CNS 56/2021

Opinion in relation to the consultation formulated on the proposed Protocol of collaboration between the Superior Court of Justice of Catalonia, the Generalitat of Catalonia and the Local Government of Catalonia to minimize the negative impact of the launches on people and groups at risk of social vulnerability and the absence of alternative housing

A letter is submitted to the Catalan Data Protection Authority in which it is requested that the Authority issue an opinion on the provenance of the collection and sharing of personal data in the terms established in the proposed Collaboration Protocol between the Superior Court of Justice of Catalonia, the Generalitat of Catalonia and the Local Administration of Catalonia for the minimization of the negative impact of the launches on people and groups at risk of social vulnerability and the absence of alternative housing.

Having analyzed the request and given the current applicable regulations, and in accordance with the report of the Legal Counsel I issue the following opinion.

I

(...)

II

In the consultation it is stated that work is being done with the Superior Court of Justice of Catalonia (TSJC) in the preparation of a new collaboration protocol between the TSJC, the Generalitat of Catalonia and the Local Administration of Catalonia in order to minimize the negative impact of the launches on people and groups at risk of social vulnerability and the absence of alternative housing.

Point XI of the proposal mentions the need to update the existing protocols, in order to "coordinate mechanisms that allow information to be shared between judicial bodies of the different judicial parties in Catalonia and the competent administrations of social services and housing in the areas corresponding territories". It is indicated, in this regard, that "this information must contain the basic elements so that the respective actions of the social services (assessment of the risk of social vulnerability in which the occupants of a property on which it has been opened a judicial procedure that can result in a launch) and housing services (stimulation of mediation between owners and occupants that facilitates the extrajudicial resolution of the conflict) can be activated in a more systematic, automated and anticipated way as possible".

Thus, the proposal being examined aims to "establish a protocol of action in all those procedures that may conclude in a judicial resolution indicating the release of a home from those who occupy it, whatever the cause for the which they are in the aforementioned situation, when situations of particular vulnerability are detected. Without prejudice to the fact that it must also be used to coordinate preventive actions that may result in a judicial decision to launch" (clause one).

This action protocol, to be followed by the intervening public authorities with competences in the matter, is specified in the second clause of the proposal in three distinct sections: i) information; ii) digital platform; iii) launch execution.

Before examining the provisions, it is worth noting that the protocol covers the processing of personal data for which the jurisdictional bodies are responsible, this is information about the defendant and, where applicable, his family nucleus, incorporated in the judicial proceedings mentioned.

Organic Law 6/1985, of July 1, of the Judiciary (hereinafter, LOPJ) incorporates a specific regulation regarding the processing of personal data in the area of the Administration of Justice.

Thus, article 236 bis of the LOPJ provides the following:

> **"1. Personal data may be processed for jurisdictional or non-jurisdictional purposes. The processing of the data that is included in the processes that have the purpose of exercising the jurisdictional activity will have jurisdictional purposes.**
>
> **2. The processing of personal data in the Administration of Justice will be carried out by the competent body and, within it, by whoever has the competence attributed by the current regulations."**

In the present case, the aforementioned information about the affected people to find incorporated in a judicial procedure responds to the treatment for jurisdictional purposes.

In this regard, article 236 ter of the LOPJ provides the following:

> **"1. The treatment of personal data carried out on the occasion of the processing by the judicial and prosecutorial bodies of the processes for which they are competent, as well as that carried out within the management of the Judicial and Fiscal Office, will be governed by the provisions of Regulation (EU) 2016/679, Organic Law 3/2018 and its implementing regulations, without prejudice to the specialties established in this Chapter and the procedural laws.**
> **2. In the scope of the criminal jurisdiction, the treatment of personal data carried out on the occasion of the processing by the judicial and prosecutorial bodies of the processes, proceedings or files of those that are competent, as well as that carried out within the management of the Judicial and Fiscal Office, will be governed by the provisions of the Organic Law on the protection of personal data processed for the purposes of prevention, detection, investigation or prosecution of criminal offenses and the execution of criminal sanctions, without prejudice to the specialties established in the present Chapter and the procedural laws and, as the case may be, Law 50/1981, of December 30, which regulates the Organic Statute of the Prosecutor's Office.**
> **3. The consent of the interested party will not be necessary for the processing of personal data in the exercise of jurisdictional activity, whether these are provided by the parties or collected at the request of the competent bodies, without prejudice to the provisions of procedural rules for the validity of the test."**

In any case, it should be noted that one of the consequences of the fact that the processing of data by the courts has jurisdictional purposes or not also has to do with the control entity with powers in this regard.

