

PAR/2022/26

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CNPD

National Data Protection Commission

RESOLUTION/2022/35

I. Order

1.0 Instituto dos Registos e do Notariado, I.P. (IRN) has submitted to the National Commission for Data Protection (CNPD) a draft protocol that aims to regulate the access of the Municipality of Paços de Ferreira (CMPF) to car registration, for the purpose of monitoring compliance with the Highway Code and legislation. on public roads under its jurisdiction, including reporting on road accidents.

2. The CNPD issues an opinion within the scope of its attributions and powers as an independent administrative entity with authoritative powers to control the processing of personal data, conferred by Article 57(1)(c) of Regulation (EU) 2016/679, of 27 April 2016 - General Data Protection Regulation (RGPD), in conjunction with the provisions of articles 3 and 4, no. 2, of Law No. 58/2019 , of the 8th of August.

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

4. Under the terms of Clause 1a of the protocol, the CMC «is authorized to access the vehicle registration information, by consulting the respective database online», located in the IGFEJ, for the exclusive purpose of pursuing the competence assigned to it. is legally committed within the scope of the management and inspection of paid urban public parking, as well as the instruction and decision of road administrative offenses for minor infractions related to prohibited, improper or abusive parking, on roads under municipal jurisdiction, including the imposition of fines and costs .

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, lessee or usufructuary, and also the encumbrances or charges' (paragraph 1 of Clause 1.a).

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

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

8. Under the terms of Clause 3.a of the protocol, the CMPF must comply with the legal provisions contained in the RGPD and Law No.

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consultation, which should be limited to what is strictly necessary, 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.

9. It is also foreseen that, if the CMPF 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 to inform the IRN 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 to the car registration database is via VPN between the two bodies, using the name/password combination associated with each user, and the implementation of IPSEC tunnels is also mandatory (cf. Clause 4.a) .

11. Also according to Clause 5.a of the protocol, the CMPF undertakes to previously communicate to the IRN the identification of the users of access to the database, indicating name, category/function, NIF and e-mail address, with a view to assignment of the respective system access credentials. Requests for creating and changing users are forwarded to the IGFEJ to execute the requests. An application user will also be created by the IGFEJ, within the scope of access through web services, whose

invocations are registered for auditing for a minimum period of two years.

12. The protocol is concluded for a period of one (1) year, tacitly extendable for equal periods. Among other reasons, the non-compliance with the duties provided for in Clause 3.a, in terms of protection of personal data, constitutes a cause for termination of the protocol. The termination of the protocol implies the immediate termination of the CMF's authorization to access the car registration database (cf. Clause 10.a, paragraphs 1 and 2, and Clause 11.a).

13. This protocol replaces the previous protocol with the same purpose signed in August 2004.

II. Analysis

14. Pursuant to subparagraph d) of no. 2 of article 27-D of Decree-Law no. 54/75, of 12 February, a diploma that regulates car registration, the personal data of the vehicle registration may be communicated, in order to carry out their respective attributions, to the entities responsible for supervising compliance with the provisions of the Highway Code and complementary legislation.

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15. 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.

16. The possibility for the CMPF to access the car registration derives from the combined provisions of Article 5(1)(d) and No.3(a) of Decree-Law No. 44/2005, of February 23, in its current wording. The feasibility of access to car registration through the signing of a protocol with the IRN stems from article 7, no. municipal bodies in the field of public parking, provided for in article 27 of Law no.

17. 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, 2016 - General Regulation on Data Protection (GDPR).

18. The rule of mandatory indication of the process number that supports access as a condition for the continuation of the

research and consequent access to data is highlighted as positive and essential.

19. The rule regarding individualized access per user, using unique credentials, and respective logs, always allowing tracking of each user's activity, is also underlined as adjusted.

20. Regarding the communication by the CMPF to the IRN of the users' personal data, the CNPD verifies that, in addition to the name and category/function, it is also planned that the user's email address and NIF be communicated to the IRN.

21. No justification is given for requesting these personal data and, in fact, it is not possible to see the relevance of the processing of these data by the IRN for the purposes indicated in Clause 5.a, that is, for the purpose of assigning the name of username and password.

22. Regarding the "email" data, it is accepted that there may be reasons, not indicated, that support the collection of this personal data, namely if the email address is used as a username. understands the CNPD that such a solution should be rethought, since the (professional) email address is a personal data known by a wide universe of people, which immediately weakens significantly an authentication composed of two elements. If the data "email " is collected for the purpose of individualized contact within the scope of user management (for example, password retrieval

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pass), then this purpose must be specifically provided for in the text, and it must be added that this is the professional email address, as only this should be used in this context.

23. Regarding the "NIF" data, which constitutes an identification number of citizens for tax purposes, it is not possible to understand the collection by the IRN of this personal data from users, whose access to the car registration is carried out in their capacity by employees of the municipality with supervisory powers in this field and in the exercise of legal powers in a professional context.

24. Therefore, the CNPD considers that it is not only appropriate and necessary to collect the NIF of 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 CMPF users who access the car registration in the performance of their professional duties.

25. As regards the security measures envisaged for the transmission of data, as well as the obligation provided for in paragraph 3 of Clause 5.a, they appear generally to be appropriate.

26. 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.

III. Conclusion

27. The CNPD considers that the City Council of Paços de Ferreira is entitled to access personal data from the car registration, within the limits and conditions recommended by this protocol, with the changes resulting from this opinion.

28. Thus, the CNPD understands that the need to process the data "email" must be reconsidered and, if its need is justified, the text of the protocol must specify that it is a professional email and for what purpose it is treated.

29. 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 the text of the protocol must be amended in accordance.

Approved at the meeting of April 19, 2022

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