

NATIONAL COMMISSION

DATA PROTECTION

OPINION/2020/128

I. Order

The Institute of Registries and Notaries, I.P. (IRN) has submitted to the National Commission for Data Protection (CNPd) a draft protocol that aims to regulate the access of the Resende City Council to car registration, for the purpose of monitoring compliance with the Highway Code and complementary legislation on public roads under its jurisdiction.

The CNPD issues an opinion within the scope of its attributions and powers as an independent administrative entity with authority 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 August 8th.

The IRN, the Institute of Financial Management and Justice Equipment, I.P. (IGFEJ), the General Secretariat of the Ministry of Internal Administration (SGMAI), the National Road Safety Authority (ANSR) and the Municipality of Resende (CMR).

Pursuant to Clause 1a of the protocol, the CMR «is authorized to access the vehicle registration information by consulting the respective database in Unha», located in the IGFEJ, for the «exclusive purpose of pursuing the competence legally entrusted to it. in monitoring compliance with the provisions of the Highway Code and complementary legislation».

The following data are accessed: «name, usual residence, identification document number and tax identification number, when technically available, or company name, registered office and number of legal person, owner, lessee or usufructuary, to the encumbrances or charges». (No. 1 of Clause 1a).

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Access is made in real time, through the Traffic Offenses System -SCoT1, under the responsibility of ANSR, through webservice communication between the technological infrastructures of the Ministry of Justice and the Ministry of Internal Administration, supported respectively by IGFEJ and SGMAI.

To this end, the IGFEJ will grant access accreditation to the ANSR, as the SCoT manager, which, to that extent, manages the

individual users of the system, assigning them the SCoT access accreditations.

Therefore, for audit and security purposes, ANSR, through SGMAI, undertakes to send to IGFEJ, in each transaction, the identification of the user requesting the information, the case number or the corresponding notice, in addition to the other audit data, as established by the IRN and the IGFEJ. All these data are recorded in the system for two years from the date of access. Searches can only be done by vehicle registration. Records (/ogs) of the accesses made are also kept, which are kept for a period of two years for audit purposes (cf. Clause 2.a).

Under the terms of Clause 3a of the protocol, CMR must comply with the legal provisions on data protection, namely as regards the purpose for which the consultation was authorized, which must be limited to what is strictly necessary, not using the information for other purposes. ends; 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 that, if the CMR uses the subcontractor to execute the protocol, it will be bound, namely, to guarantee the security of the treatment, to ensure that the people involved assume a commitment to confidentiality 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.

1 This system, in order to dematerialize the management of administrative infractions, allows the processing and remote access to information from mobile devices.

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Also under the terms of the protocol, CMR and ANSR undertake to control the access of information users, through individual access accreditation, and both entities and SGMAI must establish internal rules regarding the security and confidentiality of the data provided. As the entity authorized to access the vehicle registration database, CMR is solely responsible for accessing the information and its subsequent use, and individual users are also responsible for the use they make of the service (cf. Clause 5 .The).

II. Analysis

1. Pursuant to subparagraph d) of no. 2 of article no. 27-D of Decree-Law no. 54/75, of 12 February², personal data from the car registration may be communicated, for pursuit of the respective attributions, to the entities responsible for supervising compliance with the provisions of the Highway Code and complementary legislation.

2. 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.

3. The possibility for CMR 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

4. 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 Data Protection Regulation (GDPR).

² Last amended by Decree-Law No. 111/2019, of 16 August.

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5. Regarding the conditions of legitimacy for carrying out access through the SCoT and for the intervention of the ANSR, these are considered to be met, insofar as, as provided for in paragraph 1 of article 2 of Regulatory Decree no. 28/2012, of 12 March, the ANSR's mission is to "enforce the law of contraordenacionat highways. It is also responsible, under the terms of subparagraph e) of paragraph 2 of the aforementioned diploma, "to ensure the processing and management of records raised for violations of the Highway Code and complementary legislation". To this end, it owns, coordinates, manages and finances the SCoT, in accordance with the provisions of Joint Order No. 19081/2008, of 17 July. Furthermore, pursuant to paragraph 1 of article 4 of Decree-Law no. ~107/2018, of 29 November, a diploma that implements the framework for transferring powers to municipal bodies in the field of public parking , it is foreseen that the municipal councils will use the SCoT «for the collection of administrative infraction records».

6. Given that the IGFEJ only provides accreditation for a generic user (the ANSR) and not for individual users, who are managed directly by the ANSR, it is considered an adequate safeguard measure, by the IRN, to require that the identification of the user is provided, as well as the information regarding the case number or notice that triggers the search, as it allows

him, on the one hand, to know the individual user for audit purposes and, on the other hand, to prevent the realization of of unjustified access, exercising better access control.

7. As regards the security measures foreseen for the transmission of data, as well as the obligation foreseen in paragraph 3 of Clause 5.a, they seem generally appropriate.

8. 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. Likewise, the participation of SGMAI is based on the powers conferred on it by subparagraphs a) and d) of paragraph 9 of article 2 of Regulatory Decree no. was given by Decree-Law No. 112/2014, of 11 July.

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III. Conclusion

The CNPD considers that the Municipality of Resende has legitimacy for access to personal data from the car registration, within the limits and conditions recommended by this protocol, and therefore understands that there is no impediment to its execution.

Approved at the meeting of October 27, 2020

Filipa Calvão (President)

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