

CNS 6/2021

**Opinion in relation to the query made by a town council on the creation of a third-party database from the entry register of the instances presented by residents to the Town Hall**

A letter from the Mayor of a town hall is presented to the Catalan Data Protection Authority in which it is requested that the Authority issue an opinion on the possibility of creating a third-party database based on the registration of entry of the instances presented by the residents to the City Council.

In particular, the query asks whether the creation of a third-party database would comply with the data protection regulations and raises the doubts that arise regarding the purpose of the treatment, the retention periods, as well as the right to the information, which must be included in the application forms.

Having analyzed the consultation, which is not accompanied by any other documentation, in accordance with the report of the Legal Counsel I issue the following opinion:

I

(...)

II

The query sent by the mayor states that they are studying the possibility of creating a third-party database based on the data obtained from the town hall's entry register. That this database would be integrated with the population register and that it would not incorporate any special category data.

According to him, this database would be beneficial for *"the third party since every time he went to the town hall he would save himself from filling in his personal data"* (it seems that he refers to the self-filling of the electronic forms that the 'city council makes available to citizens at its electronic headquarters for electronic or face-to-face processing) and also by the city council since *"it would mean a single database, which would be easier to update"*.

In this context, it is asked whether the creation of this third-party database would comply with data protection regulations.

From the information provided, it seems that the database that the council intends to create would have the general purpose of allowing the council to contact third parties (understood as

the persons, natural or legal, with whom it is related), that is to say that it would be a contact database.

In order to focus the answer to the question posed, it is necessary, first of all, to mention the legal bases that underpin the treatment of the data of the general register of the town hall and the Municipal Register of inhabitants by the town halls and analyze whether the processing of the data contained therein is compatible for the ulterior purpose pursued with the creation of this database.

The Regulation (EU) 2016/679, of the Parliament and of the European Council, of April 27, 2016, General Data Protection (hereinafter, RGPD), establishes that all processing of personal data must be lawful, loyal and transparent (article 5.1.a)). In order for a treatment to be lawful, it is necessary to have, at least, a legal basis of those provided for in article 6.1 of the RGPD that legitimizes this treatment, either the consent of the person affected, or any of the other circumstances which provides for the same precept.

In the field of public administrations, the legal bases provided for in letters c) and e) of article 6.1 of the RGPD are of particular interest, according to which the treatment will be lawful when it is necessary for the fulfillment of 'a legal obligation applicable to the controller (letter c), or when the treatment is necessary for the fulfillment of a public interest or in the exercise of public powers conferred on the controller (letter e).

As can be seen from Article 6.3 of the RGPD, the legal basis of the treatment indicated in both cases must be established by European Union Law or by the law of the Member States that applies to the person responsible for the treatment, which in the case of the Spanish State, it must be a norm with the rank of law as follows from Article 53 CE and Article 8 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (hereafter LOPDGDD).

Therefore, to consider the data treatments covered by the legal bases of article 6.1.c) i) of the RGPD there must be a regulatory provision with the rank of law.

The processing of registration data by the city council to record the entry and exit of documents can have as a legitimate basis both article 6.1.c) and article 6.1.e) of the RGPD in the terms established in the LPAC.

With regard to the General Register of the town hall, article 16 of Law 39/2015 of October 1, of Common Administrative Procedure of Public Administrations (LPAC), establishes:

***"1. Each Administration will have a General Electronic Register, in which the corresponding entry will be made of all documents that are presented or received in any administrative body, public body or entity linked or dependent on these. The release of official documents addressed to other bodies or individuals may also be noted in it.***

*The public bodies linked or dependent on each Administration may have their own electronic register fully interoperable and interconnected with the General Electronic Register of the Administration on which it depends.*

*The General Electronic Register of each Administration will function as a portal that will facilitate access to the electronic records of each Organism. Both the General Electronic Register of each Administration and the electronic records of each Organization will comply with the guarantees and security measures provided for in the legislation on the protection of personal data.*

*The provisions for the creation of electronic records will be published in the corresponding official journal and their full text must be available for consultation in the electronic register access site. In any case, the provisions for the creation of electronic records will specify the body or unit responsible for its management, as well as the official date and time and the days declared as closed.*

*In the electronic headquarters for access to each register, the updated list of procedures that can be initiated in the same will appear.*

