

Ref. IAI 4/2021

Legal report issued at the request of the Commission for the Guarantee of the Right of Access to Information Public in relation to the claim submitted by a citizen against the City Council of (...), for the denial of access to information on 6 positions of local police officers

The Commission for the Guarantee of the Right of Access to Public Information (GAIP) asks the Catalan Data Protection Authority (APDCAT) to issue a report on the claim presented by a citizen, in relation to the denial of access to information on 6 positions of local police officers of the City Council, offered to the BOPT and called.

After analyzing the request, which is accompanied by a copy of the administrative file processed before the GAIP, and in accordance with the report of the Legal Counsel, the following report is issued.

Background

1. On September 2, 2020, the applicant who, according to the file, is a delegate of the trade union section (...) in the City Council of (...), submits a letter to the City Council, in which it states that:

"Given that the personnel staff of the City Council of (...) contemplates vacant positions in the category of police officers, 6 of which are covered by 6 temporary officers hired to cover 6 referred career positions. Given that the City Council promoted the call for 6 career police officers, their positions are those that are being covered by the 6 interim officers, this being the reason why they were hired", requests various information about these police positions local, among others, the identification of the people occupying the places.

2. On December 29, 2020, the citizen filed a complaint with the Commission for the Guarantee of the Right of Access to Public Information (GAIP), alleging that he had not received a response from the City Council and that therefore it has not been able to access the information it requests, for the development of trade union rights *"and also for personal affectation"*. Specifically, the claimant requests to know:

"1) The identification of the 6 career police officers who occupied or were holders of these 6 career agent positions affected by the Public Offer and call for selection of 6 career agent positions.

2) The identification of the 6 interim agents who were hired to fill the 6 positions of career professional agents called for in 2019.

3) The relationship between which temporary agent is covering each of the vacancies of the 6 agents of career

4) Copy of the appointments of temporary local police officers hired in 2019 and 2020.

5) Given that 2 professional career police officers have joined in 2019 and 2020, I request the identification of the following:

a. Which of the 6 vacancies for career agents have these 2 been filled additions, identifying the previous holder of the position and the new holder.

b. The identity of the 2 interim police officers temporarily covered these 2 jobs that they have dealt with the incorporation of the 2 professional agents."

3. It is in the file a copy of the Edict of the City Council (BOP ...), which approves the specific bases and the call for the selection process for "6 positions of local police officer, career civil servant, group C, subgroup C2, to be covered by the free opposition system".

It is in the file a copy of the Mayor's Resolution (BOP...), which approves the public offer of employment for the year 2018, which includes, among others, 6 places of professional career staff: "C2. special administration Special services. Local police. Free opposition." The Mayor's Resolution states that: "In the case of Local Police officer positions, 3 positions were approved, but the job offer has been increased to 6 positions due to the fact that 3 vacancies have occurred since the approval of the 2018 offer (one for death, one for voluntary leave and one for absolute disability)."

4. On December 30, 2020, the GAIP requires the claimant to certify his status as a union representative. The file contains a copy of the claimant's designation as Trade Union Delegate representing the Trade Union Section of (...) at the City Council.

5. On January 5, 2021, the GAIP sends the claim to the City Council, requesting a report with the City Council's position regarding the claim, the complete file relating to the claim, and the identification of the third parties who are affected by the access that is claimed, if any. The GAIP reiterates to the City Council the request for information on February 3, 2021, without the submission of the City Council report being recorded in the file, nor the identification of third parties affected.

6. On February 7, 2021, the GAIP requests the claimant to clarify the subject of his claim, given that there are differences between the information requested from the City Council in the letter submitted on date 2 of September 2020, and the information requested, as set out in the claim submitted to the GAIP on December 29, 2020. The claimant responds to the GAIP, in dated February 9, 2021, specifying that the information requested from the City Council would be that specified in the letter of December 29, 2020.

7. On February 10, 2021, the Commission for the Guarantee of the Right of Access to Public Information (GAIP) requests from the Catalan Data Protection Authority the report provided for in article 42.8 of the Law 19/2014 of December 29, on transparency, access to public information and good governance.

