

NATIONAL DATA PROTECTION COMMISSION

OPINION/2020/79

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 access by the Funchal City Council (CMF) to vehicle registration, for the purpose of monitoring compliance with the Highway Code and supplementary legislation on public roads under its jurisdiction.

The request is made under paragraph 7 of article 27-E of Decree-Law no. 54/75, of 12 February¹, which regulates car registration.

The IRN, the Institute for Financial Management and Justice Equipment,

I.P. (IGFEJ) and the Municipality of Funchal.

Under the terms of Clause 1 of the protocol, the CMF «is authorized to access the vehicle registration information, by consulting the respective database», located in the IGFEJ, for the «exclusive purpose of pursuing the competence assigned to it. iega/mind committed within the scope of monitoring compliance with the provisions of the Highway Code and complementary legislation on public roads under its jurisdiction».

The following data are accessed: "name, usual 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 of the fact , and when technically available". (No. 1 of Clause 1a).

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).

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

Under the terms of Clause 3.a of the protocol, the CMF must comply with the legal provisions contained in the RGPD and Law No. limit yourself 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.

¹ As amended by Decree-Law No. 182/2002, of 20 August.

Process PAR/2020/50 1v.

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It is also foreseen that, if the CMF 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 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.

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).

Also according to Clause 5.a of the protocol, the CMF undertakes to inform the IRN in advance of the identification of users accessing the database, indicating name and category/function, with a view to assigning the respective system access credentials. 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.

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

The protocol is concluded for a period of one (1) year, tacitly extendable for equal periods. The termination of the protocol implies the immediate termination of the CMF's authorization to access the car registration database (cf. Clause 10.a and no. 2 of Clause 9.a). 1

1 - Appreciation

1. 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.

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.

Process PAR/2020/50 2

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NATIONAL DATA PROTECTION COMMISSION

3. The possibility for the CMF to access the car registration derives from the combined provisions of Article 5(1)(a) with No.3(a) of Decree-Law No. 44/2005, of February 23.

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 2016 IT - General Data Protection Regulation (GDPR).

5. The mandatory rule of indicating the case number that supports access as a condition for the continuation of the research and consequent access to data is highlighted as positive and essential.

6. 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.

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.

II - Conclusion

The CNPD considers that there is legitimacy for the Funchal City Council's access to the personal data from the car registration, within the limits and conditions recommended by the present protocol, so it understands that there is no impediment to its conclusion.

Approved at the July 14, 2020 meeting

F _____ (President)

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