*2. The entries will be recorded respecting the temporal order of receipt or departure of the documents, and will indicate the date of the day they are produced. Once the registration process has been completed, the documents will be sent without delay to their recipients and the corresponding administrative units from the registry where they were received.*

*3. The electronic register of each Administration or Organization will guarantee the constancy, in each session that is practised, **of a number, descriptive heading of its nature, date and time of its presentation, identification of the interested party, sending administrative body, if applicable, and person or administrative body to which it is sent, and, where applicable, reference to the content of the document being registered.** For this, a receipt consisting of a certified copy of the document in question will be automatically issued, including the date and time of presentation and the registration entry number, as well as a receipt confirming other documents that, where appropriate, accompany, which guarantees the integrity and non-repudiation of them.*

*(...)"*

*In the General Municipal Register, a record is therefore made of all the requests, writings or communications that are presented to the City Council. The settlements must include, "a number, heading expressive of its nature, date and time of its presentation, identification of the interested party, sending administrative body, if applicable, and person or administrative body to which it is sent, and, in its case, reference to the content of the document that is registered."*

*In accordance with the provisions of article 66.1 of the LPAC, applications submitted by interested parties must contain, at least, the following data:*

- "a) Name and surname of the interested party and, where appropriate, of the person who represents him.*
- b) Identification of the electronic medium, or failing that, the physical place where you want the notification to be made. Additionally, those interested may provide their email address and/or electronic device so that the Public Administrations will notify them of the notification being sent or made available.*
- c) Facts, reasons and request in which the request is specified, with all clarity.*

d) Place and date.

e) Signature of the applicant or accreditation of the authenticity of his will expressed by any means.

f) Organ, center or administrative unit to which it is directed and its corresponding identification code. Registration assistance offices will be obliged to provide the interested parties with the identification code if the interested party does not know it. Likewise, the Public Administrations must maintain and update in the corresponding electronic headquarters a list with the valid identification codes."

Therefore this information is part of the information collected by the city hall's entry and exit register.

With regard to the Municipal Register of Inhabitants, the treatment of the data it contains by the city council for the purposes mentioned, can also have as a legitimate basis both article 6.1.c) and article 6.1. e) of the RGPD in the terms established in local legislation.

In the case of the municipal register of inhabitants, Law 7/1985, of April 2, regulating the bases of the local regime (hereafter, LRBRL) is the norm with the rank of law that regulates the definition, content and the obligations in relation to this administrative record.

Thus, article 16.1 of this law defines the Municipal Register in the following terms:

*"1. The municipal register is the administrative register containing the residents of a municipality. Your data constitutes proof of residence in the municipality and of habitual residence in the same. The certifications that are issued of said data will have the character of a public and binding document for all administrative purposes. (...)"*

The LRBRL (and, in the same sense, the revised Text of the Municipal and Local Regime Law of Catalonia, approved by Legislative Decree 2/2003, of April 28, hereinafter TRLMRLC) establishes the obligation of all residents to be registered in the Register of the municipality where he has established his residence with a triple purpose: to determine the population of a municipality, to be required to acquire the status of resident and to serve to accredit residence and habitual residence (articles 15 and 16 LRBRL ).

These purposes are clearly stated in Judgment 17/2013 of the Court Constitutional, where it is defined as:

*"the administrative register where the residents of a municipality are recorded, a register managed by the local councils by computerized means (art. 17.1 LRBRL) in which the persons residing in a municipality must be registered with a triple purpose, according to the arts. 15 and 16 LRBRL, determine the population of the municipality, acquire the status of neighbor and accredit residence and usual address. In addition to these functions, the electoral regime legislation provides for the preparation of the electoral census based on the data contained in the Register, which also serves to prepare official statistics subject to statistical secrecy. So, from the regulation of the LRBRL itself we can conclude that the register contains an organized set of personal data referring to identified physical persons, the residents of a municipality, being therefore a personal data file to which the regulations provided for in the LOPD."*

Article 16.2 of the LRBRL establishes that the registration in the Register will contain the following data as mandatory: apart from the status of resident, first and last name, sex, usual address, nationality, date and place of birth, number of the identity document (or for foreigners, the residence card or number of the document certifying their identity), certificate or school or academic degree, and finally any data that may be necessary for the preparation of the electoral census, always that fundamental rights are respected.

