

I. Request

1. The Institute of Registries and Notaries, I.P. (IRN) submitted to the National Commission for Data Protection (CNPD) a draft protocol that aims to regulate access by the Municipal Police of Matosinhos to the vehicle registration, for the purpose of monitoring compliance with the Highway Code and complementary legislation on public roads under the jurisdiction of the respective municipality.

2. The CNPD issues an opinion within the scope of its attributions and powers as an independent administrative authority with authoritative powers to control the processing of personal data, conferred by paragraph c) of paragraph 1 of article 57 of the Regulation (EU) 2016/679, of April 27, 2016 - General Regulation on Data Protection (GDPR), in conjunction with the provisions of article 36, paragraph 4, of the RGPD and articles 3 and 4, no. 2, of Law no. 58/2019, of August 8.

3. The parties to the protocol are the IRN, the Institute of Financial Management and Justice Equipment, I.P. (IGFEJ) and the Municipal Chamber of Matosinhos.

4. Under the terms of paragraph d) of paragraph 1 of article 5 and paragraph b) of paragraph 3 of Decree-Law no. 44/2005, of February 23, the Municipal Police of Matosinhos is the entity responsible for supervising compliance with vehicle parking and road traffic rules, including reporting road accidents, in the territorial area of the Municipality of Matosinhos.

5. Under the terms of Clause 1 of the protocol, the Municipal Police of Matosinhos «is authorized to access vehicle registration information, by consulting the respective database online», located at the IGFEJ, for the «exclusive purpose of pursuing the competence that is legally entrusted to it, within the scope of the inspection of vehicle parking and road traffic rules, including the participation in road accidents, in the territorial area of the Municipality of Matosinhos».

6. The following data are accessed: «name, habitual residence, number and date of the identification document and tax

identification number, when technically available, or firm, headquarters and legal person number, of the owner or lessee or usufructuary, and also the burdens and charges by date of occurrence of the fact and when technically available». (No. 1 of Clause 1a).

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7. Access to the database is done through a search by vehicle registration number and is conditioned to the mandatory identification of the case number or the report to which they relate, (cf. no. 1 of Clause 2.a).

8. 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.

9. Pursuant to Clause 3 of the protocol, the Municipal Police of Matosinhos must observe the legal provisions contained in the RGPD and Law No. 58/2019, of August 8, in particular with regard to respecting the purpose for which it was authorized consultation, which 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.

10. It is also envisaged that, should the Municipal Police of Matosinhos resort to a subcontractor to carry out 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 information necessary to demonstrate compliance with the obligations under the RGPD, including facilitating and contributing to audits or inspections conducted by the IRN or by another auditor mandated by this mandate.

11. Access to the vehicle registration database between the two bodies can be done using one of the methods provided for in

the protocol, with the implementation of IPSEC tunnels also being mandatory (cf. Clause 4.a). Also according to Clause 5.a of the protocol, the Municipal Police of Matosinhos undertakes to communicate in advance to the IRN the identification of users accessing the database with a view to assigning the respective credentials for accessing the system.

12. Access will be individualized, and each user will receive a personal password, which will make him responsible for the use he makes of the service. User creation and change requests are forwarded by the IRN to the IGFEJ, IP.

13. The IGFEJ, IP will assign an application user and respective password to the Municipal Police of Matosinhos, for access to the available Webservices. Each access to the webservice must contain the identification (username and name) of who triggers the invocation. Each invocation performed by the identified user is recorded in the audit system for a minimum period of two years. The IGFEJ, IP also records all communications made within the scope of this protocol, in accordance with its audit policy.

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22. Therefore, the CNPD considers that it is not only appropriate and necessary to collect the NIF of users for the purpose of assigning access credentials, in violation of the principle of data minimization, recognized in article 5, paragraph. 1, paragraph c) of the RGPD, as none of the conditions of lawfulness provided for in article 6, paragraph 1, of the RGPD have been verified, so that the IRN does not have the legitimacy to process the NIF of Police users Municipality of Matosinhos who access the car registration in the performance of their professional duties.

23. In relation to the "email" data, it may be pertinent to process it for direct contact with the user within the scope of user management. However, if the email address were to be used as a username, the CNPD understands that such a solution should be rethought, since the (professional) email address is personal data known by a wide range of people, the which significantly weakens a single-factor authentication made up of two elements from the outset. Thus, if the "email" data is collected for the purpose of individualized contact within the scope of user management (for example, password recovery), then this purpose must be specifically provided for in the text, and in any case, it must also be added that this is the professional email address, as only this should be used in this context.