Legal Foundations

I

In accordance with article 1 of Law 32/2010, of October 1, the Catalan Data Protection Authority (APDCAT) is the independent body whose purpose is to guarantee, in the field of the competences of the Generalitat, the rights to the protection of personal data and access to the information linked to it.

Article 42.8 of Law 19/2014, of December 29, on transparency, access to public information and good governance, which regulates the claim against resolutions on access to public information, establishes that if the refusal has been based on the protection of personal data, the Commission must issue a report to the Catalan Data Protection Authority, which must be issued within fifteen days.

For this reason, this report is issued exclusively with regard to the assessment of the incidence that the requested access may have with respect to the personal information of the persons affected (article 4.1 of Regulation (EU) 2016/679 of the European Parliament and of the Council, of April 27 (hereinafter, RGPD).

Therefore, any other limit or aspect that does not affect the personal data included in the requested information is outside the scope of this report.

The deadline for issuing this report may lead to an extension of the deadline to resolve the claim, if so agreed by the GAIP and all parties are notified before the deadline to resolve ends.

Consequently, this report is issued based on the aforementioned provisions of Law 32/2010, of October 1, of the Catalan Data Protection Authority and Law 19/2014, of December 29, of transparency, access to public information and good governance.

In accordance with article 17.2 of Law 32/2010, this report will be published on the Authority's website once the interested parties have been notified, with the prior anonymization of personal data.

II

The data of City Council workers, whether they are labor, career or interim, or temporary, that identify them or that allow their identification, as well as that information referring to the job they occupy, but that is linked to the specific worker, are personal data subject to data protection regulations (RGPD and Organic Law 3/2018, of December 5 Protection of Personal Data and guarantee of procedural rights (LOPDGDD).

Law 19/2014, of December 29, 2014, on transparency, access to information and good governance (henceforth, LTC), aims to regulate and guarantee the transparency of public activity.

Article 18 of the LTC establishes that *"people have the right to access public information, referred to in article 2.b, in an individual capacity or in the name and representation of any legally constituted legal person" (section 1)*. The mentioned article 2.b) defines *"public information" as "the information prepared by the Administration and that which it has in its power as a result of its activity or the exercise of its functions, including the which are supplied by the other obliged subjects in accordance with the provisions of this law"*.

Law 19/2013 is pronounced in similar terms in its articles 12 (right of access to public information) and 13 (public information).

The information and documentation relating to the selection process of local police officers of the City Council, is "*public information*" for the purposes of article 2.b) of the LTC, subject to the access regime provided for in this regulation which establishes, as a general criterion, that the right of access to the public information can only be denied or restricted for the reasons expressly established by law (art. 20 et seq.).

The claimant requests information "according to the powers and rights of information that legitimizes the Union" and adds that "*there are documents that indicate that the position of the applicant is affected by these 6 positions that are intended to be filled.*"

From this last statement it seems to be clear that the claimant, apart from being a union delegate at the City Council, would be one of the officers who would be occupying one of the local police positions referred to in the request. Therefore, in addition to requesting information about local police positions for the "*development of trade union rights*", it seems that the claimant would also request the information for "*personal concern*", according to the claim dated December 29 2020

According to article 24.3 of the LTC: "*Requests for access to public information that refer **only** to the applicant's personal data must be resolved in accordance with the regulation of the right of access that establishes the legislation for the protection of personal data.*"

Without prejudice to the fact that the claimant, in the event that he has participated for example in a personnel selection process called by the City Council, has access to his own personal information available to the City Council, in exercise of the right of access configured in article 15 of the RCPD, the provision of article 24.3 of the LTC would not apply in this case, since the information requested would not exclusively contain personal data of the person making the claim, but essentially others natural persons, in particular, of different people who occupy or have occupied local police positions in the municipality.

