating the name, category/function and NIF, with a view to attributing system connection credentials, and each user will receive, in a closed letter, a personal password, which will make him responsible for the use he makes of the service.

12. An application user and respective password for accessing the web services are also assigned by the IGFEJ to the Lagos

Police Department, with records (logs) being made of each invocation carried out in this scope, which are kept for a period of two years for audit purposes (see paragraphs 4 and 5 of Clause 5a),

13. The protocol is concluded for a period of one (1) year, tacitly extendable for equal periods.

II. appreciation

14. As for the articles, the possibility for municipalities to access the car registration derives from the combined provisions of subparagraph d) of paragraph 1 and subparagraph a) of paragraph 3 of article 5 of Decree-Law no. 44/2005, of 27 February, last amended by Decree-Law No. 146/2014, of 9 October.

15. The Municipal Police of Lagos is, under the terms of Article 5(1)(d) and(3)(b) of Decree-Law No. 44/2005, of 23 February, the entity responsible for supervising compliance with vehicle parking and road traffic regulations, including the reporting of traffic accidents, in the territorial area of the Municipality of Lagos.

16. In accordance with subparagraph d) of paragraph 2 of article 27-E of the regime relating to the Car Registration, personal data from the car registration must be communicated, in order to carry out the respective attributions, to the

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entities responsible for supervising the Highway Code. Paragraphs 2, 3 and 7 of article 27, E of the same diploma also allow these entities to be authorized to consult data transmission lines, provided that security guarantees are observed and subject to the signing of a protocol. .

17. Thus, there is a legitimate basis for this processing of personal data, in terms of access, under Article 6(1)(e) of the GDPR.

18. Regarding the communication of individual users of the Municipal Police of Lagos to the IRN, the CNPD verifies that in addition to the name and category/function, it is also foreseen that the tax identification number (NIF) of the user is communicated to the IRN.

19. No justification is given for the request for this personal data and, in fact, it is not possible to see the relevance of the treatment of this data by the IRN for the purposes indicated in Clause 5.a, that is, for the purposes of assigning the name of username and password.

20. The "NIF" is a citizen's identification number for tax purposes, not including the collection by the IRN of that personal data of users, whose access to the car registration is carried out in the exercise of legal competences in a professional context.

21. Therefore, the CNPD considers that it is not only appropriate and necessary to collect the NIF from users for the purpose of attributing access credentials, in violation of the principle of data minimization, recognized in article 5, no. 1(c) of the RGPD, as none of the legal conditions provided for in article 6(1) of the RGPD are met, so the IRN has no legitimacy to process the NIF of Police users Municipality of Lagos who access the car registration in the performance of their professional duties.

22. Still regarding the content of the information recorded in logs for auditing purposes, it is clear from paragraph 5 of Clause 5a that registrations are made of the accesses of the application user; however, despite the references in the clause regarding individual authentication and the responsibility of the individual user, it is not stated in the protocol text that individual accesses are also registered associated with the generic user, always allowing the IRN to know exactly who, individually, when and what personal data you accessed. The protocol text should be unambiguous on this issue, that is, when it is stated that accesses are recorded for auditing purposes, it should indicate that the accesses of individual users (and not only those of the application user) are recorded, which entity makes these records and, as a result, how they are controlled.

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geral@cnpd.pt

www.cnpd.pt

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23. With regard to security measures relating to the transmission of data, without prejudice to the need for permanent verification of their compliance, they appear to be appropriate.

24. The IGFEJ's intervention in this protocol stems from the attribution provided for in subparagraph m) of paragraph 2 of article 3 of Decree-Law no. 164/2012, of 31 July.

III. Conclusion

25. The CNPD considers that there is legitimacy for the Lagos Municipal Police to have access to personal data from the vehicle registration, within the limits and conditions recommended by this protocol, with the changes resulting from this opinion.

26. With regard to the processing of the "NIF" data, the CNPD considers that the IRN does not have the legitimacy to process this personal data of users in the context of the performance of their professional functions, so that the text of the protocol must be amended in accordance.

27. Finally, the clause must expressly contain the provision that the accesses of individual users are registered for auditing and specify which entity registers these accesses.

Approved at the meeting of January 6, 2022

Filipa Calvão (President)