24. With regard to records for auditing purposes (logs), mentioned in paragraph 2 of Clause 2.a, in combination with the

provisions of Clause 5.a, the control of the individual activity of each user, as well as the requirements for effective access management.

25. As for the retention period of system access records for auditing purposes (logs), while it is indicated that the logs referred to in Clause 2.a are kept for two years, therefore a fixed period (minimum and maximum), the log conservation period referred to in Clause 5.a refers to a minimum period of two years, leaving the maximum period open. It is also suggested, for reasons of greater clarity, that in paragraph c) of paragraph 2 of Clause 5, a, where it is stated that «each invocation performed by the user identified in the previous number is registered in the audit system for a minimum period of two years', be replaced by "(...) carried out by the user referred to in the previous numbers (...)".

26. Still regarding users, the protocol must provide, possibly by addition to clause 5.a, that the Municipal Police of Matosinhos undertakes to maintain, at all times, an updated list of users, which is communicated to the IRN/IGFEJ at the beginning of the execution of the protocol and later whenever there are changes to that list, adding or eliminating users.

27. As regards the security measures envisaged for the transmission of data, as well as the obligation laid down in paragraph 3 of Clause 3.a, they appear generally appropriate.

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14. The protocol is concluded for a period of one (1) year, tacitly renewable for equal periods. The resolution of the protocol implies the immediate cessation of authorization to access the vehicle registration database by the Municipal Police of Matosinhos (cf. Clauses 10.a and 11.a).

II. Analysis

15. As for the article, the possibility for municipalities to access the vehicle registration stems from the combined provisions of paragraph d) of paragraph 1 and paragraph b) of paragraph 3 of article 5 of Decree-Law no. 44/2005, of February 27th, last amended by Decree-Law No. 102-B/2020, of December 9th.

16. The Municipal Police of Matosinhos is, under the terms of article 5, no. 1, subparagraph d) and no. 3, subparagraph b) of

Decree-Law no. 44/2005, of 23 February, the entity responsible for supervising compliance with vehicle parking and road traffic rules, including reporting road accidents, in the territorial area of the Municipality of Matosinhos.

17. In accordance with paragraph d) of paragraph 2 of article 27-E of the regime relating to the Automobile Registration, the personal data of the automobile registration must be communicated, for the pursuit of the respective attributions, to the entities in charge of inspection of the Highway Code. Paragraphs 2, 3 and 7 of article 27-E of the same diploma also allow these entities to be authorized to consult a data transmission line, provided that the security guarantees are observed and subject to the conclusion of a protocol .

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

19. It stands out as positive and essential the rule of obligation to indicate the number of the process that supports access as a condition for the continuation of the research and consequent access to the data.

20. As for the communication of individual users of the Municipal Police of Matosinhos to the IRN, the CNPD verifies that in addition to the name and category/function, it is also planned that the user's tax identification number (NIF) and mailing address be communicated to the IRN user's email address, "with a view to assigning user names ("usernames") and respective keywords ("passwords") for connection to the system" (cf. no. 1 of Clause 5a).

21. As already stated in previous CNPD opinions, the pertinence of the processing of "NIF" data by the IRN for the purposes indicated in Clause 5.a. The "NIF" constitutes an identification number of citizens for tax purposes, not understanding at all the collection by the IRN of this personal data of users, whose accesses to the car registration are carried out in the exercise of legal competences in a professional context.

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28. The safeguards introduced in Clause 12.a regarding access to the vehicle owner's history are also considered relevant.

29. As for the participation of the IGFEJ as a party to this protocol, the CNPD considers it to be fully justified, given its attributions, provided for in article 3 of Decree-Law no. 164/2012, of 31 July.

III. Conclusion

30. The CNPD considers that there is legitimacy for access by the Municipal Police of Matosinhos to personal data from the car registration, within the limits and conditions recommended by this protocol, with the changes resulting from this opinion.

31. With regard to the processing of "NIF" data, the CNPD considers that the IRN does not have legitimacy to process this personal data of users in the context of the performance of their professional duties, so the text of the protocol must be amended in accordance.

32. It is recommended to amend paragraph c) of paragraph 2 of Clause 5.a with a view to clarifying it.

33. A rule should also be introduced regarding the conservation by the Matosinhos Municipal Police of an updated list of users, which must be communicated to the IRN for access control purposes.

Approved at the meeting on February 9, 2023

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