With regard to the data that can be contained in the register, article 57.2 of the *Reglamento de Población y Demarcación Territorial de las Entidades Locales* establishes the data that can be collected voluntarily, and specifically in section b) of this article it is possible to collect the telephone number. On the other hand, and for the purposes of articles 14.1 and 41 (sections 1 and 6) of Law 39/2015, of October 1, on the Common Administrative Procedure of Public Administrations, for the communications and notices of electronic notifications, e-mail can also be requested, when the citizen has chosen to communicate with the City Council by electronic means.

The LRBRL attributes to the city council the powers to manage the municipal register, in this sense article 17.1 establishes that *"the formation, maintenance, review and custody of the municipal register corresponds to the City Council, in accordance with what the State legislation. (...)"*

### III

In the case we are concerned with the data of the Entry and Exit Register and the municipal register of inhabitants they want to be used for a different ulterior purpose than the one that justified their collection, the creation of a third-party database. It must be borne in mind that this data processing must also comply with the rest of the principles established in the RGPD, especially, for the purposes of interest in the present case, the principle of minimization (art. 5.1.c) and to the principle of purpose limitation contained in the data protection regulations.

Regarding the minimization principle, Article 5.1.c) RGPD establishes the following:

*"1. The personal data will be:*

*(...)*

*c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are treated ("data minimization");"*

In accordance with this principle, only those data from the Entry and Exit Register or the Municipal Register of Inhabitants that are necessary and appropriate depending on the purpose of the database must be incorporated into the third-party database data

Although the consultation does not clearly explain what the purpose of this third-party database would be - and knowing the purpose is an essential element to be able to pronounce on the adequacy of the principle of minimization -, it seems which would be to have a database of contacts of the people affected and to be able to offer pre-filled electronic forms.

That being the case, the secondary use of the information should be limited to identifying and contact data. In another case, a detailed analysis of which data would be necessary intend to incorporate into this database to see if it fits the minimization principle.

Regarding the purpose principle, article 5.1.b) of the RGPD establishes the following:

*"1. The personal data will be: (...)*

*b) collected for specific, explicit and legitimate purposes, and will not be subsequently treated in a manner incompatible with said purposes; in accordance with article 89, section 1, the further processing of personal data for archival purposes in the public interest, scientific and historical research purposes or statistical purposes will not be considered incompatible with the initial purposes ("limitation of the purpose") ;*

*(...)"*

In accordance with article 6.4 of the RGPD:

*"4. When the treatment for a purpose other than that for which the personal data was collected is not based on the consent of the interested party or on the Law of the Union or of the Member States that constitutes a necessary and proportionate measure in a democratic society to safeguard the objectives indicated in article 23, paragraph 1, the person responsible for the treatment, in order to determine whether the treatment with another purpose is compatible with the purpose for which the personal data were initially collected, will take into account, among other things:*

*a) any relationship between the purposes for which the personal data have been collected and the purposes of the subsequent treatment provided;*

*b) the context in which the personal data have been collected, in particular with regard to the relationship between the interested parties and the controller;*

*c) the nature of personal data, in particular when special categories of personal data are treated, in accordance with article 9, or personal data relating to criminal convictions and infractions, in accordance with article 10;*

*d) the possible consequences for the interested parties of the planned subsequent treatment;*

*e) the existence of adequate guarantees, which may include encryption or pseudonymization."*

Regarding this, recital 50 of the RGPD provides that:

***"The processing of personal data with purposes different from those for which they were initially collected must only be allowed when it is compatible with the purposes of their initial collection. In such a case, a separate legal basis is not required, other than the one that allowed the personal data to be obtained. If the treatment is necessary for the fulfillment of a mission carried out in the public interest or in the exercise of public powers conferred on the person responsible for the treatment, the tasks and purposes***