III

In accordance with article 20 and s. of the LTC, the right of access to public information may be denied or restricted for the reasons expressly established in the laws. Specifically with regard to information containing personal data, it is necessary to assess whether the right to data protection of the affected persons would justify or not the limitation of the right of access to public information invoked by the claimant.

Articles 23 and 24 of the LTC regulate the limits on access to public information when the information which you want to access contains personal data.

According to article 23 of the LTC:

"Requests for access to public information must be denied if the information sought contains particularly protected personal data, such as those relating to ideology, trade union affiliation, religion, beliefs, racial origin, health and sexual life, and also those relating to the commission of criminal or administrative offenses that do not involve

the public admonition to the offender, unless the affected party expressly consents to it by means of a written document that must accompany the request."

In the claim submitted to the GAIP on December 29, 2020, the claimant states that the replacement rate for new public employment is limited by Law 6/2018, of July 3, on general State budgets (LPGE), and that it is interesting to know precisely which are the local police positions that would have been vacant, in order to be able to proceed with the calculation of the replacement rate *"and therefore it is necessary to identify the specific police officers who have caused leave in the corporation"*.

The Mayor's Resolution of August 27, 2019 specifies that the increase from 3 to 6 local police positions is due to the fact that 3 vacancies would have occurred since the approval of the 2018 offer (one due to death , one for voluntary leave and one for absolute disability).

The information related to the leave situation of a public worker and, above all, that related to a situation of absolute disability (health information of the affected person) is personal information related to categories of specially protected data (art. 9 RGPD). Access to this information would be subject to Article 23 LTC and therefore should not be communicated to the claimant (for example, information about the health of the person in a situation of total disability or the reasons they have caused this situation).

However, given the claimant's request, dated December 29, 2020, it does not seem that he is asking to know the reason or circumstances that would have caused the different vacancies, but rather he is asking to know the identification of the officers who occupy the different police positions local at any time, as holders of each position or as interims, and the correlation between the positions they occupy or have occupied.

Therefore, given that it does not appear, from the information available, that the claimant is seeking to know information protected by Article 23 LTC, the provisions of Article 24 of the LTC will have to be taken into account.

"(...).

2. If it is other information that contains personal data not included in article 23, access to the information can be given, with the previous reasoned weighting of the public interest in the disclosure and the rights of the people affected. To carry out this weighting, to take into account, among others, the following circumstances:

- a) The elapsed time.*
- b) The purpose of the access, especially if it has a historical, statistical or scientific purpose, and the guarantees offered.*
- c) The fact that it is data relating to minors.*
- d) The fact that it may affect the safety of people.*

(...)"

The complaining person declares his status as a representative of the workers. This is a relevant question, given that the boards or staff delegates (art. 39 of the Royal Legislative Decree 5/2015, of October 30, which approves the revised text of the Basic Statute Law of the 'public employee (EBEP)), as well as the company committee (art. 63 of the Workers' Statute), are the specific bodies representing civil servants and public workers with employment contracts, respectively, and, as such, exercise the functions granted to them by the corresponding regulations (art. 40 TRLEBEP and art. 64 ET), among others, the function of monitoring compliance with current regulations. Thus, it cannot be ruled out that, for the exercise of these functions, it is necessary to be able to access certain personal information.

IV

For explanatory purposes, we refer below to the following points of the claim (December 29, 2020), in which the claimant asks to know:

- 1) *The **identification** of the 6 career police officers who occupied or were holders of these 6 career agent positions affected by the Public Offer and call for selection of 6 career agent positions.*
- 2) *The **identification** of the 6 interim agents who were hired to fill the 6 positions of career professional agents called for in 2019.*
- 4) ***Copy of the appointments** of temporary local police officers hired in 2019 and 2020."*

The TRLEBEP establishes that the selection processes of official and labor personnel in the field of Public Administrations are subject to a series of principles, among others, those of publicity and transparency (art. 55.2.a) ib) TRLEBEP).

The claimant's request refers to the identification of career civil servants (art. 9 TRLEBEP), and the identification of "interim agents" (temporary civil servants).

