



Autoritat Catalana de Protecció de Dades

Legal report issued at the request of the Commission for the Guarantee of the Right of Access to the Public Information in relation to the claim against the denial by a City Council of the request for access to information relating to participatory budgets formulated by a municipal group

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 submitted in relation to the refusal by a City Council of the request of access to information related to participatory budgets formulated by a municipal group.

Having analyzed the request, which is accompanied by a copy of the file of the claim submitted, in accordance with the report of the Legal Counsel, the following is reported:

Background

1. On April 9, 2021, a request for access to information related to the 2020 participatory budgeting process was submitted to the City Council by a councillor, representing a group municipal

As can be seen from the file sent, within the framework of the participatory budgeting process for the year 2020, the City Council established different phases of which it is worth highlighting Phase 1, for the presentation of proposals by citizens, and the phase 3, consisting of a citizen prioritization forum to debate and select the projects and initiatives which will later be put to a final vote (finalist proposals). This provided that, after the technical assessment of the proposals by the corporation, a minimum number of 20 proposals remain in the process.

In relation to these phases, the municipal group requests a "[...] detailed list of the people/entities and names/descriptions of the projects that were presented by them in Phase 1", and "[...] the minutes of the meeting/meetings held with the participants in the forum".

2. On April 12, 2021, the City Council resolves the following:

"[...] In relation to participatory budgets, inform that said process has been designed and is being executed by the consultancy [...], specialized in citizen participation processes, under the protection of the established citizen participation rules by the Diputació de Girona, which has financed the project.

The participation project drawn up by said consultancy states that: "In this phase, the participatory session will be held which will be used to debate and select the projects and initiatives that will finally be put to a vote. The attendees, through a participatory dynamic, will have to choose a certain number of proposals (in case the number of valid proposals is greater than 20), which will be the ones that go to the final vote (finalist proposals)."

It is, as you can see, a citizen prioritization forum, which is held in order to select which proposals go to vote, in the event that the number of proposals exceeds the number of 20 proposals. In the implementation of the 2020 participatory budgets, as you can see, 52 proposals were presented, of which 33 had to be rejected, for various reasons that have been published, in accordance with the technical criterion: budget greater than 25,000 euros, action in execution, plans and programs contrary to the proposal, lack of municipal competence, action that does not constitute investment... (although as you know these proposals will be taken into account by the corporation to be able to execute them, in the event that are considered interesting).

Once this filtering process has been completed, there are 19 valid proposals, which are now being voted on. There was, as we mentioned, the provision of holding a Citizens' Forum for prioritizing proposals in order to carry out a second filter in the event that the total number of valid proposals was greater than 20, but in the end it was not necessary and they can put all the projects that have passed the technical filter to the final vote."

3. On March 29, 2022, the municipal group presents to the GAIP a claim from which it is requested "information on the detailed relationship of the persons/entities and names/descriptions of the projects that were presented by them in Phase 1". The municipal group states that this information is "[...] necessary to know for sure whether the presentation of proposals has really been participative and open to the public".

It is noted that the claim does not refer to the claim of access to the minutes of the meeting held in the citizen prioritization forum, unlike the request for access presented on April 9 2021. In this sense, it is understood that the municipal group gives up this claim given the basis that the City Council sets out in its resolution.

4. On April 4, 2022, the GAIP sends the claim to the City Council and requests a report setting out the factual background and the foundations of its position in relation to the claim, as well as the complete file and, if applicable, specify the third parties affected by the claimed access.

5. On April 19, 2022, the City Council forwards to the GAIP a mayoral decree from which it states the following:

"[...] Regarding the information on the detailed relationship of the people/entities and names/descriptions of the projects that were presented by them in Phase 1", this was not provided regarding the identity of the people or entities that formulated the proposals, whenever this information is not in the possession of this City Council. The organization and management of the participatory budgeting process was entrusted to the company [...], which manages electronic and paper applications and sends the emptying document, without applicant data; given that the identity in said participatory process must be preserved and does not contribute anything to the formation of public policies that may derive from it. It is for this reason that the company delivers the emptying report that is facilitated to the councilor, without any identity data that were managed by the company [...] in accordance with current data protection regulations .