*for which the subsequent treatment should be considered compatible and lawful can be determined and specified in accordance with the Law of the Union or of the Member States. Subsequent processing operations for archival purposes in the public interest, scientific and historical research purposes or statistical purposes must be considered compatible lawful processing operations. The legal basis established in the Law of the Union or of the Member States for the treatment of personal data can also serve as the legal basis for the subsequent treatment. In order to determine whether the purpose of the subsequent treatment is compatible with the purpose of the initial collection of personal data, the person responsible for the treatment, after having fulfilled all the requirements for the authorization of the original treatment, must take into account, among other things, any relationship between these purposes and the purposes of the intended subsequent treatment, the context in which the data were collected, in particular the reasonable expectations of the interested party based on their relationship with the person responsible for their subsequent use, the nature of the data personal, the consequences for the interested parties of the planned subsequent treatment and the existence of adequate guarantees both in the original treatment operation and in the planned subsequent treatment operation. (...)."*

For this reason, it is necessary to analyze the compatibility of the use of the data collected in the Register of entry and exit of documents and the data collected in the Municipal Register with a supervening or secondary purpose, such as its incorporation in the database of third parties referred to in the query.

#### IV

With regard to the compatibility of the incorporation into the third-party database of the contact data contained in the Register of entry and exit of documents, as we have seen, article 6.4 of the RGPD establishes that when the treatment for a purpose different from that for which the data were collected is not based on the consent of the interested party or on a rule for the safeguarding of the objectives indicated in article 23.1 of the RGPD, for determine the compatibility of the initial treatment with the subsequent treatment, the person responsible for the treatment will take into account, among other aspects: any relationship between the purposes for which the data have been collected and the purposes of the subsequent treatment, the context of the collection of the data, the nature of the data, the possible consequences for the interested parties and the existence of adequate guarantees.

In the case of having the consent of the interested parties who present requests, instances or other writings in the register, so that their data are incorporated into this database, in principle there would be no problem for compatibility for the use of your data for this treatment, as long as the consent is valid. It must be taken into consideration that in order for this consent to be considered valid it must meet the requirements established by the RGPD, "*manifestation of free, specific, informed and unequivocal will by which the interested party accepts, either through a statement or a clear affirmative action, the treatment of data that concerns you*" (article 4.11 RGPD).

In the specific case of public administrations, due to the situation of imbalance between the parties, so that consent can be considered as free consent, the affected person must have a real ability to choose. In other words, that they don't come off

negative consequences in their relationship with the administration for not having given their consent.

But in addition, the consent must be specific. that is to say, the citizen must know with a sufficient level of concreteness what he is consenting to, so that he can foresee the consequences of the consent.

However, if the consent of the affected persons is not counted, nor is there a law that provides for the use of data from the Entry and Exit Register or the Municipal Register of Inhabitants for this purpose, as appears to be the case in in the case at hand, it will be necessary to carry out the compatibility analysis provided for in article 6.4 and to derive a favorable result.

The first criterion referred to in article 6.4 of the RGPD is the relationship between the purposes for which the personal data have been collected and the purposes of the subsequent treatment envisaged and the context in which the data are processed.

Although the context may be similar, use of the data by the city council to contact the affected people, or to facilitate administrative procedures, the specific purposes may be clearly different.

The purpose of processing the data of the city council's document entry and exit register (as published by the town hall in its Processing Activity Register) is the *"Management of the document entry and exit register" of the City Council, in the terms provided for in article 16 of Law 39/2015, of October 1, on the common administrative procedure of public administrations*". It can be understood that this includes the following purposes: registering the entry and exit of the requests and documents submitted by citizens addressed to the different municipal areas and making the corresponding entries, the digitization of the associated documentation, the derivation of the annotations and documentation associated with the recipient management departments and the registration and sending of notifications and communications to the natural or legal recipients.

The purpose of the third-party database, as can be deduced from the request for an opinion, would be, on the one hand, to have an updated source of information for communication with the residents of the municipality by the several management areas of the municipality; and for another to serve as a repository to facilitate the self-completion of the application forms that the interested parties present to the town hall, a possibility expressly provided for in article 66.5 LPAC.

Thus, if the citizen submitted an application, for example, to access a call for aid for the rehabilitation of homes and entered in the application an address for the purposes of notifications, the citizen cannot anticipate that data will also be used in other different procedures. Even if you are informed about this possibility, it does not seem that this treatment can be considered lawful, if you are not offered the possibility to grant or not an explicit consent to the effect. The use of this address to inform you of the opening of a new call for those same subsidies can be considered compatible, as well as to offer you previously filled in certain data, but in this case, it should be the affected person himself who indicates whether the data (for example address for the purposes of notifications, telephone, e-mail etc.) are suitable for the new request.



