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NATIONAL DATA PROTECTION COMMISSION

OPINION No. 3/2018

I. Order

The Chief of Staff of the Secretary of State for Forests and Rural Development sent the National Data Protection Commission (CNPd), for an opinion, the Draft Decree-Law that makes the eighth amendment to Decree-Law No. 202/2004, of 18 August, which establishes the regime for the conservation, promotion and exploitation of hunting resources.

The request made stems from the powers conferred on the CNPD by paragraph 2 of article 22 of Law no. 67/98, of 26 October, amended by Law no. Protection of Personal Data (hereinafter, LPDP) -, and the opinion is issued using the competence set out in paragraph a) of paragraph 1 of article 23 of the same legal diploma, being restricted to aspects related to data protection personal.

II. appreciation

The Draft Decree-Law makes the eighth amendment to Decree-Law no. in terms of regulation of hunting. Thus, the Project under examination, as it appears from the explanatory memorandum that integrates it, clarifies the role of auxiliaries in the hunting process and allows them to be part of the hunters' line in ordered hunting terrains; it extends the possibility of hunting by the cetraria process and makes it possible for wild rabbit hunting in hunting areas to be defined by the respective management entity or concessionaire; waives the obligation for firearms to be packed in a case or bag within a hunting zone when hunters travel within that zone; regulates the constitution of big game packs and the activity of the packer, through the registration of the dogs assigned to them and to the packers; extends the possibility of marking dead specimens in population density correction actions in order to minimize the furtive slaughter of specimens of game species.

On the other hand, in the Draft Decree-Law it is foreseen that the entities that own hunting zones, whose concession is automatically renewed, will be obliged to present a planning and hunting plan at the end of each concession period and

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the exclusion of municipal hunting grounds is simplified whenever an agreement is signed for the inclusion of land in another hunting zone. It also enshrines that the publication of the right not to hunt will be carried out on the website of the Instituto da Conservação da Natureza e das Florestas, I.P. (ICNF IP). It should be noted that part of the revenue from hunting licenses is now allocated to the Permanent Forest Fund.

Finally, the project makes it possible for the ICNF IP to establish protocols and agreements with organizations in the hunting sector for the development of administrative competences that are entrusted to it and enable it to provide the Public Security Police with access to the registration of hunting licenses of each hunter, for the purpose of proving the regularity of hunting activity and exemption from attending a technical and civic training course to renew a license to use and carry weapons of types C and D.

After consulting the draft diploma, it appears that there is no specific rule aimed at its adequacy to the general regime for the protection of personal data.

However, to article 168 of Decree-Law no. 202/2004, of 18 August, which regulates information on this matter, a paragraph 4 is added with the following wording: 'For the purposes of the provisions of no. 3 of article 22.0 of Law n.º 5/2006, of February 23, regarding the necessary information on the regularity of the practice of shooting in a venatory act, the ICNF, IP, provides, under the terms to be established in a protocol, to the Security Police Public (PSP), access to the computerized record of hunting licenses'.

However, attention is drawn to the fact that the aforementioned protocol must be subject to prior assessment by the CNPD, which must always happen when the law does not define all the terms of the processing of personal data, as follows from the combined application of articles 27 No. 30 and 22 No. 2 of the LPDP; this duty is further reiterated specifically in relation to administrative provisions in article 57, paragraph 1, subparagraph c), of the General Data Protection Regulation (EU) 2016/679 -, a regulation that applies from May 25, 2018.

III. Conclusion

The Draft Decree-Law does not raise relevant questions regarding the adequacy of its content to the general regime for the protection of personal data.

However, the protocol to be established between the Instituto de Conservação da Natureza e das Florestas, I.P., and the Public Security Police, regarding the access of this entity to the register

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hunting licenses must be notified to the CNPD in accordance with Article 27(1) of the LPDP.

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