By way of conclusion, it must therefore be stated that these data are not in the possession of this corporation, and have been properly managed by the management company without

access by third parties, in application of the additional limit provided for in article 5.1 of the RGDP, in which it is established that

"To this must also be added the need to take into account again the principle of data minimization" (art. 5.1.c of the RGPD)

And, which can operate here as an additional limit, in the sense of avoiding giving access to personal data that would not be necessary for the control purpose that justifies the right."

It is therefore pertinent to conclude that the claimed right of access to the identity data of the persons or entities making the request cannot be authorized, since this data is not in the possession of the municipal corporation nor has it been managed by it and in application of article 5.1c RGDP which constitutes an additional limit to the right of access to information by councilors, given that access to this data is not necessary for the purpose of inspection that justifies the right."

6. On April 23, 2022, the municipal group sent an email to the GAIP in which it disagreed with the arguments that the City Council expressed in the mayoral decree of April 19, 2022. In particular, the municipal group considers that the information is in the power of the City Council because, on the one hand, the form on the website enabled to inform and manage the participatory budgeting process has spaces provided for collecting the proposals of citizenship and, in addition, the first and last name, age and email of each one and, on the other hand, because in accordance with what is stated in the privacy policy and the legal notice, the City Council is responsible for the processing of personal data and the owner of the web domain.

7. On April 28, 2022, the GAIP requests a report from this Authority, in accordance with the provisions of article 42.8 of Law 19/2014, of December 29, on transparency, access to the public information and good governance.

Legal Foundations

I

In accordance with article 1 of Law 32/2010, of October 1, of the Catalan Data Protection Authority, the APDCA 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 request a report from 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, understood as any information about an identified or identifiable natural person, directly or indirectly, in particular by means of an identifier, such as one

name, an identification number, location data, an online identifier or one or more elements of the physical, physiological, genetic, psychological, economic, cultural or social identity of this person (art. 4.1 of Regulation 2016/ 679, of April 27, 2016, relating to the protection of natural persons with regard to the processing of personal data and the free circulation of such data and which repeals Directive 95/46/CE (General Regulation of data protection, hereafter 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 protection regulations, in accordance with what is established in articles 2.1 and 4.1) of the RGPD, apply to the treatments that are carried out on any information *"on an identified or identifiable natural person ("the interested party »); Any person whose identity can be determined, directly or indirectly, in particular by means of an identifier, such as a number, an identification number, location data, an online identifier or one or more elements of identity, shall be considered an identifiable physical person physical, physiological, genetic, psychological, economic, cultural or social of said person".*

Article 4.2) of the RGPD considers *"treatment": any operation or set of operations carried out on personal data or sets of personal data, either by automated procedures or not, such as collection, registration, organization, structuring, conservation , adaptation or modification, extraction, consultation, use, communication by transmission, diffusion or any other form of enabling access, comparison or interconnection, limitation, deletion or destruction".*

In accordance with the provisions of article 5.1.a), any processing of personal data must be lawful, loyal and transparent in relation to the interested party and, in this sense, the RGPD establishes the need to participate in some of the legal bases of article 6.1, among which section c) provides for the assumption that the treatment *"is necessary for the fulfillment of a legal obligation applicable to the person responsible for the treatment".*

As can be seen from article 6.3 of the RGPD and expressly included in article 8 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (LOPDGDD), the processing of data can only be considered based on

these legal bases of article 6.1. c) and e) of the RGD when so established by a rule with the rank of law.

For its part, article 86 of the RGD provides that *"the personal data of official documents in the possession of any public authority or public body or a private entity for the performance of a mission in the public interest may be communicated by said authority, organism or entity in accordance with the Law of the Union or of the Member States that applies to them in order to reconcile the public's access to official documents with the right to the protection of personal data under this Regulation"*.

The regulation and guarantee of public access to official documents held by public authorities or public bodies is regulated in our legal system in Law 19/2014, of December 29, on transparency, access to public information and good governance (henceforth, LTC), which provides that *"access to public information in subjects that have established a special access regime is regulated by their specific regulations and, with supplementary, by this law"* (additional provision first, second section).