The expectations that citizens may have would include, for example, that the data entered in their request, instance or communication be used by the municipal administration to communicate information related to the procedure carried out, or at most of procedures that keep a relationship with that procedure, but not related to others procedures or procedure of municipal competence.

With regard to the possible consequences of the subsequent treatment provided for the interested parties, the use of the contact information provided by the citizen for a specific procedure in a request submitted to the registry for the notifications that must be carried out in any other procedure of municipal competence, it may come into conflict with the right that natural persons have to choose the communication channel they want to use to relate to the City Council (art. 14.1 and 41.3 LPAC), the right to designate a specific address for the purposes of notifications that is different for each procedure (art. 66.1.b) LPAC), the right of the citizen to indicate an electronic device or an email address for sending notification notices (art. 41.1 LPAC ) or with the provisions that the administrative procedure regulations (arts. 41.4 or 44 LPAC) or certain sectoral regulations (e.g. in tax matters or in traffic matters) may provide regarding the medium or the place where certain notifications are to be made.

In addition, article 41.1 LPAC recognizes the interested parties who are not obliged to receive electronic notifications the possibility of *"deciding and communicating at any time to the Public Administration, by means of the standardized models established for the purpose, that successive notifications are made or cease to be practiced by electronic means"*.

Therefore, in the event that it is desired to incorporate the contact data of the Register of entry and exit of documents in the database of third parties, a single data system could not be implemented but by virtue of the principle of accuracy of the data (Article 5.1.d) RGPD) should collect the different addresses or electronic means that the citizen has chosen for each procedure or those imposed by the applicable regulations.

In its consultation, the city council states that it would bring advantages for the City Council because *"it would mean a single database, which would be easier to update"*. It should be borne in mind, however, that although the identifying data may be unique, the contact data may not be, in which case the update may be much more complex, given that an address may remain valid in effects of carrying out certain notifications, but not others.

On the other hand, in the event that the information in the third-party database is to be used exclusively to provide the previously filled data. In the case of identifying data, it does not seem that negative consequences can be derived for the people affected (on the contrary, this mechanism can prevent the introduction of new data that is erroneous), and for contact data, if it is about similar procedures (such as the example already given above of similar requests that are repeated over time), given that the citizen should only check the data and, where appropriate, introduce some variation or confirm them

In the case of procedures of a different nature, the probability that the data may be different increases, with which a priori the negative consequences for the citizen may be greater.

In short, the purpose of processing the data from the Register of entry and exit of documents would not be compatible with the purposes of using the data contained therein for subsequent notifications, but on the other hand, it could be to use the identification and contact data in other procedures of a similar nature.

v

With regard to the Municipal Register of Inhabitants (hereafter, the Register), as this Authority has argued on other occasions, councils may use the data contained therein to exercise their skills when they have to get in touch with the people who live in the municipality. This provided, of course, that the applicable regulations do not impose another place for the practice of communications and notifications.

As we have seen, the Padró is a type of file with a very specific purpose: to determine the population of the municipality, to be required to acquire the status of resident and serve to certify residence and habitual address (article 15 LRBRL).

In accordance with the aforementioned principle of purpose limitation (Article 5.1.b) RGPD), the data of the Register may only be used for other purposes to the extent that they are not incompatible with this triple purpose that justifies the initial collection

On this issue, this Authority has considered, in different opinions (among others, CNS 9/2013, CNS 67/2015, CNS 46/2016, CNS 12/2017, CNS 47/2017, CNS 39/2018, CNS 19 /2019 CNS 32/2020, available on the website [www.apdcat.cat](http://www.apdcat.cat) ) that, in view of the type of personal data that must be included in the Register (article 16.2 LRBRL), it is understood that there may be municipal purposes that could enable the processing of these data to the extent that they are not incompatible with the purpose of the Register, described above. Specifically, compatibility has been determined for the exercise of the powers that the local regime legislation attributes to the town councils, mainly following the provisions of articles 25 and 26 of the LRBRL (and, in similar terms, the articles 66 and 67 of the TRLMRLC), which require being able to identify the people resident in the municipality.

