



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. 04/A/2008/GPDP

Subject: Identification Services Bureau providing ID card data to the Public Security Police by data combination

The Identification Services Bureau (DSI) has filed a personal data combination application with the Office for Personal Data Protection (GPDP) for providing the ID Card data to the Public Security Police (PSP), by means of leased line with encryption.

Under Article 4(1)(10) of the Law 8/2005 (also known as the Personal Data Protection Act or the 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 DSI provided the PSP the data of the “ID Card Information Database”, through the combination aforesaid, is actually completed by the database combination between them; 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 processing legitimacy of the concerned data, both 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 PSP include the Macao ID card numbers;



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each card holder's name, age, date of birth, gender and photos; and the image, date of issue and expiry date of each ID.

According to Article 4(1)(1) of the PDPA, the aforesaid 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 by DSI, the combination is to exercise its statutory competence, i.e., for assisting investigation(s) of illegal activities or when it is requested by the law enforcement authorities, ID data is then provided to the PSP.

According to Articles 1 to 3 of Administrative Regulation 22/2001 (Organization and Functions of the Public Security Police), the PSP is a criminal police authority with the statutory duties to protect the security of persons and property, in particular in the prevention, investigation and combating of crime. In addition, when informed of crime preparation or any crime is actually committed and before any criminal police authority intervenes, the PSP shall undertake urgent measures necessary to prevent the practice or to investigate the crime or to arrest anyone who committed the crime. On the other hand, the PSP shall undertake measures and inquiries for investigation or pretrial hearing (instrução), but only when the competent judicial authority has delegated. Moreover, under Article 13 of the Law 8/2002 (Regime of Resident Identity Cards of the Macao 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 PSP exercises its statutory competence according to laws, in particular upon 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 PSP's processing of ID card information is based on the suspicions of unlawful activities and investigations of criminal acts. For this reason, access records of the said Database will be annexed to investigation file(s), and wherein the PSP is the data controller as regarded by Article 8(3) of the PDPA.

The PSP 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 PSP (Article 11(2) idem), as well as data subjects cannot object to the processing of his/her personal data by any criminal police authority(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 the PSP the access to the ID Card Information Database, wherein password authentication is needed, through data combination. 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 Articles 348 and 335 and of the Penal Code, PSP's personnel are bound by judicial confidentiality and the professional secrecy civil servants are restricted to.

The GPDP takes the views that data combination through leased line with combination and access with password control has, 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 compliance 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



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the foregoing data combination between the DSI and PSP, through leased line with encryption, is considered as personal data combination. Subject to Articles 9 and 22 of the PDPA and after reviewing the types of data and purposes for combination, the 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 PSP.

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Coordinator

17April 2008