Taking into consideration that, in the case at hand, the person making the claim holds the status of a councillor, representing a municipal group, it is necessary to comply with the provisions relating to councillors' access to municipal information established by the local regime regulations, fundamentally, Law 7/1985, of April 2, regulating the bases of the local regime (LRBRL) and Legislative Decree 2/2003, of April 28, which approves the Text recast of the Municipal and Local Regime Law of Catalonia (TRLMRLC),

This without prejudice to the fact that the complaining councillor must be granted at least the same guarantees in terms of access to information - including the possibility of lodging a claim with the GAIP - as the rest of the citizens who do not have this condition of elected position, given the supplementary application of the LTC (DA1a. section 2).

III

At the outset, it should be noted that this Authority has previously had the opportunity to analyze the councillors' right of access to the information available to their corporation, necessary for the exercise of the functions that correspond to them (among others, in the opinions CNS 10/2017, CNS 29/2018 or CNS 2/2021 as well as in the reports IAI 48/2019, IAI 52/2019, IAI 27/2021 or IAI 39/2021 available on the website <https://apdcat.gencat.cat>).

In accordance with the provisions of article 77.1 of the LRBRL, all members of local corporations have the right to obtain from the mayor or president or from the government commission all the antecedents, data or information that are in the possession of the services of the corporation and are necessary for the development of its function.

For its part, article 164 of the TRLMRLC provides for the following:

"164.1 All members of local corporations have the right to obtain from the mayor or mayoress or the president, or from the governing commission, all the background, data or information that is in the possession of the corporation's services and are necessary for the development of their function."

164.2 Corporation services must provide information directly to corporation members when:

- a) Exercise delegated functions and the information refers to matters of their own responsibility.
- b) These are matters included in the agenda of the sessions of the collegiate bodies of which they are members.
- c) It is about access to information or documentation of the local corporation that is freely accessible to citizens.

164.3 In the other cases, the request for information is understood as accepted by administrative silence if a negative resolution is not issued within four days from the date of presentation of the request. In any case, the negative decision must be motivated, and can only be based on the following assumptions:

- a) When the knowledge or dissemination of the information may violate the constitutional right to honor, personal or family privacy or one's image.
- b) When it comes to matters affected by the general legislation on official secrets or summary secrecy.

[...]

164.6 The members of the corporation must respect the confidentiality of the information to which they have access by virtue of their position if the fact of publishing it may harm the interests of the local entity or third parties."

The right to obtain all the antecedents, data or information that are in the possession of the services of the local corporation and that are necessary to exercise their functions, in accordance with the reiterated jurisprudence on this matter (STS June 27, 1988, September 27, 2002, June 15, 2009, among others), is part of the fundamental right to political participation enshrined in Article 23.1 of the Spanish Constitution, according to which "*citizens have the right to participate in public affairs, directly or through representatives, freely elected in periodic elections by universal suffrage.*"

It should be borne in mind that the elected officials participate in a public action that manifests itself in a wide range of specific matters, such as the right to audit the actions of the corporation, the control, analysis, study and information of the necessary antecedents, which have the services of the City Council, for their control task and to document themselves for the purposes of adopting decisions in the future (among others, STS of March 29, 2006). In relation to this, the STS of June 27, 1998 already stated that "[...] *To be able to carry out this supervisory and controlling function, it is necessary to know beforehand the data and background that are needed for this purpose, which implies the need to have access to all the data, antecedents and information [...] to then select those that can be useful in the fulfillment of the function entrusted to the councilors [...]*".

In the same way, it should be noted that the local regime legislation does not require councilors that, in order to access municipal information, they must explain or justify the purpose of their request, given that the reason for their request is 'must understand implicit in the exercise of

their functions that correspond to them as councilors (among others, STS of November 5, 1999).

However, it should be borne in mind that the regulations set out provide that although the right of access of the members of the local corporations operates on all the background, data and information that are in the possession of the services of the corporation, these must be necessary for to the development of its function.

On the other hand, it should also be borne in mind that the councilors' right to information is not an absolute right. For this reason, if it conflicts with other rights, it is necessary to weigh the different rights at stake, in order to decide which should prevail and to what extent.

This has come to be recognized by the local regime legislation itself. The aforementioned article 164 of the TRLMRLC, in regulating the conditions for the exercise of the right of access to municipal information by the members of the corporations (sections 2 and 3), establishes, as a possible basis for denying the request with reasons "information, that *"the knowledge or dissemination of the information could violate the constitutional right to honor, personal or family privacy or one's own image"* (section 3, letter a), but obviously access could also be denied- se when other fundamental rights may be affected such as the right to the protection of personal data (Article 18.4 EC).

