

CNS 55/2019

**Opinion on the consultation of an association of professional colleges regarding the criteria in relation to the e-mail of members**

**A letter from an association of professional associations is presented to the Catalan Data Protection Authority in which two inquiries are formulated by a professional corporation that is a member of the Association.**

**This report analyzes the first of the consultations carried out in which it is proposed that professional associations usually make available to their members a corporate email address, and asks "when a corporate email provided to a person collegiate becomes data of a personal nature?" and asks for "criteria for including the email of a natural person in the scope of the Data Protection Law".**

**Having analyzed the consultation, in accordance with the report of the Legal Counsel I issue the following opinion:**

**Legal Foundations**

**I**

**(...)**

**II**

**In order to answer the query about "when does the corporate email provided to a colleague become personal data?" and the "criteria for including the e-mail of a natural person in the scope of the Data Protection Law", it is necessary to attend, first of all, to the definition of personal data contained in Regulation (EU) 2016/679, of the Parliament and of the European Council, of April 27, 2016, General Data Protection Regulation (hereinafter, RGPD), which defines "personal data" as "all information about an identified or identifiable natural person (the interested party)" ; an identifiable natural person shall be considered any person whose identity can be determined, directly or indirectly, in particular by means of an identifier, such as a name, an identification number, location data, an online identifier or one or more elements of the physical, physiological, genetic, psychological, economic, cultural or social identity of this person" (article 4.1 RGPD).**

**According to this definition, personal data is information related not only to an identified natural person but also to a natural person who can be identified directly or indirectly from certain information. In this sense recital 26 of the RGPD specifies that: "The principles of data protection apply to all information relating to an identified or identifiable natural person. Pseudonymized personal data, which could be attributed to a natural person using additional information, should be considered**

information about an identifiable natural person. In determining whether a natural person is identifiable, account must be taken of all means that the controller or any other person can reasonably use to directly or indirectly identify the natural person, such as singulation. In determining whether there is a reasonable likelihood that means will be used to identify a natural person, all objective factors, such as the costs and time required for identification, must be considered, taking into account both the technology available at the time of the treatment as technological advances.”

To determine whether an email address is personal data, we must start from the definition of email address. As recommended by Recommendation 1/2013 of the Catalan Data Protection Authority, on the use of e-mail in the workplace, an e-mail address can be defined as "the set of words or signs that identify the sender or recipient of an email message. It is made from a set of words or signs freely chosen, usually by its holder or by the organization to which it belongs, with the only limit that this address does not coincide with that of another person. It consists of a user identification, followed by the @ sign, and then the domain (identification provided by the mail service provider, with a period, and some abbreviations that can identify the organization's activity (p .eg ".org") or the country's initials (eg ".es" or ".cat").

According to this definition, there are different criteria that can be adopted for the creation of an email address.

One criterion could be to create the email address by incorporating certain information about the owner, such as the name and surname, initials, position, identification number, etc. It would be what we could call “personalized addresses”, which would be made incorporating, for example, the following information:

- The name and surname of the person: `Nom_cognoms@nom_del_domini`
- The initials of the person: `Initials_@nom_del_domini`
- The position of the person to whom it is assigned: `Càrrec@nom_del_domini`
- An identification number specific to the person: `Numero identificatiu@nom_del_domini`

In these cases the email address directly identifies the person holding the account. In other words, it is information "of an identified natural person". If this criterion is used, the email address provided to the member is personal data under the terms of the GDPR.

The attribution of an email address that uses data such as the name and surname or the initials of the person holding it, can generate both in this person and in the people with whom it is related an expectation of privacy, that is to say of their possibility of use for personal purposes. The recommendation that this Authority has been making and that is contained in the aforementioned instruction 1/2013, is that in those cases where you want to completely prohibit the use of this email for personal purposes, it may be convenient not to assign an address personalized mail

### III

Another criterion that can be adopted when creating e-mail addresses is to use "non-personalized addresses", that is to say, those that, even though they are addresses linked to an e-mail account of a specific natural person, the email address does not seem to contain information about its owner to use, for example, an abstract or meaningless alphanumeric combination (xyz46@domini.cat).

In these cases, the address alone does not identify the person who owns it, but it can be easily identified, without a disproportionate effort, either because the address can appear together with other data that allows identification, either because content of the message, either through the data available to the mail server. This type of address must also be considered personal data under the terms of the RGPD, as they allow the person holding the data to be indirectly identified.

Finally, you can also choose to adopt "generic addresses", that is to say, those addresses that correspond to a generic, shared account or an area of the organization (for example: consultes@domini.cat). In these cases the email address cannot be linked to an identified or identifiable natural person, but can be addressed by different users and, in principle, cannot be considered personal data.

However, it cannot be ruled out in these cases either, depending on the structure of the organization (for example in one-person units, or cases in which access to mail is limited to a single responsible person) that they are uploaded give cases of linking a generic address with an identified or identifiable person, in which case the electronic address could also be personal data.

In short, we can conclude that, whatever the criteria used by the professional association for the creation of the corporate email addresses of its members, it must take into account that the email address, with the mentioned exception relating to generic addresses, is personal data in accordance with data protection regulations and, consequently, its treatment is subject to the rules and principles of the RGPD.

In accordance with the considerations made so far in relation to the query raised, the following are made,

#### Conclusions

Professional associations can adopt different criteria when creating the corporate email addresses that they provide to their members. Regardless of the criterion followed, the email address, whenever it can be associated directly or indirectly with a natural person, is personal data whose treatment must be adapted to the principles and guarantees of the protection regulations of data

Barcelona, December 11, 2019