In this regard, article 55.3 of Regulation (EU) 2016/679, of the Parliament and of the European Council, of April 27, 2016, General Data Protection (hereinafter, RGPD), establishes that the control authorities they are not competent to control the treatment operations

carried out by the courts in the exercise of the judicial function. Said competence corresponds to the General Council of the Judicial Power (article 236 Octies LOPJ).

However, bearing in mind that in the present case the purpose of data processing would be to facilitate the action of the competent bodies in matters of social rights (social and housing services) that are part of the scope of action of 'this Authority, as well as the entity formulating the query falls within the Authority's scope of action, it is considered appropriate to make some observations on the forecasts of the protocol proposal presented.

III

The second clause (section i) Information) of the proposal defines the action protocol to be followed in all those judicial proceedings that may conclude in a judicial resolution indicating the release of the housing of the people who occupy it.

It is noted, at the outset, that the judicial body that decrees the admission to processing of a claim that has as its object this type of judicial proceedings "must transfer the information contained in Annex 1" of the same protocol to the competent administrations of social services and housing in the territorial scope of the judicial party of reference.

This annex 1 contains a form through which the consent of the affected persons will be obtained to authorize the transfer of their personal data to these bodies.

The third paragraph of this section i) provides that when the judicial body that is aware of a matter that may involve the release of the affected persons from the housing they occupy appreciates during any moment of the processing of the procedure that these persons are may find themselves in a situation of special vulnerability must communicate this to the competent social services and housing bodies in the same form and content as "the provision in the previous section".

The correct reference seems to be to the "first paragraph of this section", so it would be necessary to modify it in this sense.

The purpose of the communication is that the aforementioned bodies can assess the situation of risk of social exclusion of the occupants and, if appropriate, issue the corresponding vulnerability report, as well as verify compliance with the necessary requirements to be able to obtain the favorable resolution of the emergency desk, for the purposes of rehousing.

Although the data subject to communication is the responsibility of the judicial bodies and its treatment originally responds to jurisdictional purposes, it must be borne in mind that its communication in this case would obey purposes not linked to the exercise of the jurisdictional function. Therefore, in relation to this treatment, it will be necessary to bear in mind what is established in the RGPD and the Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (LOPDGDD) (article 236 quater LOPJ).

The RGPD establishes that all processing of personal data must be lawful, fair and transparent (Article 5.1.a)).

In order for the treatment to be lawful, the data must be treated "with the consent of the interested party or on some other legitimate basis established in accordance with the Law, either in the present Regulation or in virtue of another Law of the Union or of the States members referred to in this Regulation, including the need to fulfill the legal obligation applicable to the controller or the need to execute a contract in which the

interested party or with the aim of taking measures at the request of the interested party prior to the conclusion of a contract" (consideration 40 RGPD).

Article 6.1 of the RGPD regulates the legal bases on which the processing of personal data can be based in the following terms:

> **"1. The treatment will only be lawful if at least one of the following conditions is met: a) the interested party gives his consent for the treatment of his personal data for one or several specific purposes; b) the treatment is necessary for the execution of a contract in which the interested party is a party or for the application at the request of this pre-contractual measures; c) the treatment is necessary for the fulfillment of a legal obligation applicable to the person responsible for the treatment; d) the treatment is necessary to protect the vital interests of the interested party or another natural person; e) 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; f) the treatment is necessary for the satisfaction of legitimate interests pursued by the person responsible for the treatment or by a third party, provided that these interests do not prevail over the interests or fundamental rights and freedoms of the interested party that require the protection of personal data, in particular when the interested party is a child."**

It must be taken into consideration that, as is apparent from article 6.3 of the RGPD and expressly included in article 8 of the LOPDGDD, data processing can only be considered based on the legal bases of article 6.1 .c) and e) of the RGPD when so established by a rule with the rank of law.

Points VIII, IX and X of the proposal include the regulatory framework on which the data treatments referred to in the action protocol are based.

For the purposes of interest in this point, it is appropriate to mention, among other regulations, Law 1/2000, of January 7, on civil proceedings (hereafter, LEC), especially its article 441 and the modifications introduced in this precept by Law 5/2018, of 11 June, amending the LEC, and Royal Decree Law 7/2019, of 1 March, on urgent measures in matters of housing and rent.