In the case at hand, the City Council states in the communication to the GAIP dated April 19, 2022 that the identity of the people or entities that formulated the proposals was not provided because it did not have this information and , in any case, refers to the data protection regulations when considering what must be avoided to facilitate access to personal data that would not be necessary for the purpose of inspection that justifies the councilors' right of access.

Since the exercise of the municipal group's right of access, which aims to access a detailed list of people or entities and the names or description of the projects that were presented, could lead to a limitation of the fundamental right to data protection of a personal nature, it will be necessary to determine whether it is a proportionate limitation, given that, according to repeated doctrine of the Constitutional Court, the limitation of fundamental rights can only occur in a proportionate manner (SSTC 11/1981, 57/1994, 66/1995 , 11/2006, 206/2007, among others).

Now, before examining the circumstances that come together in the particular case taking into account the intended purpose, if this information is necessary to achieve said purpose, the possible people affected and the incidence that this may have for the right to the protection of data, and other rights of these people, we need to refer to two issues related to the grounds used by the City Council to deny the municipal group's request for access.

On the one hand, the City Council states that it does not have the requested information because the organization and management of the participatory budgeting process was entrusted to a third party, which manages the proposals presented and only provides the City Council with the information without including the data of the participants in the process.

On the basis of the analysis that will be made below regarding the provisions that regulate the citizen participation processes, and from the point of view of the regulations for the protection of

data, it is clear that the City Council, as the person responsible for the participatory budgeting process, must have, at the very least, the identification data of the citizens or entities that have participated and their proposal or contribution.

This, regardless of whether the City Council has commissioned a third party to manage the citizen participation process, as in the case at hand. It should be borne in mind that in these cases, the third party assumes the position of person in charge of the processing of personal data on behalf of the City Council, in accordance with the provisions of articles 4.8) and 28 of the RGPD, and in similar terms the twenty-fifth additional provision of Law 9/2017, of November 8, on public sector contracts.

As the person responsible for the treatment, the City Council must be in a position to know all the information that affects the treatment of personal data within the framework of the public participation process carried out by the person in charge.

And, on the other hand, the City Council refers to the fact that, in any case, the municipal group's request is limited by the provisions of the data protection regulations as it is not information necessary for the purpose of inspection.

However, it is necessary to take into account the information to which access is requested - detailed list of the persons or entities and the names or description of the projects that were presented within the framework of the participatory budgets - that the RGPD does not apply to legal entities, given that they are not holders of the right to the protection of data, in accordance with article 1 and 4.1) of the RGPD.

For this reason, from the point of view of data protection regulations, there can be no impediment in delivering the information that is requested with respect to legal entities.

Given everything that has been set out, from the point of view of the data protection regulations, the analysis of the circumstances that come together in the particular case must be limited with respect to the information that affects the natural persons who have participated in the participatory budgeting process.

IV

The councilor has requested the City Council to access a detailed list of the people and the names or description of the projects that were presented as part of the participatory budgets. According to the information available, the City Council has made public and sent to the councilor the information relating to the names or descriptions of the projects that were presented, but not the identity of the people who presented them.

The analysis of the circumstances in the particular case must be based on the provisions of article 18 of the LRBRL (and, in similar terms, article 43 of the TRLMRLC) which includes the rights of neighbors, among others, to participation in municipal management, in accordance with the terms provided by law.

In this sense, local corporations must guarantee the effectiveness of the rights of exposed neighbors by providing the most extensive information about their activity and the participation of all citizens in local life (art. 69.1 of the LRBRL and, in similar terms, article 154 of

TRLMLRC), at the same time that they must establish and regulate, based on organic rules, the appropriate procedures and bodies to make effective their participation in the affairs of local public life, both in the scope of the municipality as a whole and in that of the districts, in the event that these territorial divisions exist in the municipality (art. 70.bis of the LRBRL).

The general legislation on administrative procedure and the legal regime of public administrations also recognizes the principle of participation under different modalities. Thus, Law 26/2010, of August 3, on the legal regime and procedure of the public administrations of Catalonia, in article 22.2 establishes that:

"2. The public administrations of Catalonia must encourage citizen participation in the administrative actions under their jurisdiction, in order to collect proposals, suggestions and initiatives from citizens, through a prior process of information and debate.

