

National Data Protection Commission

OPINION/2021/14

## I. Order

1. O Instituto dos Registos e do Notariado, I.P. (IRN) has requested the National Data Protection Commission (CNPd) to issue an opinion on a protocol that aims to regulate the access of the Amarante City Council (CMA) to car registration, for the purpose of monitoring compliance with the Highway Code and supplementary legislation on public roads under its jurisdiction.

2. The request is made under paragraph 7 of article 27-E of Decree-Law no. 54/75, of 12 February<sup>1</sup>, which regulates car registration.

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

4. Under the terms of Clause 1a of the protocol, the CMA «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 that is legally committed to it within the scope of the inspection of road traffic regulations, vehicle parking regulations, including the participation of traffic accidents, in the territorial area of the Municipality of Amarante».

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 or lessee or usufructuary by date of occurrence fact, and when technically available'. (No. 1 of Clause 1a),

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 2a of the protocol.

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

Av. D. Carlos 1,134.1°

1200-651 Lisbon

T (+351) 213 928 400

F (+351) 213 976 832

gerai@cnpd.pt

www.cnpd.pt

PAR/2021/13 1 v.

0

CNPD

National Data Protection Commission

8. Under the terms of Clause 3.a of the protocol, the CMA must comply with the legal provisions contained in the RGPD and Law No. that it 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 CMA 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 CMA undertakes to previously communicate to the IRN the identification of the users of access to the database, indicating name and category/function, with a view to attributing the respective access credentials to the system. Requests for creating and changing users are forwarded to the IGFEJ to execute the requests, which must keep the list of users updated and make it available to the IRN.

12. Pursuant to paragraph 4 of Clause 5.a of the protocol, the CMA is responsible for accessing the data and for its subsequent use.

13. The protocol is concluded for a period of one (1) year, tacitly extendable for equal periods. The termination of the protocol implies the immediate cessation of the authorization of access to the car registration database by the CMA (cf. Clause 11, a

and no. 2 of Clause 10.a).

## II. appreciation

14. Under the terms of subparagraph d) of no. 2 of article no. 27, °-D of Decree-Law no. 54/75, personal data from the car registration may be communicated, in order to carry out the respective attributions, the entities responsible for monitoring compliance with the provisions of the Highway Code and complementary legislation.

Av. D. Carlos 1,134.1°

1200-651 Lisbon

T (+351) 213 928 400

F (+351) 213 976 832

gerai@cnpcl.pt

www.cnpd.pt

PAR/2021/13 2

0

CNPD

National Data Protection Commission

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 CMA 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.

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 Data Protection Regulation (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. 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.

21. 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.

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

Conclusion

Approved at the meeting of January 26, 2021

Filipa Calvão (President)

Av.D. Carlos 1,134.1º

1200-651 Lisbon

I (+351) 213 928 400

F (+351) 213 976 832

gerai@cnpd.pt

www.cnpd.pt