The aforementioned article 441 of the LEC on pre-hearing proceedings in special cases provides the following:

> **"1.**
> **(…) 1 bis. When it is a demand for recovery of possession of a house or part of it referred to in the second paragraph of number 4.º of section 1 of article 250, the notification will be made to whoever is found living there. It can also be done to the ignored occupants of the house. In order to proceed with the identification of the receiver and other occupants, whoever performs the act of communication may be accompanied by the agents of the authority. If it has been possible to identify the recipient or other occupants, it will be forwarded to the competent public services in the field of social policy if their action proceeds, provided that consent has been granted by the interested parties. (…)**
>
> **In any case, in the same resolution in which the delivery of possession of the house to the plaintiff and the eviction of the occupants is agreed, such circumstance will be communicated, provided that consent had been granted by the**

interested parties, to the competent public services in the field of social policy, so that, within seven days, they can adopt the appropriate protection measures. 2. (…) 3. (…) 4. (…)

5. In the cases of number 1 of article 250.1, the defendant will be informed of the possibility of going to the social services, and in his case, of the possibility of authorizing the transfer of his data to them, in order that they may appreciate the possible situation of vulnerability. To the same effects, the existence of the procedure will be communicated, ex officio by the Court, to the social services. If the social services confirm that the affected household is in a situation of social and/or economic vulnerability, the judicial body will be notified immediately. Having received said communication, the Attorney General of the Administration of Justice will suspend the process until the measures that the social services deem appropriate are adopted, for a maximum period of suspension of one month from the receipt of the communication from the social services to the body court, or three months if the plaintiff is a legal person. Once the measures have been adopted or the deadline has passed, the suspension will be lifted and the procedure will continue due to its formalities. In these cases, the defendant's location card must contain identification data of the social services to which the citizen can go."

It is also necessary to highlight the provisions of article 150.4 of the LEC which, in relation to the notification of resolutions and arrangements, provides the following:

"4. When the notification of the resolution contains the setting of a date for the release of those who occupy a house, it will be transferred to the competent public services in the matter of social policy if its action proceeds, provided that consent has been granted by the interested parties.

In turn, it is necessary to bear in mind, in the area of Catalonia, the provisions of Law 24/2015, of 29 July, on urgent measures to face the emergency in the field of housing and energy poverty, in specifically, article 5, according to which:

"(...)
5. Individuals and family units at risk of residential exclusion who cannot afford to pay rent for their usual home are entitled to benefits that prevent them from being evicted.
6. The public administrations must in any case guarantee the adequate rehousing of people and family units at risk of residential exclusion who are in the process of being evicted from their usual home, in order to make the eviction effective. The mechanism for guaranteeing rehousing must be agreed by the Generalitat with the local administration for cases where the assessment months regulated by section IV of Decree 75/2014, of May 27, of the Plan for the right to 'housing, processed as economic and social emergencies. (...).”

The aforementioned precepts provide for the possibility of communicating certain information about the defendant and his family unit and/or the occupants of the home subject to the judicial process to the competent administrations in matters of social policy (therefore, the social services and housing offices), for purposes that can assess the existence of a situation of special vulnerability in these people and, where appropriate, adopt the most appropriate social protection measures, with the prior consent of the people affected. The communication of this data, therefore, must be based on the legal basis of article 6.1.a) of t

The proposed protocol incorporates these provisions, therefore conforming in this sense to the applicable legislation.

Given this, it would be necessary to modify the wording of the first paragraph of section i) to indicate that the transmission of the information must be carried out prior to the consent of the persons affected, as can be seen from the aforementioned regulations and as as already does the first paragraph of the fourth clause and the protocol annex.

With regard expressly to the collection of consent for the purposes mentioned, the protocol refers to its Annex 1, regarding which some considerations are made below.

IV

Annex 1 of the protocol proposal consists of a form for obtaining the consent of the affected persons for the communication of their personal data.

It must be taken into consideration that consent can only be an adequate legal basis if it meets the characteristics established in article 4.11) of the RGPD, that is to say, the consent of the affected person must be informed, free, specific and it must be granted through a manifestation that shows the will of the affected person to consent or through a clear affirmative action.

The requirement of transparency constitutes one of the fundamental principles in data processing, closely related to the principles of loyalty and lawfulness of processing (Article 5.1.a) RGPD). Providing information to those affected, before obtaining their consent, is essential so that they can understand what they are really consenting to.

The form contains the statement "consent for the processing of personal data in legal proceedings affecting the habitual residence".

In order to offer greater transparency on the purpose of collecting consent and to avoid possible misunderstandings, it would be advisable to modify it so that the person signing the document is clear in advance that they are giving their consent to the communication or transfer of your personal data. In this sense, it could be sufficient to replace the term "treatment" with that of "transfer to social services".

