

I. Order

1. Banco de Portugal submitted to the National Data Protection Commission (hereinafter the CNPD), for an opinion, the Draft Instruction that partially amends Instruction no. the new version of the questionnaire available on the European Central Bank's Information Management System Portal (IMAS Portal).

2. The CNPD issues an opinion within the scope of its attributions and competences as an independent administrative authority with powers of authority to control the processing of personal data, conferred by subparagraph c) of paragraph 1 of article 57, in conjunction with subparagraph b) of paragraph 3 of article 58, and with paragraph 4 of article 36, all of Regulation (EU) 2016/679, of 27 April 2016 - General Regulation on Data Protection (hereinafter GDPR), in conjunction with the provisions of article 3, paragraph 2 of article 4, and paragraph a) of paragraph 1 of article 6, all of Law n° 58 /2019, of 8 August, which enforces the GDPR in the domestic legal order.

II. Analysis

3. This Draft Instruction aims to partially amend Instruction No. 7/2021, in particular the questionnaire to be completed in the authorization processes for the exercise of functions in institutions subject to the direct supervision of the European Central Bank (ECB) within the scope of the Single Supervisory Mechanism. With this Instruction project, Banco de Portugal aims to update the questionnaire contained in Portal IMAS, ensuring that it complies with the version approved by the ECB.

4. The aforementioned questionnaire that is now being analyzed constitutes an essential document for instructing requests for authorization to exercise functions by members of the administrative and supervisory bodies, holders of essential control functions and managers of branches established in countries that do not are Member States of the European Union of Significant Institutions, subject to the direct supervision of the ECB under the Single Supervisory Mechanism.

5. Pursuant to the explanatory reasons for the public consultation of this Draft Instruction, this amendment is part of a process

of simplification and reinforcement of efficiency in terms of authorization for the exercise of functions, which gave rise to the approval of the new version of the questionnaire by the ECB, which was published by the ECB in December of the same year.

6. It should be noted that the standardized form largely corresponds to the questionnaire currently included in the annex to Instruction No. 23/2018. Of the aspects inserted herein stand out, with relevance to the

Av.D. Carlos 1,134.1° 1200-651 Lisbon

T(+351) 213 928400 F (+351) 213 976 832

geral@cnpd.pt

Vsiww.cnpd.pt

PAR/2022/43

1v.

right to the protection of personal data, the following: detail of the requested personal identification data, namely in relation to previously used names and previous residences; densification of the questions made regarding the suitability of the candidates, and, namely in the aspects of the candidate's behavior and functions at the time of the infraction and lessons learned from it, more detailed information on judicial proceedings, disciplinary infractions; densification of issues related to financial conflicts of interest, namely in the aspects of financial relationships existing between the candidate, or a person close to him, and the requesting institution; establishment of specific issues related to the topic of gender diversity, namely requesting information on legal requirements for gender diversity to which the institution is subject, compliance with them, and internal objectives or rules in terms of gender diversity and internal diversity principles institutions.

7. With regard to the suitability and necessity of the categories of data indicated for the purpose of authorization to perform functions in institutions subject to the direct supervision of the ECB within the scope of the Single Supervisory Mechanism, in compliance with the principle of data minimization enshrined in point c) of paragraph 1 of article 5 of the RGPD, the CNPD points out the need to re-weight the personal identification data now requested, specifically in relation to names previously used. In fact, the identification data required includes the number of the identification document or valid passport, which, as they remain unchanged, guarantee the identification of the candidate, and the information requested is clearly excessive.

8. In turn, the list of mandatory attachments includes a simple photocopy of the identification document. The CNPD expresses, once again¹, the reservations that the copy of the identification document raises regarding the value of the proof of identity,

since the digitization of an identification document is easily manipulated, thus not guaranteeing the veracity of the data, in disrespect by the principles of accuracy and completeness of personal data enshrined in points d) and f) of paragraph 1 of article 5 of the GDPR.

9. It is reaffirmed that the simple copy of the identification documents constitutes a document without any probative legal value, precisely because of its ease of handling, so it is recommended to opt for other forms of proof of the candidates' identity and the consequent revision of the list of mandatory attachments.

1 See Opinion No. 3172017, of May 17, 2017, available at

[https://www.cnpd.pt/bin/decisoes/Par/40 31 2017.pdf](https://www.cnpd.pt/bin/decisoes/Par/40%2031%202017.pdf) and also Opinion No. 142/2020, of December 3, 2020 available at

[https://www.cnpd.pt/decisoes /historico-de-decisoes/?year=2020&type=4&ent=](https://www.cnpd.pt/decisoes/historico-de-decisoes/?year=2020&type=4&ent=) and Opinion 2021/118 of September 7, 2021

available at [https://www.cnpd.pt/decisoes/historico-de-decisoes/7year2021 &type=4&ent=](https://www.cnpd.pt/decisoes/historico-de-decisoes/?year=2021&type=4&ent=)

PAR/2022/43

two

CNPD

National Data Protection Commission

III. Conclusion

10. Based on the above grounds, the CNPD recommends:

The. The re-weighting of the required identification data, specifically the indication of previously used names;

B. The reformulation of the mandatory Annexes, in order to opt for another form of proof of identification of candidates instead of scanning the identification document.

Approved at the meeting of June 21, 2022

Filipa Calvão (President)

Av. D. Carlos 1,134.1º 1200-651 Lisbon

T (+351) 213 928 400 F (+351) 213 976 832

geral@cnpd.pt

www.cnpd.pt