Article 64 of Legislative Decree 1/1997, of 31 October, which approves the recasting in a single text of the precepts of certain legal texts in force in Catalonia in matters of public function, regulates the content and publicity of the calls for competition and those for free designation, which must be published in the DOGC. Section d) of article 64 specifies that *"The resolutions of the calls, both those of the merit competition and those of free appointment, are published in the DOGC."*

At the local level, article 80 of Decree 214/1990, of July 30, which approves the Regulations for personnel in the service of local entities, provides that *"once the tests have been completed, it must make public the list of applicants in order of score, which cannot contain a higher number than the number of vacant places offered."* Thus, the regulations provide that the list of selected persons is of general knowledge. In addition, article 82 of Decree 214/1990 expressly provides that *"appointments must be published in the BOP"*.

In addition, personnel selection processes involve competitive competition, and therefore there would be legal authorization to advertise the list of people finally selected for public administration jobs, as established in Law 39/2015, of 1

of October, of the Common Administrative Procedure of Public Administrations (LPAC) in relation to the notification of resolutions and administrative acts (art. 40 et seq. LPAC), specifically, in article 45.1.b), according to which the administrative acts must be published: *"When it comes to acts that are part of a selective procedure or competitive competition of any kind. (...)."*

From the perspective of transparency legislation, specifically, the obligations of active advertising, article 9.1.e) of the LTC establishes that the information relating to the institutional organization and the administrative structure that the Administration must make public in application of the principle of transparency must include: *"The calls and **the results of the selective processes for provision and promotion of personnel**" (art. 9.1, section e) LTC), provision that does not distinguish whether it is provisional or definitive provision.*

Article 21 of Decree 8/2021, of February 9, on transparency and the right of access to public information, has come to specify the provision of Article 9.1.e) LTC, and provides that:

*"1. For the purposes of letter e) of article 9.1 of Law 19/2014, of 29 December, **public administrations must publish** the calls for proposals and **the results** of:*

a) Access procedures to the bodies and scales of official, statutory and labor personnel.

b) Internal promotion procedures.

*c) **Provisional and definitive provision procedures.***

*d) **Procedures for the selection of temporary staff** or temporary workers, including temporary staff exchanges.*

e) Scholarships and grants for providing services.

f) Intern recruitment offers.

*2. The data to be published must refer, at least, to the announcement of the call, the bases, the official announcements and the **name and surname** and the four numbers of the national identity document or equivalent document of the persons admitted to each test or exercise of the process and **of the person finally selected**, in accordance with the criteria established in the field of data protection.*

(...)."

With regard, specifically, to interim officials, as this Authority has done on previous occasions (among others, in reports IAI 8/2017, IAI 12/2017, or IAI 42/2020), if it is foreseen, as we have seen, a system of publicity of the appointment for those cases in which the definitive provision procedure has been followed with all the guarantees, with more reason to be able to access this information in those cases in which the Public Administrations have of a greater margin of discretion, or at least of lesser guarantees, for the provisional provision.

In any case, article 21.1.d) of Decree 8/2021 clearly specifies that procedures for the selection of interim personnel are subject to the obligation to publish the results.

With regard to obtaining a copy of the appointment of interim agents (point 4 claim), as can be seen, the request refers to the fact that they have been hired. However, in spite of this reference to the contract, in the case of interim police officers, it seems that the request would properly refer to obtaining a copy of the appointment of the interim officers, not the "contract".

In any case, the Public Administrations have a greater margin of discretion in relation to the appointment of temporary staff, so the representatives of the workers should be able to access the information necessary to check whether these appointments are in line with the regulatory requirements (art. 10.1 TRLEBEP). The possibility of evaluating the discretionary use of the forms of provision of jobs which in principle must be exceptional and limited only to certain cases, as is the case of temporary police officers, can justify the access of the representative of the workers to the copy of the appointments of these agents.