Likewise, and without prejudice to what is established in the information clause of the form, a brief explanation of the reason why consent is required should be included in the form, before the fields intended to fill in the personal data. The recipient or recipients of the information should also be identified in this explanation.

In accordance with the legislation examined above and as also contained in the protocol (clause two), the intended objective with the communication of the data of the person sued or occupier, in respect of which consent is requested, is that the competent bodies in the field of social protection can assess a possible situation of risk of vulnerability and, if appropriate (confirmed the situation of vulnerability), adopt the protection measures that are considered most appropriate.

Therefore, in the body of the form it should be indicated that with this document your consent is requested to transfer your personal data to the competent bodies in the field of social protection, with the aim that the social services evaluate the possible concurrence of a situation of risk of social vulnerability in your person and, if necessary, adopt protective measures. Also, different boxes should be entered to allow the affected person to authorize or not this transfer (offer the possibility to check "YES" or "NO").

Now, taking into account the purpose section of the information clause of the form, through this document it is also intended to obtain the consent of the person sued or occupier to communicate or transfer their data to the housing services, on the one hand , and to the "departments affected by the execution of launch proceedings", on the other hand.

Although consent can be requested for a plurality of purposes in the same form, it is necessary, in order to consider it valid, that it is required specifically and unambiguously (separately) for each of the purposes (consent granular) (article 6.2 LOPDGDD). Thus, different boxes should be entered for each of the planned transfers (in each option there should be the possibility to mark "YES" or "NO") so that you can mark those that are considered necessary regarding the transfer to each of the bodies or departments that are identified.

For these purposes, it is necessary, as has been said, to have sufficient information to be able to understand what is actually being consented to. For this reason, it would be necessary to specify the recipients of this personal information (the reference to the "departments affected by the execution of launch proceedings") and the purpose to which the transfer of data obeys on this occasion, not only in the information clause, but in the body of the form itself.

On the other hand, with respect to the communication of data to the housing services, as can be seen from the second clause of the protocol (and also from the information clause), the purpose of obtaining consent would be to allow the action of the housing services consisting of starting or activating procedures that allow the conflict to be resolved out of court in relation to the initiated judicial procedure (mediation between owners and those affected).

Since the intervention of the housing services requires the prior declaration of the vulnerability situation, it should be specified in the form that the consent to transfer the data to the Housing Department is made only in the case that the vulnerability report for part of the social services consider this situation to be the case. It is only in this situation that it would be relevant to request consent for your data to be communicated or transferred to the competent housing services in order to start the aforementioned mediation procedure or to adopt any other solution within their competence. And, as has been said, it would be necessary to enter boxes to be able to mark "YES" or "NO" to this assignment.

With regard to the communication of "the declaration of vulnerability to the departments affected by the execution of launch procedures", it should be noted that in the second clause of the protocol there is no provision in this regard, so it would be necessary to specify this flow of information (recipients and purpose), for the purpose of being able to evaluate it.

On the other hand, it would also be advisable to incorporate some expression in the body of the form to indicate that the consent covers the data recorded in the form and not other personal information that may be available.

It is worth remembering that communications or transfers of data, apart from having sufficient legitimacy, must also comply with the principle of data minimization (article 5.1.c) RGPD), according to which "personal data will be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed".

In a case like the one examined, the communication of data must cover the minimum essential information so that the social and housing services can intervene and carry out the functions they are legally assigned in the context in which we find ourselves. In this sense, the fields contained in the form (identification and contact data, and certain information about the home subject to eviction, including its residents (number of residents,

number of underage residents, number of residents over 65 and number of residents with a certified disability)) could be considered adequate.

With respect specifically to the information clause incorporated in the form, it can be seen that in this case it has been chosen to provide the information required by article 13 of the RGPD by layers or levels.

This is a method provided for in article 11 of the LOPDGDD in order to facilitate compliance with the duty of information to the affected and consists of presenting "basic" information (summarized information) at a first level, so that it is possible to have general knowledge of the treatment, where an electronic address or other means is indicated where the rest of the information can be easily and immediately accessed, and, on a second level, offer the rest of the additional information (detailed information).

In accordance with article 11.2 of the LOPDGDD, when opting for this route, 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 rights to informative self-determination, as well as, where appropriate, the fact that the data will be used for profiling.

The information clause of the form brings together this set of information, although some considerations need to be made about its content.

