



澳門特別行政區政府
Governo da Região Administrativa Especial de Macau
個人資料保護辦公室
Gabinete para a Protecção de Dados Pessoais

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Authorization

No. 03/A/2008/GPDP

**Subject: Identification Services Bureau providing ID card data to the Public
Prosecutions Office by data combination**

The Identification Services Bureau (DSI) applied for its data combination for the provision of ID card data to the Public Prosecutions Office (MP), by means of leased line with encryption.

Pursuant to Article 4 (1)(10) of the Law 8/2005 PDPA, “combination of data” shall mean a form of processing which consists of the possibility of correlating data in a filing system with data in a filing system or systems kept by another or other controllers or kept by the same controller for other purposes”. The GPDP takes the view that the provision of data from the “ID Card Information Database” to the MP, through the combination aforesaid, is actually completed by database connection of the two parties, thereby it is considered as combination of personal data as governed by law.

According to Article 22 of the PDPA, data combination is the kind of data processing subject to prior monitoring. Under Article 9, “the combination of personal data not provided for in a legal provision or a statutory regulation with organizational nature shall be subject to the authorization of the public authority, requested by the controller or jointly by the corresponding controllers under Article 22(1). The combination of personal data must be necessary for pursuing the legal or statutory purposes and legitimate interests of the controller; not involve discrimination or a reduction in the fundamental rights and freedoms of the data subjects; be covered by adequate security measures; and take account of the type of data subject to combination.” In other words, the data to be combined is the personal data governed by law and the data controller possesses the concerned processing legitimacy formed the prerequisites for authorizing personal data combination.

The GPDP will base on the foregoing legal provisions to review the application of personal data combination.

1. Types of data for combination

The ID card data provided by the DSI to the MP include the Macao ID card numbers, card holders’ name, age, date of birth, gender, marital status, name(s) of parent(s), photo(s), ways of contact (address and telephone), image and status (valid, cancelled, etc.) of the ID



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cards, date of the first issue, date of issue, expiry date, place of birth, Chinese character codes, and spouse names.

According to Article 4(1)(1) of the PDPA, the above data is considered as the personal data of identified individuals as protected by laws. According to Article 3 idem, processing of such data shall be regulated by the PDPA.

2. Purposes of data combination and the legitimate interests of data controllers

According to the information provided from DSI, the purposes of combination is to exercise its statutory competence, i.e., for assisting a criminal investigation or when requested by the law enforcement authorities, ID data is then provided to the MP.

Under Articles 55 and 56 of the Law 9/1999 (Law on Judicial Organizations), the MP is the only competent judicial organization for prosecution, in particular in criminal trials. According to criminal procedural laws, the MP shall supervise criminal investigations according to the criminal procedural laws, monitor the procedures carried out by the criminal police authorities (órgãos de polícia criminal), and shall promote and cooperate in crime prevention initiatives. In particular, under Article 56(2)(10) idem, for its statutory duties the MP has the power to demand for assistance from other public authorities. In addition, Article 13 of the Law 8/2002 (Regime of Resident Identity Cards of the Macau Special Administrative Region, aka Regime do bilhete de identidade de residente da Região Administrativa Especial de Macau) states that “the judges, prosecutors and the criminal police authorities have the right of access to the civil identity data of the participants in litigations or investigations”.

Thus, the GPDP is of the opinion that, the MP exercises its statutory competence according to laws, in particular for the needs of crime prevention and criminal investigations, to access the ID Card Information Database of DSI, which is in conformity with Article 6(4) of the PDPA. In other words, the access is considered as acting for public interests and exercising the competence of public authority, which fulfills the legitimacy of access and is in line with the legitimate interests of a data controller.

3. Secure the right of the data subject

According to the general principle for personal data processing laid down by Article 2 of the PDPA, “the processing of personal data shall be carried out transparently and in strict respect for privacy and for other fundamental rights, freedoms and guarantees enacted in the Basic Law of the Macao Special Administrative Region, the instruments of international law and the legislation in force.” The primary safeguards for data subjects refer to their right to information, right to access and right to object (see Articles 10 to 12 of the PDPA).



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Regarding the current application, the MP's processing of ID card information is based on the suspicions of unlawful activities and investigations of criminal acts. In addition, access records of the said Database will be annexed to investigation file(s), and wherein the MP is the data controller as regarded by Article 8(3) of the PDPA.

The MP accessing the ID Card Information Database of DSI, through data combination, is aimed at the prevention and investigation of crime, thereby the rights of the data subjects are legally restricted by the exemption of the obligation to provide information (Article 10(5)(2) of the PDPA), the right of access as exercised by the MP (Article 11(2) idem), as well as data subjects cannot object to the processing of his/her personal data by any judicial authorities for the prevention and investigation of crime. Such rights restrictions are legally stipulated; they do not discriminate or prejudice the rights, freedom and safeguards of the data subjects.

4. Safety measures of data combination

According to Article 15 idem, it provides that “the controller must implement appropriate technical and organizational measures to protect personal data against accidental or unlawful destruction or accidental loss, alternation, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing. Having regard to the state of the art and the cost of their implementation, such measures shall ensure a level of security appropriate to the risks represented by the processing and the nature of the data to be protected.”

According to the data furnished by the DSI, it provided access to the MP for the ID Card Information Database, through data combination with password authentication. Also under Article 13 of Decree Law 31/94/M, “the information contained in DSI's databases is confidential, to which any persons who gained such information during their duties are bound by professional secrecy.” In addition, according to Article 335 of the Penal Code, MP's personnel are bound by judicial confidentiality.

The GPDP takes the views that data combination through leased line with combination and access with password control, basically and technically, rooted out system hacking. In addition to the professional secrecy the personnel handling ID card information are bound to, the measures as mentioned ensured the confidentiality, integrity and safety of data. All these are in line with Article 15 of the PDPA.

5. Conclusion

Based on the above, under Article 4(1)(10) of the PDPA, the GPDP is of the views that the foregoing data combination between the DSI and MP, through leased line with encryption, is considered as personal data combination. Subject to the same legislation, its Articles 9 and 22, after reviewing the types of data and purposes for combination, the



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legitimate interests of data controllers, the safeguards to the data subjects and the security measures introduced for the data combination, the GPDP hereby authorized the aforesaid data combination applied by DSI for its provision of ID Card information to the MP.

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Coordinator
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