This, without prejudice to the fact that, from the perspective of the principle of minimization (art. 4.1.c) RGPD), it is appropriate to exclude certain data (DNI number, address, etc.), in case they may be included in the appointment resolution of the acting agents

In conclusion, given these regulatory provisions, regarding points 1, 2 and 4 of the claim of December 29, 2020, it does not seem that there could be any obstacle, from the perspective of the right to the protection of personal data, so that any citizen and, therefore, also the representatives of the workers, can know both the identity of the people holding positions in the local police force ("career officer positions", to which the claimant refers), as that of those temporary agents hired by the City Council, taking into account the obligations of active advertising (art. 9.1.e) LTC and art. 21 Decree 8/2021), as well as copies of the appointments of interim agents.

v

The claimant also requests to know:

"3) The relationship between which interim agent is covering each of the vacancies of the 6 agents of career

5) Given that 2 professional career police officers have joined in 2019 and 2020, I request the identification of the following:

a. Which of the 6 vacancies for career agents have these 2 been filled additions, identifying the previous holder of the position and the new holder.

b. The identity of the 2 interim police officers temporarily covered these 2 jobs that they have dealt with the incorporation of the 2 professional agents."

Knowing no longer the appointments of career or interim officials, but the updated and detailed relationship or link between each officer of the local police force and the position they effectively occupy, in the terms of the claim, is information that goes beyond the one that the representatives of the workers (or any citizen) would obtain from the information that the Administration must make public, in compliance with the principles of active publicity.

Now, from the perspective of the weighting of article 24.2 LTC, it must be taken into account that knowing the link between each specific employee (whether career civil servant or interim civil servant), and the specific position that he effectively occupies, can be relevant to the effects that the representatives of the workers can exercise their control functions. The possibility of evaluating the use by the City Council of the different forms of provision and access to jobs in the public sector, with full respect for legal principles, in the cases and with the

conditions established by the regulations, as well as the possibility of evaluating the effectiveness in the planning and management of human resources, is suitable for the purpose of evaluating the performance of the Administration, which follows from the exhibition of reasons of the LTC, and which this law recognizes in general.

The purpose of access and the guarantees offered is one of the weighting criteria provided for in article 24.2 LTC, which must be taken into account.

According to the information available (claim of December 29, 2020), the reason for which the information is requested is to be able to know precisely which local police positions would have been vacant, in order to be able to calculate the replacement rate, which is subject to legal limitations. According to article 19.7 of the LPGE, which the claimant alleges:

"To calculate the staff replacement rate, the fixed maximum rate percentage will be applied to the resulting difference between the number of permanent employees who, during the previous budget exercise, stopped providing services in each of the respective sectors, areas, bodies or categories, and the number of permanent employees who would have been incorporated into them, in the referred year, for any reason, except those coming from public employment offers, or re-entered from situations that do not entail the reservation of jobs. To these effects, the cessation of services due to retirement, retirement, death, resignation, declaration of leave without reserve of job, loss of the status of career official or the termination of the employment contract or in any other administrative situation that does not involve the reservation of a job or the receipt of remuneration in charge of the Administration in which it is terminated. Equally, the increases and decreases produced by tenders for transfers to other Public Administrations will be taken into account.

The claimant adds that at the time of his application there are six local police officers on secondment contracts to temporarily fill these 6 vacancies. According to the claimant, it is necessary to identify precisely which of these temporary police officers are covering each of the 6 vacant positions "to avoid irregular temporary hiring".

In addition, according to the information available, 2 career agents would have been incorporated (2019-2020), so the situation of the 2 interim agents who covered these positions could be affected by these 2 additions.

Also according to the information available, the initial call for 3 positions of local police officer would have been increased to 6 positions, because three vacancies had occurred (Mayoral Resolution, BOP of August 27, 2019). In addition, according to the claimant, it is necessary to take into account the regulatory limitations on the replacement rate of public employment, so it might be necessary to check which positions are the ones that have effectively been left vacant, to see if compliance is given to the replacement rate. The claimant adds that subsequently, two new civil servants would have been incorporated, so it is interesting to know, according to the claimant, which would be the interim civil servants affected by these new additions, and which are the positions that have effectively been covered by these new agents.