At the outset, it should be borne in mind that although the Department of Justice may be responsible for the operation of the IT platform used to make the communications (article 236 sexies LOPJ), in accordance with what follows from Chapter I.bis of Title III of the LOPJ, in the section "responsible for the treatment", should indicate as such the jurisdictional body that processes the procedure and not the Secretariat for the Administration of Justice.

With regard to the purpose section, we refer to the considerations made on the need to clearly differentiate the three planned data communications, for which the consent of the affected person is requested, specifying the purpose and the recipients of the information in each case. In the event that the proposed wording is incorporated in the section of the document where consent is requested differentiating between the various transfers of data, it would be sufficient for the information clause to refer to the communication to the entities that the interested person has consented to.

For all that, it would be necessary to review and modify the form in annex 1 of the proposed protocol in order to adapt it to the observations made in this section.

v

Section ii) of the second clause of the proposal refers to the creation of an electronic platform for the exchange of information between the different actors referred to in the protocol, although the terms used are unclear.

Specifically, this section provides the following:

> "The contact details of the competent administrations that are communicated to the judicial bodies of the different judicial parties must contain the identification and contact details of those responsible for the processing of this type of file in each organization in order to create a register or electronic platform that facilitates joint and coordinated management and information between all the parties involved. On the part of the Generalitat de Catalunya, the departments concerned are Social Rights and Interior."

The first part of this section seems to need to be put in relation to section i) information, where it is established that "the competent administrations must make available to judicial bodies and common services the contact details of social and housing services organizations that must promote the specific actions provided for in this protocol."

It might seem, therefore, that the intention is to create a mere register (a directory) containing the identification and contact details of those responsible for social and housing services so that the judicial bodies can send the form with the details of the defendants and/or occupants, so that these services can assess the vulnerability risk situation.

However, reference is also made to the creation of an "electronic platform that facilitates joint and coordinated management and information between all the parties involved". And, right after, mention is made of the social rights and interior departments of the Generalitat de Catalunya as parties interested in being part of it.

In section iii) execution of launches of the second clause of the proposal, to which we refer later, the communication of information to the Mossos d'Esquadra body is foreseen when its intervention is required by the judicial body before possible risk situations for the judicial entourage during the execution of the launch of the housing. This would explain the reference to the interior department in this clause.

Therefore, it seems that the intention is to create a platform that allows the transmission or exchange of information between judicial bodies and social and housing services, and also, where appropriate, with police forces. It would in any case be necessary to clarify it.

At this point, it should be noted that, bearing in mind that the purpose of this document is to establish an action protocol for the various stakeholders, the proposal (section i) information) lacks the provision that, once confirmed the vulnerable situation of the defendant and/or occupant of the home, the social services, in addition to adopting the protective measures they deem most appropriate, must communicate this circumstance to the judicial body immediately, as establishes the LEC.

In the fourth clause of the proposed protocol, relating to the commitments of the Department of Justice of the Generalitat of Catalonia, it is noted that this department must implement said digital platform in collaboration with the Ministry of Justice and the CGPJ .

From this forecast it seems to be deduced that the Department of Justice, which is responsible for facilitating the material means of the Administration of Justice in Catalonia (article 104 EAC and 236 sexies LOPJ), will be responsible for the digital platform. Point out, however, that, with regard to personal information, responsibility rests with the jurisdictional bodies. Therefore, it might be convenient to clarify it in the protocol.

Having said that, considering the need to implement appropriate technical and organizational measures to guarantee a level of security adequate to the risk involved in the processing and communication of personal information through the platform, taking into account the state of the art, the costs of application and the nature, scope, context and purposes of the treatment, as well as the risks of variable probability and severity for the rights and freedoms of the natural persons affected (Articles 24 and 32 RGPD).

Regarding the adoption of these measures, point out that the RGPD establishes a security model that is based on the need for a prior risk assessment by the person in charge to determine what are the risks that are objectively expected to be generated by the processing and, from there, determine and implement appropriate security measures to deal with it. Therefore, it is necessary to carry out this risk analysis prior to putting this IT platform into operation in order to establish security measures

technical and organizational appropriate to safeguard the right to data protection of the affected persons.

Emphasize, among other actions in the field of security, the need to adopt appropriate mechanisms that allow the correct identification and authentication of users of the information system, in order to guarantee, as required by the RGPD, that they will not occur unauthorized treatments.

In any case, it would be advisable to include in the protocol a specific mention that the body responsible for the management and maintenance of the platform must adopt the technical and organizational measures that guarantee its security and confidentiality, in accordance with the data protection regulations.