And article 31.2 of the same law includes, as a general principle of the action of the public administrations of Catalonia, citizen participation.

For its part, Law 39/2015, of October 1, on the common administrative procedure of public administrations (LPAC) also recognizes the principle of participation in the statement of reasons, and establishes that *"in accordance with the in the laws, the Public Administrations may establish other forms, means and channels of participation of the people, directly or through the organizations and associations recognized by the law in the procedure in which the administrative acts are dictated" (art. 83.4) .*

At the same time, the LTC also provides in article 68 that *"The procedures for citizen participation and collaboration are those established, in general, by the legislation of the legal regime and administrative procedure, by the legislation of the local regime and by the regulations on citizen participation, without prejudice to those that may be established by law, with a specific nature, in relation to a certain action or political decision."*

Beyond these general considerations, Law 10/2014, of September 26, on non-referendum popular consultations and other forms of citizen participation, regulates from article 40 et seq. the citizen participation processes defining- those as *"[...] institutionalized actions intended to facilitate and promote the intervention of citizens in the orientation or definition of public policies" (art. 40.1), which "have as their object to guarantee the debate and the deliberation between citizens and public institutions to collect the opinion of citizens regarding a specific public action in the phases of proposal, decision, application or evaluation" (art. 40.2).*

Among the participatory modalities regulated by Law 10/2014, it is worth highlighting article 54 on the public public audience, understood as *"[...] the process of citizen participation through which individuals, entities and organizations the possibility to present and debate proposals in relation to a certain public action".*

Article 46 of Law 10/2014 defines the minimum structure that citizen participation processes must have, starting with an information phase for the people who can participate; contribution of proposals; deliberation and evaluation of proposals and, finally, the evaluation and retention of accounts of the process.

For the purposes we are interested in, of these phases it is worth highlighting the proposal submission phase in which citizens *"can present (their contributions and proposals) by any legally established means and also electronically, with the only requirement of identification of the person and without prejudice to the verification by the administration of the account through which you participate"* (art. 48.3 Law 10/2014).

At the same time, in relation to the evaluation of the citizen participation process, article 50 of Law 10/2014 provides that:

"1. The evaluation of the results of the citizen participation process must be reflected in a final report, which must be drawn up within two months of its completion and which must contain at least:

- a) The description of the process and its phases.*
- b) Quantitative and qualitative information on the participation that has taken place and the contributions that have been received.*
- c) The methodology used in the citizen participation process and in the assessment phase.*
- d) An overall assessment of the process and its results.*

2. The final evaluation report must be made public on the institutional website of the convening administration and must be communicated to the participants.

3. The convening administration must be accountable for the public participation process. The retention of accounts implies, in any case:

- a) Make known the criteria used to assess contributions and proposals and the reasons why they have been accepted or rejected.*
- b) Accredited the fulfillment of the commitments assumed as a result of the citizen participation process".*

In relation to advertising, the LTC also foresees in article 9.1.l) the need to publish *"The information relating to the participation channels and the participative procedures in process, in accordance with the provisions of this law and the Law of non-referendum popular consultations and other forms of citizen participation, in order to disseminate them and facilitate citizen participation"*.

In accordance with the regulations set forth, and with respect to information relating to natural persons affected by the access request, the City Council must have, directly or through the person in charge of the treatment, the information relating to the identification of the participant (name and surname, age and email), in addition to the proposal itself (description of the proposal, need it wants to solve, place/s in the municipality where the proposal should be carried out...), given that the web form that was made available to citizens requested, as mandatory fields, this information.

From the point of view of the data protection regulations, it means that the claim of access to this information by the general public should fall in favor of the data protection of the affected persons, unless it counts with the consent of the people affected, essentially because the purpose of control over the actions of the local corporation could be exercised without the need to know the identifying data, or that make the citizens who participate in the participation process identifiable. must

remember that the purpose of the transparency regulations is to provide citizens with tools to control the actions of public authorities, and not to control the natural persons involved. This without prejudice to the fact that in these cases it may be advisable to offer the participants the possibility to decide - for example by means of a box in the forms - whether they want their identification to be disseminated or not.