In this context, although in order to assess compliance with the provisions regarding the replacement rate, it would not be strictly necessary to know the identity of the people who occupied the positions that have become vacant or that of those people who have gone on to occupy these positions, it cannot be ruled out that it may be relevant, for the fulfillment of the functions of the union representatives, to know the information requested to assess whether the City Council adequately attends, for example, to the order of priorities that it may have regarding interim agents affected (taking into account that, from the information available, it seems that 2 of the places offered would have been filled with two career agents) and, ultimately, to exercise the functions of the workers' representatives in defense of their rights.

At this point, we mention STS 111/2018, of February 7 (FJ Tercer), according to which:

"2. The power to collect data on the part of the unions and representatives of the workers must be limited according to a principle of relevance and, therefore, be limited to those personal circumstances of the workers that are necessary to develop the task assigned to them. It seems obvious that it must be rejected that such faculty covers personal data in any circumstance, since, if that connection with the function does not occur, the express consent of the workers concerned will be necessary, as the exception of art disappears. 11.2 c) LOPD.

Let's not forget that, in any case, the right to obtain information entails the correlative business obligation to transfer data, legally imposed and detailed in this case through the products of collective bargaining. (...)."

(...)

*4. (...). But in this case, **the need to identify the workers who occupy each of the positions that the RTP relates to is not trivial, because the personal elements are related to aspects such as training, qualification, and specialization, being also necessary to define the circumstances of vacancies, their coverage, order of priorities, replacement and promotion systems, etc.***

In short, it seems clear that the fulfillment of those functions of the union representatives justifies the access to such data and, therefore, there is no improper access to personal data that contravenes the right to the protection of such data.

All this does not prevent the unions from affirming the obligation to limit the strict use of the data given by the company to the purpose for which the transfer is considered legitimate, because otherwise it would be liable to constitute a violation of the rights of the workers, in addition to the duty of secrecy that art. 65 ET imposes on the legal representatives of the workers (...)."

In the most recent STS 3195/2020, of October 15 (fourth FJ), in relation to the request of the workers' representatives to know, among others, the name of the occupant of each position, the Court reaffirms the argument of previous judgments:

*"Precisely on this Interpretative Criterion, the Sala de los Social has pronounced this Supreme Court, in the Judgment of December 16, 2019, in which the obligation of the General Administration of the State to **provide a union with the "occupation lists", which must contain the specific and individualized relationship of the positions, was examined of***

work of the Relations of Employment Jobs, name and surname of the holder of the position, if applicable, and the address of the work center to which the position is assigned.

Reasons for the aforementioned Sala de lo Social lo siguiente:

"In the present case , **the defendant refuses to hand over the lists because it is specified that they contain the number and surnames of the workers**, basic data that, without a doubt, constitute accurate information for their identification and location within the business organizational structure and which, therefore, are necessary for the development of the corresponding labor relationship. Therefore, we are dealing with data that do not require the consent of the affected person to be collected by the company.

(...) Therefore, it will be justified for the company to communicate personal data of the workers to the legal and/or union representatives so that they can exercise the powers that the law confers on them, this being a scenario that conforms to the exception of art. 11.2 a) LOPD. It seems obvious that yes, both art. 64 ET, as 10.3.1 LOLS confers rights of information and documentation to unitary and union representatives, the obtaining of the same through the communication of the company will be covered by that exception when, in fact, **it is data that have direct connection with the exercise of those powers.**

But in this case, the need to identify the workers who occupy each of the positions related to the RTP is not trivial, (...)."

Given the information available, in relation to the temporary agents affected there may be certain elements (as highlighted by the jurisprudence cited, "*the circumstances of the vacancies, their coverage, order of priorities, replacement and promotion systems*"), which must be taken into account to check whether the regulations are properly complied with, for which it would be necessary to know the identity of the people who occupy the different positions referred to by the claimant.

