

/ NATIONAL DATA PROTECTION COMMISSION

OPINION/2020/89

The Institute of Registries and Notaries, I.P. (IRN) has requested the National Data Protection Commission (CNPd) to issue an opinion on a protocol aimed at regulating the access of EMES, Empresa Municipal de Parque de Sintra E.M., S.A. to car registration.

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.º 54/75, of 12 February¹, diploma that regulates car registration.

The IRN, the Institute of Financial Management and Justice Equipment, I.P. (IGFEJ) and EMES, Municipal Parking Company of Sintra E.M., S.A, hereinafter EMES.

Pursuant to Clause 1.a of the protocol, EMES is authorized to access vehicle registration information by online consultation of the respective database, located at IGFEJ, for the exclusive purpose of pursuing its legal competence, within the scope of supervision of compliance with the provisions of the Highway Code and other complementary legislation, on public roads, including parking, under the jurisdiction of the Municipality of Sintra.

The following data are accessed: «name, habitual residence, number and date of the identification document and tax identification number, when available, or company name, registered office and number of legal person, of the owner or lessee or usufructuary by date of the occurrence of the fact, and when technically available' (paragraph 1 of Clause 1.a).

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 infraction notice to which they refer (cf. no. 1 of Clause 2.a).

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

Pursuant to Clause 3.a of the protocol, EMES must comply with the legal provisions contained in Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and the free movement of such data and which repeals Directive 95/46/EC

¹ As amended by Decree-Law No. 111/2019, of 16 August.

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(General Regulation on Data Protection) and Law no. 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.

It is also foreseen, in the same clause, that, if EMES 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 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 the IRN. Access is carried out through two types of alternative channels, in both cases with implementation of /Psec tunnels, to guarantee data confidentiality.

Surely by mistake, in subparagraph a) of paragraph 1 of Clause 4a, the Municipal Police of Lisbon appears instead of EMES. Also under the terms of the protocol, EMES 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 credentials to connect to the system , 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. IGFEJ will assign an application user and respective password to EMES to access the web services provided.

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

1 - Appreciation

The possibility for municipalities to access car registration results from the combined provisions of paragraph 1(d) and article 5(3)(a) of Decree-law No. 44/2005, of 27 of February, lastly amended by Decree-Law No. 146/2014, of October 9. EMES is, under the terms of the General Regulation for Parking Areas of Limited Duration², the entity responsible for supervising compliance with the

² Approved at the ordinary session of the Municipal Assembly of Sintra on 7 February 2018.

parking of vehicles and road traffic, including the participation of traffic accidents, in the territorial area of the Municipality of Sintra.

In accordance with point d) of paragraph 2 of article 27-D of the Highway Code, personal data from the car registration must be communicated, in order to carry out the respective attributions, to the entities responsible for supervising the Code. of the road.

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.

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

Paragraph 4 of article 27-H of the Motor Vehicle Registry requires that the entities competent to consult this registry keep an updated list of persons authorized to access the database. Therefore, EMES is obliged to maintain this list, which must be updated in order to limit the possibility of undue access by users who no longer have the legitimacy to access.

Naturally, this obligation arises from the law, but it must also be included in this protocol, insofar as it will have a boosting effect on its compliance and will allow the IRN, at any time, to determine to the IGFEJ that the access credentials are deactivated.

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.

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

II - Conclusion

The CNPD considers that EMES, Empresa Municipal de Parque de Sintra E.M., S.A. has legitimacy for access to the personal data of the car registration, within the limits and conditions recommended by this protocol, so it understands that there is no impediment to its execution.

AV. D. CARLOS I, 134 - 1st

1200-651 LISBON | WWW.CNPD.PT | TEL:+351 213 928 400 | FAX: +351 213 976 832

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Approved at the meeting of July 28, 2020

Filipa Calvão (President)