VI

Section iii) execution of launches of the second clause of the proposed protocol provides that, in those cases in which in the execution of launch proceedings the need for the accompaniment of the police force is foreseen to guarantee the safety of the judicial entourage, this need must be notified to the police force as soon as possible, so that the allocation of relevant police resources can be properly planned.

It is also established that this judicial notification or communication must include information regarding the vulnerability of the people affected by the launch, the existence of intervention by social services and all other contextual information that is considered relevant by define the action. Likewise, it is established that, once the situation has been assessed by the competent unit of the police force, this can send a letter to the judicial body with the information obtained that may be of interest to assess the context of the intervention.

From the point of view of data protection, the flows of information that arise from these forecasts would have sufficient legitimacy by being framed within the exercise of judicial police functions that the regulatory framework attributes to the forces and security forces, the legal bases of article 6.1.c) i) of the RGPD may apply.

Thus, article 164.5 of the Statute of Autonomy of Catalonia (EAC) provides that the police of the Generalitat-Mossos d'Esquadra have as their scope of action the entire territory of Catalonia and exercise all the functions of 'a police force, in the areas of public security and public order, administrative police, and judicial police and criminal investigation, including the various forms of organized crime and terrorism, in the terms that establish the laws.

Law 4/2003, of April 7, on the organization of the public security system of Catalonia (LSPC), provides that the protection of the authorities of the Generalitat are the specific functions of the police of the Generalitat - police forces and the surveillance and custody of its own buildings, facilities and dependencies, those of the public security police and public order, those of the administrative police and those corresponding to it as judicial police (article 28.2). According to article 28.3 of the same LSPC, local police also perform, among others, judicial police functions.

Law 16/1991, of July 10, on the local police, lists the functions that correspond to the local police in their field of action. Article 12 provides that the local police can perform functions of judicial police, in the terms specified in the aforementioned article.

For its part, article 547 of the LOPJ provides that "the function of the Judicial Police includes assistance to the courts and tribunals and to the Ministry of Public Prosecutions in the investigation of crimes

the discovery and assurance of criminals. This function will apply, when required to provide it, to all members of the Security Forces and Bodies, whether they depend on the central government or the Autonomous Communities or local entities, within the scope of their respective powers.

And article 549.1 of the LOPJ specifies, in the following terms, the functions of the Judicial Police units:

> **"a) The investigation about those responsible and the circumstances of the criminal acts and the arrest of the first ones, giving an account immediately to the judicial and fiscal authority, in accordance with the provisions of the laws. b) Assistance to the judicial and fiscal authorities in any actions that must be carried out outside their headquarters and require the presence of the police. c) The material performance of the actions that require the exercise of coercion and order the judicial or fiscal authority. d) The guarantee of compliance with the orders and resolutions of the judicial or fiscal authority. e) Any other of the same nature in which his cooperation or assistance is necessary and ordered by the judicial or fiscal authority."**

VII

The seventh clause of the proposed protocol contains some provisions relating to the transmission of information between the various actors involved "until the objectives of interoperability, systematization and automation are achieved". It is understood that with this expression we want to refer to until the platform referred to in section ii) of the second clause is operational.

Among other provisions, it is established that "the transmission of data forms and reports between administrations must be carried out by the established electronic and telematic means, subject to the regulations on the protection of personal data and with the guarantees and terms set by the State Technical Committee for the Administration of Electronic Justice (CTEAJE)", a provision that must be positively assessed.

It should be noted, in any case, that these forecasts should also be taken into account in the creation and development of the digital platform.

VIII

The eighth clause of the proposed protocol refers to the confidentiality of information, while establishing that "the parties to the Protocol undertake to guarantee the total confidentiality of the personal data to which they have access as a result of the activities carried out, of in accordance with the provisions of Organic Law 3/2018, of December 5, on the protection of personal data and the guarantee of digital rights."

It would be advisable to foresee that not only the signatory parties to the protocol but any person who intervenes in the processing of data must respect its confidentiality in all phases of the processing, even after the end of their connection to the provision of services with the department or service that carried it out.

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

Conclusions

The data treatments referred to in the examined protocol proposal are adapted to the data protection regulations, without prejudice to the considerations made in this opinion and those that may be made, as a competent control authority for the treatments for the purposes jurisdictions, the CGPJ.

It is necessary to review and modify the form for obtaining consent in annex 1 of the protocol in the sense indicated in section IV of the opinion.

Barcelona, January 21, 2022