

Committee on Civil Liberties, Justice and Home Affairs  
The Chairman

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Mr. Fernando MEDINA  
Mayor of Lisbon

Paços do Concelho - Praça do Município | 1149-014 Lisboa  
gab.presidente@cm-lisboa.pt

**Subject: Reported violations of EU data protection legislation by the municipality of Lisbon**

Dear Mr. Fernando MEDINA,

I am writing to you, as Chair of the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament (LIBE Committee), with regard to a data breach which occurred in January 2021 in the city of Lisbon, when a political demonstration was organised against the detention by the Russian authorities of Mr. Alexei Navalny. It is our understanding that, according to the Portuguese legal framework, the organisers are obliged to provide the municipality with their personal data, including their name, address, ID and telephone numbers. However, it has been reported<sup>1</sup> that personal data of the organisers (two of them with a dual Portuguese-Russian nationality), was shared by the city of Lisbon with the Russian Embassy. We take note that you have subsequently confirmed that the same procedure has been applied to 182 demonstrations since 2012 and that data has been shared with foreign embassies 52 times in 2018-2019 alone, including the embassies of Israel and China.<sup>2</sup> This revelation has raised high concerns among the Members of the LIBE Committee with regard to the reported violations of the European data protection framework, as provided for by the General Data Protection Regulation (GDPR)<sup>3</sup>, which has led the

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<sup>1</sup> <https://www.euractiv.com/section/global-europe/news/portugal-handed-data-on-anti-putin-protesters-to-moscow/>  
<https://www.politico.eu/article/fernando-medina-lisbon-russia-dissidents-personal-data-sharing/>

<sup>2</sup> <https://www.bbc.com/news/world-europe-57530260>

<sup>3</sup> 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 on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

Portuguese National Commission for Data Protection (CNPD) to open an inquiry procedure<sup>4</sup>.

In my view, transfers of personal data held by national authorities of an EU Member State to non-EU diplomatic missions in that EU Member State should be considered international transfers of personal data, congruent with the interpretation given by the European Data Protection Board on the territorial scope of GDPR (Article 3)<sup>5</sup>.

I would like to recall that GDPR contains specific provisions on the transfer of personal data to a country which is not a member of the EU<sup>6</sup>; in the absence of an Adequacy Decision, a transfer may only take place through the provision of appropriate safeguards and on the condition that enforceable rights and effective legal remedies are available for individuals. If a transfer of personal data is envisaged to a third country that is not the subject of an Adequacy Decision, and if appropriate safeguards are absent, a transfer can be made based on a limited number of derogations for specific situations (for example, where an individual has explicitly consented to the proposed transfer after having been provided with all necessary information about the risks associated with the transfer). It is our understanding that none of the possible derogations could have been used in the reported cases, meaning that these transfers of personal data were in breach of Union law.

Given the competences and responsibilities of the LIBE Committee, the fundamental rights enshrined in the Treaties and in the EU Charter – as it is the case of the protection of natural persons in relation to the processing of personal data – are of utmost importance for the LIBE Committee and we take great interest in how EU Member States comply with their legal obligations.

The LIBE Committee would therefore invite the Lisbon authorities to provide a written reply to this letter, by:

- clarifying the legal basis under Chapter V GDPR that has been used in the transfer of the personal data to the third countries in these cases and whether the Portuguese Data Protection Authority has been notified of this practice;

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<sup>4</sup> <https://www.macaubusiness.com/portugal-data-protection-commission-opens-inquiry-into-sharing-activist-data-with-russia/>

<sup>5</sup> *EDPB Guidelines 3/2018*, p.23: *“In this regard, the EDPB recalls that the application of the GDPR is without prejudice to the provisions of international law, such as the ones governing the privileges and immunities of non-EU diplomatic missions and consular posts, as well as international organisations. At the same time, it is important to recall that any controller or processor that falls within the scope of the GDPR for a given processing activity and that exchanges personal data with such entities, bodies and organisations have to comply with the GDPR, including where applicable its rules on transfers to third countries or international organisations”.*

[https://edpb.europa.eu/sites/default/files/files/file1/edpb\\_guidelines\\_3\\_2018\\_territorial\\_scope\\_after\\_public\\_consultation\\_en\\_1.pdf](https://edpb.europa.eu/sites/default/files/files/file1/edpb_guidelines_3_2018_territorial_scope_after_public_consultation_en_1.pdf)

<sup>6</sup> Chapter V, Articles 44-50 and Recitals 101-116 of GDPR.

- explaining the situation on the ground with regard to the data breach occurred in January 2021 and the follow up measures that have been taken;
- confirming to which other non-EU countries such transfers were made;
- providing the number of persons affected by these transfers;
- clarifying for how long this practice has been ongoing at the city of Lisbon, whether it has ended;
- setting out whether the city of Lisbon or the Portuguese government has taken measures to protect the exposed activists from potential repressive consequences by the third countries with which the personal data was shared;
- explaining whether the Portuguese authorities have taken any action to ensure the deletion of such personal data on the side of the recipient embassy or sought assurance that no onward transfers have taken place.

I would welcome to receive the replies from you on this important matter.

Yours sincerely,

Juan Fernando LÓPEZ AGUILAR