Despite this, in the case at hand, taking into account that the person making the claim holds the status of a councillor, the analysis on access must be done in other terms, especially due to the fact that the matter on which the the information you want to access is related to the procedure for approving municipal budgets.

In budgetary matters, it is the responsibility of the corporation's Plenary, made up of all the councillors, to approve the budget and its modifications in accordance with the provisions of article 22.2.f) of the LBRL (and in similar terms, article 52.2.f) of the TRLMLC). The preparation and approval procedure is contained in articles 168 and 169 of Royal Legislative Decree 2/2004, of March 5, which approves the revised text of the Law regulating local finances, of which it is necessary to highlight the necessary transfer to the Plenary of the initial budgets, together with the report of the intervention and with the annexes and complementary documentation, for approval prior to publication and subsequent final approval.

At the same time, article 98.b) of the TRLMRLC generally provides that, for the purposes we are interested in, the full documentation of the matters included in the agenda that must serve as the basis for the Plenary debate and, if In this case, the vote must be available to the councillors in the corporation's secretariat before the dispatch of the call.

From the point of view of the right to information of members of local corporations, and in particular from what is provided for in article 164.2 of the TRLMRLC, it must be remembered that local corporations must provide information directly to their members when, among others , this refers to matters specific to their responsibility (section a) or when it comes to matters included in the agenda of the sessions of the collegiate bodies of which they are members (section b).

Taken to the case at hand, in general, the documentation relating to participatory municipal budgets must be considered as part of the documentation that the regulations relating to local finances establish that must be transferred to the Plenum of the local corporation with the purpose of approving budgets. For this reason, to the extent that this information is part of the information that must serve as a basis for debate and approval in the Plenary, access to a councillor who is part of this body cannot be limited.

This, even, in the event that among the information that is sought to be accessed, especially with regard to the field related to the proposal, special categories of data from Article 9 of the RGPD may be affected - data personal data that reveal, among others, the ethnic or racial origin, political opinions, religious or philosophical convictions or trade union affiliation, data relating to the health or sexual orientation of a physical person -, especially if the citizen Participant has referred to personal circumstances that may justify the meaning of his proposal (such as proposing the elimination of architectural barriers in different places in the municipality referring to his personal or family situation, or referring to the habitual residence to contextualize the need for the proposed proposal, or

a certain sport that is practiced to defend the need for certain facilities, etc.).

On the other hand, from the point of view of citizens who have participated in the participatory budgeting process organized by the City Council, they may have the expectation that their data will be treated confidentially, but it does not seem that this expectation can be extended to the extent that the body responsible for approving the budget cannot access its full content.

In short, to the extent that the regulations provide for the necessary participation of the councilors, as integral members of the Plenary, in the approval and modification of the budgets, and in relation to this, the obligation of the corporation to transfer them in character prior to the holding of the session, all the documentation that should serve as a basis for the debate and voting in the Plenary, would not be justified for reasons related to the protection of personal data limit the councilor's right of access to the identity of the people who have presented the projects.

v

Finally, it should be remembered that whenever the councilors' access to personal data is carried out due to the functions entrusted to them as such, they must be governed by the principle of integrity and confidentiality (article 5.1.f RGPD) and the reservation duty imposed by the local regulations (article 164.6 TRLMRLC), and also by the principle of purpose limitation (article 5.1.b RGPD).

In accordance with the principle of integrity and confidentiality *"personal data will be treated in such a way as to guarantee adequate security of personal data, including protection against unauthorized or illegal processing and against its loss, destruction or accidental damage, through the application of appropriate technical or organizational measures."*

On the other hand, article 164.6 of the TRLMRLC provides that *"the members of the corporation must respect the confidentiality of the information to which they have access by virtue of their position if the fact of publishing it could harm the interests of the local body or third parties."*

With regard to the principle of purpose limitation (Article 5.1.b) RGPD), any use of personal information after access by councilors should also be based on a legitimate and compatible purpose. Otherwise, we could be faced with a treatment not adjusted to the RGPD, even though the access to personal data was initially considered legitimate.

conclusion

The regulations for the protection of personal data do not prevent access by a councilor to a detailed list of the people and the proposals that were presented in the framework of participatory budgets.

Barcelona, May 12, 2022