In contrast with this, the weighting of art. 24.2 LTC also requires an assessment of what could be the effect on the privacy of the affected workers, in case of communicating the required information.

The information requested in the case examined, although it is personal information as it refers to specific natural persons, is information strictly linked to the professional or work aspect of those affected (when they joined the police force, if the link is as career or temporary officials, what position a certain officer holds or has held).

While it is true that there is professional or work-related information that can affect the privacy of those affected to a greater extent (curriculum vitae and academic training, studies, evaluation of merits and abilities in a selection process...), this is not the information that is being requested in the case at hand.

The information requested (in short, the link between the worker and the position occupied), unlike the information previously mentioned (curriculum vitae or training data...), does not seem to allow the creation of a profile of those affected , nor that its communication to the representatives of

workers must be considered, in short, as particularly invasive for their privacy. In the workplace, obtaining a profile of a worker is a measure that can be quite invasive of the privacy of the people affected, which can affect both the unfolding of their life in the personal sphere, as in the social or professional sphere. However, this is not the case in this case, given the information requested.

In addition, it does not appear that people who obtain a job in the Public Administration through procedures that are subject, among others, to the principle of publicity, can have expectations of privacy regarding the professional information that is requested to be known in this case which, although it refers to specific workers, may to a large extent be public knowledge in the terms indicated.

For all that has been said, it does not seem that there is a degree of impact on people's privacy affected that is relevant or decisive to consider the communication of the information requested by the workers' representative disproportionate, for the purposes of the aforementioned weighting.

In conclusion, taking into account the principle of purpose (art. 5.1.b) RGPD), the data protection regulations would not prevent the communication of information about the specific relationship between the different positions offered and the agents who occupy them, as well as the identity of the interim police officers who temporarily covered the vacant days that have been occupied with the addition of the 2 professional agents (points 3 and 5 of the claim of December 29, 2020), for the purpose of fulfilling the control functions of the workers' representatives.

VI

The claimant adds, in the claim of December 29, 2020, that *"the identification of the officers can be done using the professional identification numbers (TIP), which all police officers have. The same to specify which temporary agent in particular is covering each of the 6 positions."*

In the particular case of local police personnel, it is necessary to take into account the sectoral regulations applicable to the security forces, which provide that they are identified with a professional identity card (TIP) in place of their first and last names, for security reasons. Law 4/2003, of April 7, on the organization of the public security system of Catalonia, provides in article 25 ter that *"All members of local police forces must carry a professional accreditation document. (...) "This document must include, at least, the municipality of affiliation, the identification of the professional category and the individual registration number. (...)."*

Considering that the identification of the local police is done through the TIP number, and that the claimant himself asks to know the identification of the officers through the TIP, the information should be provided using this identification code instead of the first and last name. This measure, less intrusive in the privacy of the people affected, would be more appropriate to the principle of data minimization. We cannot ignore that the TIP identifies or, at least, makes the holder identifiable, especially in this case where the information is accessed by representatives of the employees of the City Council itself, and given the regulatory provisions on active advertising in relation to the appointment of civil servants public (art. 9.1.e) LTC).

Now, to the extent that this is the identification mechanism provided for by the regulations for security reasons in relation to police force officers, and that the claimant himself requests access to information in these terms, must be the form of identification of those affected chosen to communicate the information.

Conclusions

The data protection regulations do not prevent the workers' representative from being given the information they request about the identification of the 6 career police officers, the 6 temporary police officers, as well as the copy of the appointment of the temporary agents hired in 2019 and 2020 (points 1, 2 and 4 of the claim of December 29, 2020).

Taking into account the principle of purpose (art. 5.1.b) RGPD), the data protection regulations do not prevents the communication of information about the specific relationship between the different positions offered and the agents who occupy them, as well as the identity of the interim police officers who temporarily covered said positions that have been filled with the addition of the 2 professional agents (points 3 and 5 of the claim of December 29, 2020), for the fulfillment of the functions of the workers' representatives, all of them identified through the TIP.

Barcelona, March 2, 2021