

I. Order

1. The Secretary of State for the Presidency of the Council of Ministers asked the National Data Protection Commission (CNPD) to issue an opinion on the "Draft Decree-Law enabling the delegation of powers attributed to municipal councils in the field of public parking in inter-municipal entities and in specific-purpose associations of municipalities".
2. The CNPD issues an opinion within the scope of its powers and competences as an independent administrative authority with powers of authority to control the processing of personal data, conferred by Articles 57(1)(cj); 58(3)(b); 36, no. 4, all of Regulation (EU) 2016/679, of 27 April 2016 - General Data Protection Regulation (hereinafter GDPR), in conjunction with the provisions of Article 3; 4th, no. 2; 6, no. 1, point a), all of Law no. 58/2019, of 8 August, which implements the GDPR in the domestic legal system.
3. This request was received on September 14, 2022, for indictment issued until October 4, 2022.

II. Analysis

4. This draft decree-law makes the first amendment to Decree-Law no. 107/2018, of 29 November, which implements the transfer of powers to municipal bodies in the field of public parking.
5. In its explanatory memorandum, it is stated that "in response to requests received by municipalities within the scope of this decentralization process, this decree-law establishes that, in addition to delegating to local companies, municipalities are also empowered to delegate the respective competences in the inter-municipal entities, as well as in the associations of municipalities for specific purposes".
6. And as it is also mentioned there, "This amendment allows the municipalities that are members of these entities to delegate powers in terms of parking, with advantages in terms of uniformity of administrative procedures, namely in the investigation of administrative offense proceedings and in the decision of the process and application of fines and costs, and significant gains in efficiency in the management of human and financial resources, through the bringing together of the competences of several

municipalities in one of the aforementioned entities".

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7. When reading the projected amendments to the aforementioned decree-law, the relevant reformulations that have an impact on the protection of personal data, namely in terms of their security and confidentiality, are found in paragraph 1 of article 3, epigraphed by "Exercise of powers", as in paragraph 3 of article

7, designated "Protocol with the Institute of Registries and Notaries, I.P.".

8. The aforementioned relevant change consists exclusively of the delegated exercise of powers by the City Council "in an inter-municipal entity or in an association of municipalities with specific purposes, of the respective territorial circumscription" (Article 3, no. 1) and the corresponding access by the latter to the identification and respective domicile of the owner of the vehicle (Article 7(3)).

9. In turn, according to paragraph 4 of this article 7, which remains in its original wording, "Access to the specific data referred to in paragraph 1 is carried out with the safeguard of security and confidentiality personal data or matters subject to secrecy, in compliance with data protection legislation".

10. In view of the projected legislative change, let us see its compliance with the R6PD.

11. The aforementioned legislative amendment is only relevant, from a data protection perspective, in the attribution of the delegated exercise of powers to the aforementioned "intermunicipal entity or association of municipalities with specific purposes, of the respective territorial circumscription" when access to the identification data and respective domicile of the owner of a vehicle.

12. Since this attribution of competences is legally provided for, there is a basis for legitimacy provided that an administrative infraction of the material and territorial competence of that "intermunicipal entity or association of municipalities for specific purposes" is at stake, in accordance with article 6. 1(1)(e) of the GDPR.

13. With regard to security measures relating to access to the aforementioned data, reference is made to the protocol provided for in Article 7.

14. The solution found in the present Project of the municipality ceding its position to the delegated entity, seems to lack greater density.

15. From the perspective of respect for the legal regime of data protection, it is essential to impose that the delegated entity guarantees the adoption of the technical and organizational measures filed, under penalty of violation of that regime (cf. Articles 24 and 32 of the GDPR).

16. However, the terms of the protocol and the personal data protection measures provided for therein depend on the specific conditions (technical and organizational) that each entity has to access and process

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subsequently the personal data stored by the IRN., I.P., which may not be identical to those offered by the delegating entity.

17. As Article 7(4) corresponds to a low-density provision, it is important to ensure that the act of delegation specifies that the delegating entity is obliged to have the technical and organizational conditions necessary to fulfill the obligations filed by the delegating entity with the IRN, I.P.

III. Conclusion

18. Under the terms and on the grounds set out above, the CNPD recommends that the above specified in point 17 be observed.

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