It has also been noted in the aforementioned opinions that, given that the LRBRL itself (article 16.3) admits the communication of data from the Register to other public administrations that request them when they are necessary for the exercise of their powers and exclusively for matters in which residence or domicile are relevant data - a possibility also endorsed by the Constitutional Court (STC 17/2013, of January 31, cited) -, with greater reason it can be admitted that the different units or administrative bodies of 'the same municipality can access this data when it is necessary for the exercise of its functions and when the given residence or address is relevant.

In fact, without the need for a specific database, article 41.4 of the LPAC enables public administrations to use data from the register in the procedures initiated ex officio, and solely for the purposes of their initiation, based on the query in the INE database of the data on the address of the interested parties collected in the Register.

Therefore, the city council could use the data from the Register for the exercise of its powers that require identifying its neighbors, in those cases in which the address or residence data is a necessary data, and also the data relative to the address for notifications unless, as explained in the previous legal basis, the applicable regulations establish that communications and notifications must be made at another specific address.

This compatibility could also be extended to the use of the identifying and contact data contained in the Register to offer the self-completion of the application forms that the interested parties present to the town hall, given that the general purpose with which collect data from the Register may be compatible with its use to offer self-completion in procedures of various natures, as long as the right of the affected person to modify the data offered by default by the application or the form is guaranteed it is treated

## VI

The consultation also raises doubts about the retention period.

In accordance with the principle of limiting the retention period, the data must be kept in such a way as to allow the identification of the interested parties for no longer than is necessary for the purpose of the treatment (Article 5.1.e) RGPD.

Regarding this, recital 39 of the RGPD provides that:

*"(...) Personal data must be adequate, relevant and limited to what is necessary for the purposes for which they are processed. This requires, in particular, to guarantee that its retention period is limited to a strict minimum. Personal data should only be processed if the purpose of the treatment could not reasonably be achieved by other means. To ensure that personal data is not kept longer than necessary, the data controller must establish periods for its deletion or periodic review. (...)."*

It follows from these forecasts, for the purposes that concern them, that the person in charge must keep the personal data for the shortest possible time and that, in determining this retention period, the purpose for which requires the processing of the data, in such a way that, once the purpose is achieved, the personal data must be deleted.

For this purpose, it is necessary to bear in mind what is established in the corresponding documentary evaluation tables in the terms of Law 10/2001, of July 13, on archives and documents.

Thus, the data contained in the Register may have a permanent conservation period, as a historical record of the municipality's population, but the validity of the information contained therein is subject to movements as a result of additions and deletions that occur . It is clear that the information that can be used for the purposes of making administrative communications or pre-filling forms will only be that of the registrations that remain valid. The information must be updated (art. 5.1.d) RGPD.

With regard to the information coming from the Register of entry and exit of documents, its retention period can be very different depending on the type of procedure involved. The fact that it is obtained

of the Entry and Exit Register does not mean that the City Council disposes of it for the sole purpose of its registration in the register, that is to say, the register does not constitute a purpose in itself, but rather serves different purposes depending on whatever the content and purpose of the documents. It will be necessary to keep this in mind for the purposes of determining the validity of the data that can be incorporated into the third-party database, given that the City Council cannot use for the aforementioned purposes data that must have already been deleted.

Therefore, the determination of the retention period of the information will be a complex operation that will need to be carried out depending on the information that is incorporated into the database and its origin.

## VII

Finally, the consultation also refers to the existence of doubts regarding the right to information. It is understood that it is referring to the right of information of the affected persons regarding the processing of their data.

In accordance with article 12 of the RGPD, it is up to the data controller to take the appropriate measures to provide the interested party with the information indicated in articles 13 and 14 of the RGPD in a concise, transparent, intelligible and easy access

In the case at hand, it will be necessary to guarantee that they are offered the necessary information. In this sense, article 13.3 RGPD establishes *"When the person responsible for the treatment plans the further treatment of personal data for a purpose other than that for which they were collected, he will provide the interested party, prior to said further treatment, information on that other purpose and any additional relevant information pursuant to section 2."*

And, given that the information that is intended to be used in the database has not been obtained from the interested parties for this purpose, article 14 RGPD will require that, in addition to the information provided for in article 13 RGPD, the affected persons are also informed about the categories of data that will be used in the database and about their origin.

Regarding this, article 11 of the LOPDGDD has provided for the possibility of giving the interested party the information required by layers or levels.

