

NOVEMBER, 19TH 2018

# Regulation no. 1/2018 on the list of processing of personal data subject to Data Protection Impact Assessment

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**Data  
Protection  
team**

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Comissão Nacional de Proteção de Dados (CNPd) is the independent administrative entity with powers of authority for the control of the processing of personal data, under the terms of article 21 (1) and paragraph 1 of article 22 of Law no. 67/98, of October 26, as amended by Law no. 103/2015, of August 24. In accordance with Article 57 (1) (k) and Article 35 (4) of 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), it is its responsibility to draw up and publicize the list of processing of personal data subject to Data Protection Impact Assessment (DPIA).

In accordance with Article 35 (1) of the GDPR, data processing activities that are likely to result in a high risk to the rights and freedoms of natural persons must be preceded by a DPIA.

The European legislator defined in Article (3) of the GDPR three types of examples of situations that fulfil the requirements of this obligation of data controllers.

In addition to those, each national supervisory authority must list other treatments likely to involve the same risks. Therefore, this list refers to data processing activities that also fulfil the requirements of Article 35 (1). The drafting of this list was taking into account the provisions of the Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is “likely to result in a high risk” for the purposes of Regulation 2016/679- WP248 rev.01, pp. 10-12, adopted by the Article 29 Working Party and adopted by the European Data Protection Committee<sup>1</sup>.

It is noted that, in particular due to technological development, this list is not exhaustive and that further situations may arise where carrying a DPIA is justified under Article 35 (1).

Therefore, this is a dynamic list that will be updated whenever it is deemed necessary. It should be recalled that data controllers should take due note that the carrying a Data Protection Impact Assessment does not exempt them from compliance with the other obligations provided for in the GDPR or in special legislation.

In accordance with Article 57 (1) (k) and in compliance with Article 35 (4), both of the GDPR, following the said public consultation<sup>2</sup> and having considered the suggestions made as well as the recommendations contained in Opinion 18/2018 of the European Data Protection Committee<sup>3</sup>, the CNPD approves the following list of processing of personal data subject to an impact assessment on data protection, in addition to those provided for in Article 4 Article 35 (3) of the GDPR.

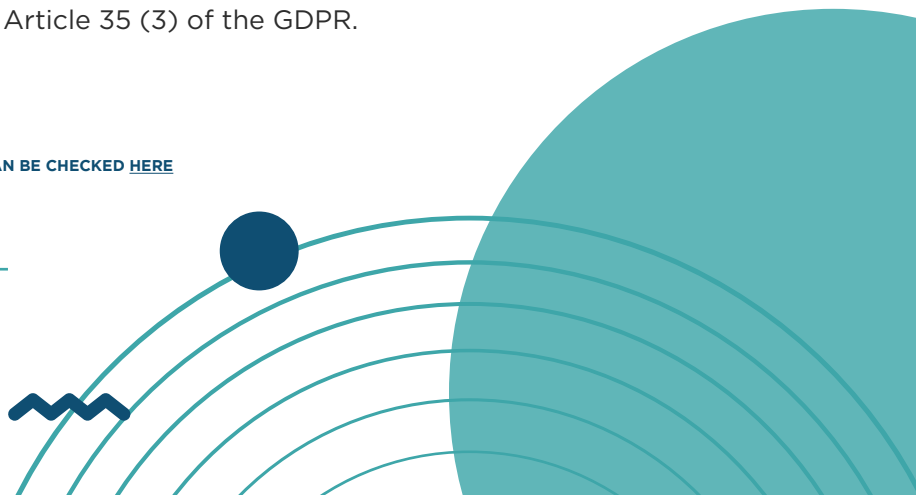
TRANSLATED VERSION. THE ORIGINAL VERSION IN PORTUGUESE CAN BE CHECKED [HERE](#)

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<sup>1</sup>The Guidelines can be consulted in Portuguese [here](#)

<sup>2</sup>The document can be consulted in Portuguese at [here](#)

<sup>3</sup>Available in English [here](#)



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1. Processing of information arising from the use of electronic devices transmitting personal data referent to health through communication networks;
  2. Interconnection of personal data or data processing relating to personal data provided for in Article 9 (1) or Article 10 of the GDPR or data of a highly personal nature<sup>4</sup>;
  3. Processing of personal data provided for in Article 9 (1) or Article 10 of the GDPR or of data of a highly personal nature<sup>5</sup> based on its indirect collection, where it is not possible or practicable to ensure the right to information under the terms of Article 14 (5) (b) of the GDPR;
  4. Processing of personal data which involves or consists of large-scale profiling<sup>6</sup>;
  5. Processing of personal data that allows to track the location or behaviour of data subjects (e.g. workers, customers or just passers-by) and that has the effect of their evaluation or scoring<sup>7</sup>, except when the processing activities are indispensable for the provision of services specifically they have required;
  6. Processing of the data referred to in Article 9 (1) or Article 10 of the GDPR or of data of a highly personal nature for archival purposes in the public interest, scientific and historical research or statistical purposes, except for the processing activities provided.
  7. Processing of biometric data for unambiguous identification of the data subjects considered as vulnerable individuals, except for processing activities provided for and regulated by law which have been preceded by a Data Protection Impact Assessment;
  8. Processing of genetic data of the vulnerable individuals, except for processing activities provided for and regulated by law which have been preceded by a Data Protection Impact Assessment;
  9. Processing of the personal data provided for in Article 9 (1) or Article 10 of the GDPR or of data of a highly personal nature<sup>8</sup> using new technologies or by means of new use of existing technologies.

Lisbon, October 19, 2018

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<sup>4</sup>Cf. Criteria 4 and 6 of the Data Protection Impact Assessment Guidelines determining if the treatment is “likely to result in a high risk” for the purposes of Regulation (EU) 2016/679 (WP248 rev.01)

<sup>5</sup>Cf. Criteria 7 of the Guidelines (WP248 rev.01)

<sup>6</sup>Cf. Criteria 5 of the Guidelines (WP248 rev.01)

<sup>7</sup>Cf. Criteria 1 of the Guidelines (WP248 rev.01)

<sup>8</sup>Cf. Criteria 4 of the Guidelines (WP248 rev.01)