

Report in relation to the Draft Law of the School of Public Administration of Catalonia

Background

It is presented to the Catalan Data Protection Authority the Draft Law of the School of Public Administration of Catalonia, in order for the Authority to issue its opinion.

The draft law consists of an explanatory part, nineteen articles, an additional provision and a repealing provision.

Having analyzed the Draft Law, in view of the current applicable regulations and in accordance with the report of the Legal Counsel, the following is reported.

Legal Foundations

I

(...)

II

In accordance with the General Report that accompanies the draft law that is submitted to report, with this text it is intended to transform the current School of Public Administration of Catalonia (hereafter, EAPC) into a new School that *"article , promote and produce research, analysis, services and products related to the recognition, recruitment and development of talent, training and learning, and the organization of institutions in the field of public governance , to achieve a Catalan Public Administration at the service of the citizen, professionalized, innovative, integral and efficient."*

This will entail, once the present draft is approved, the repeal of Law 4/1987, of March 24, regulating the EAPC (repeal provision).

The draft law is structured in four chapters:

- Chapter 1 defines the nature, purpose and scope of action of the EAPC, as well as the principles on which the action of the EAPC must be promoted.
- Chapter 2 regulates the specific functions of the EAPC.
- Chapter 3 regulates the organization of the EAPC.
- Chapter 4 establishes the EAPC's legal, personnel, financial and contracting regime.

To point out that this report is issued exclusively with regard to the assessment of the impact that the Preliminary Project may have from the point of view of the protection of personal data, in particular, Regulation (EU) 2016/679, of the Parliament and of the European Council, of April 27, 2016, General Data Protection (RGPD) and Organic Law 3/2018, of December 5, on Protection of personal data and guarantee of digital rights (LOPDGDD).

III

The additional provision of the draft law introduces an authorization for the processing of the contact data of people who provide services to Catalan public institutions and administrations in order to send them information related to the actions of the EAPC .

Specifically, **the additional provision** of the draft law provides the following:

"The School of Public Administration of Catalonia is authorized to process the contact details of people who provide service to Catalan public institutions and administrations, including senior officials, public managers and elected officials, in order to disseminate through the media electronic, in a personalized way, the actions of selection, learning, training, development, research, innovation, and transfer of knowledge that it offers."

This provision contemplates an authorization for the processing of the contact data of the people who provide their services in Catalan public institutions and administrations in order to send them information about the different activities of the EAPC that may be of interest to them .

It is worth remembering that the RGPD establishes that all processing of personal data must be lawful (Article 5.1.a)) and, for it to be lawful, the same RGPD states that the data must be processed *"with the consent of the interested party or on some other legitimate basis established in accordance with law, either in the present Regulation or by virtue of another law of the Union or of the Member States to which the present Regulation refers, including the need to fulfill the legal obligation applicable to the person responsible for treatment or the need to execute a contract in which the interested party is a party or for the purpose 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 turn, the LOPDGDD includes a series of cases in which certain data treatments, as long as certain requirements are met, will be considered lawful (Title IV).

At the outset, the provision contained in this Additional Provision would collect data processing necessary for the fulfillment of the mission in the public interest entrusted to the EAPC. It is clear, therefore, that this law would be the legal specification required by article 6.1.e) of the RGPD to apply the legal basis consisting in which the treatment is necessary for the fulfillment of a mission in the public interest.

Apart from this, in view of the provision contained in the additional provision of the Draft, it should be noted that one of these treatments that the LOPDGDD considers lawful is that relating to the treatment of the contact data of natural persons who provide services in a legal entity, in respect of which article 19 establishes the following:

"1. Unless proven otherwise, the treatment of contact data and, where appropriate, those relating to the function or position performed by individuals who provide services in a legal entity provided that the following requirements are met:

- a) *That the treatment refers only to the data necessary for your professional location.*
- b) *That the purpose of the treatment is solely to maintain relations of any kind with the legal entity in which the affected party provides its services.*

2. The same presumption will operate for the treatment of data relating to individual entrepreneurs and liberal professionals, when they refer to them only in that condition and are not treated to establish a relationship with them as natural persons.

*3. **Those responsible** or in charge of the treatment referred to in **article 77.1 of this organic law may also treat the data mentioned** in the two previous sections when it derives from a legal obligation or is **necessary for the exercise of their powers** ."*

Among the data controllers included in article 77.1 of the LOPDGDD, to which this article 19.3 of the LOPDGDD expressly refers, we find, among others, public bodies and public law entities that depend on the Administration of the Generalitat.

Therefore, the treatment provided for in this additional provision would also be protected by article 19 of the LOPDGDD, to the extent that the requirements established in this article would be met:

- The treatment would be part of the exercise of the powers attributed to the EAPC by law (defined in Chapter III of the Draft).
- The treatment would only refer to the contact details of natural persons who provide services in a Catalan public institution or administration. Point out that these contact details should be limited to those strictly necessary for the professional location of these people (name, surname, email address, telephone, position and institution or entity to which they belong).
- The purpose of the treatment would be to maintain relations of any kind with the legal entity in which the affected person provides its services, such as sending communications or information relating to the actions and activities of the EAPC to Catalan public institutions and administrations (selection, learning, training, talent development, research, innovation and knowledge transfer) that may be of interest to you (not to establish a relationship with them as natural persons).

Therefore, in principle, this provision would be in line with the regulations for the protection of personal data.

However, two clarifications should be made regarding the wording:

First of all, it is recommended to replace the term "disseminate" with "communicate", which is more appropriate when defining the purpose of the intended data processing.

Secondly, it would be good to specify that it is only the "professional" contact details.

Accordingly, wording like the following could be used:

"The School of Public Administration of Catalonia is authorized to process the professional contact data of people who provide service to Catalan public institutions and administrations, including senior officials, public managers and elected officials, in order to communicate to electronic media, in a personalized way, information on the actions of selection, learning, training, development, research, innovation, and transfer of knowledge that it offers."

conclusion

Having examined the Draft Law of the School of Public Administration of Catalonia, it is considered adequate to the provisions established in the regulations on personal data protection, as long as the considerations made in this report are taken into account.

Barcelona, November 9, 2022