This method consists in presenting "basic" information (summary information) at a first level, so that you can have a general knowledge of the treatment, indicating an electronic address or other means where it can be accessed easily and immediately to the rest of the information, and, at a second level, offer the rest of the additional information (detailed information).

If you opt for this route, you must take into account that said "basic" information must include the identity of the person responsible for the treatment, the purpose of the treatment and the possibility of exercising the habeas data rights established in articles 15 to 22 of the 'RGPD in addition to the categories of data subject to treatment and the source from which these personal data come (article 11.3 LOPDGDD).

On these issues, it is recommended to consult the Guide for compliance with the duty to inform the RGPD available on the Authority's website.

## VIII

Beyond the possibility of creating a database of its own, the city council must take into account the provision of the database of citizens and companies referred to in article 13.3 of Law 29/2010, of August 3, of the use of electronic media in the public sector of Catalonia (LUMESPC) In accordance with this article, the Generalitat can create a database of the citizens and companies of Catalonia in order to allow the communication of the various organs of the Administration of the Generalitat with the interested persons, which, as foreseen *"may be subject to of assignment to other administrations, to fulfill the same purpose, without the consent of the persons concerned"*.

In this sense, the recent Decree 76/2020, of August 4, of the Digital Administration of the Generalitat of Catalonia has regulated the purposes and minimum content of the contact database. Thus article 76 of this decree establishes:

*"1. The Administration of the Generalitat carries out a corporate data processing which contains the contact details of the persons interested in order to send them notices of making the notifications available, so that they can be identified by means of the shared key system, to send them other communications in the administrative procedure and to manage other notices from the subjects provided for in paragraph 1 of article 2 of this Decree.*

*2. The database contains, at least, the following data:*

- a) Name and surname, or corporate name.*
- b) Postal address.*
- c) National identity document or equivalent document, or tax identification number.*
- d) Mobile phone number.*
- e) Email.*

*3. The subjects of paragraph 1 of article 2 of this Decree may create contact databases for the purposes established in paragraph 1 of this article, taking into account the particularities of their services. These databases must guarantee their interconnection and interoperability with the corporate data processing provided for in section 1 of this article"*.

In order to collect the data necessary for electronic communication with citizens, the twelfth additional provision of this Decree has provided for:

*"1. Within the maximum period of one year from the entry into force of this Decree, the subjects obliged to relate electronically with the public administrations must communicate, through the forms enabled for the purpose, the contact details so that they are incorporated into the database established in article 76 of this Decree.*

*2. The interested persons who choose to relate electronically with the subjects of paragraph 1 of article 2 of this Decree must state the contact details in the*

*forms established for this purpose or in the database of the Registry of the electronic Headquarters of the Administration of the Generalitat.”*

In this case it would be a database that would allow access not only to the data of residents in the municipality itself but also to the data of other people who, despite not being neighbors of the municipality, they can relate to the town hall.

In any case, the use of the data contained in this database would also be subject to compliance with the already mentioned principles of purpose and accuracy of the data in the sense that when the applicable regulations provide that the notifications must be done by a means or in a certain place, these provisions will have to be respected.

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

## **Conclusions**

The council could create the contact database or third-party database to collect the identification and contact data of the natural persons with whom it relates.

The incorporation in this third-party database of the data from the Register of entry and exit of documents would not be compatible for the purposes of using the data contained therein for subsequent notifications, but on the other hand it could be compatible for using the identification and contact data in other procedures of a similar nature.

It is compatible with the incorporation of identifying data contained in the Municipal Register of Inhabitants in those cases in which the address or residence data is a necessary data, and also the data relating to the address for notifications unless in accordance with the applicable regulations communications and notifications must be made to another specific address. This compatibility could also be extended to the use of the identifying and contact data contained in the Register to offer the self-completion of the application forms that the interested parties present to the town hall, in procedures of various nature, provided that the right of the affected person to modify the data offered by default by the application or form in question is guaranteed.

In application of the principle of accuracy, the city council must take the appropriate measures to collect the different addresses or electronic means that the citizen has chosen for each procedure to receive administrative notifications or whatever is relevant in accordance with the applicable regulations.

The data that make up the third party database cannot be kept beyond the retention period applicable to the purpose for which it was collected, it must be kept up to date and the affected persons must be informed.

Barcelona, March 12, 2021