

Carrer Rosselló, 214, esc. A, 1st 1st
08008 Barcelona

File identification File resolution of
prior information no. IP 295/2018, referring to the Catalan Health Institute

Background

1. On 22/10/2018, the Catalan Data Protection Authority received a letter from a person, regarding an alleged breach of the regulations on the protection of personal data. This person, who stated that he resided in Alicante, stated that he had received several e-mails from the Catalan Institute of Health (hereafter, ICS), despite not being a user. To prove these facts, he provided an email sent by the ICS, dated 10/19/2018.
2. The Authority opened a preliminary information phase (no. IP 295/2018), in accordance with the provisions of article 7 of Decree 278/1993, of November 9, on the sanctioning procedure of application to the areas of competence of the Generalitat, and article 55.2 of Law 39/2015, of October 1, on the common administrative procedure of public administrations (henceforth, LPAC), to determine whether the facts they were likely to motivate the initiation of a sanctioning procedure, the identification of the person or persons who could be responsible and the relevant circumstances involved.
3. In this information phase, on 10/29/2018 the ICS was required because identify the user (patient) of the ICS to whom the electronic address of the person concerned was associated; as well as in order to point out the actions that, in their case, had been carried out to delete or rectify this inaccurate data, tending to prevent the affected person from continuing to receive e-mail messages from the ICS.
4. On 09/11/2018, the ICS responded to the aforementioned request through a letter in which it stated that the electronic address of the person affected here was associated with another user of the ICS, in who identified Likewise, the ICS informed that once the appropriate checks had been carried out, the data in the system had been corrected, so that the person reporting here should no longer receive communications from the ICS.

Fundamentals of law

1. In accordance with the provisions of articles 90.1 of the LPAC and 2 of Decree 278/1993, in relation to article 5 of Law 32/2010, of October 1, of the Authority Catalan Data Protection Act, and article 15 of Decree 48/2003, of February 20, which approves

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the Statute of the Catalan Data Protection Agency, the director of the Catalan Data Protection Authority is competent to issue this resolution.

2. Based on the account of facts that has been set out in the antecedents section, it is necessary to analyze the facts that are the subject of the present preliminary information proceedings.

In the present case, from the previous information actions carried out, it is proven that the electronic address of the person affected here, by mistake, was linked to a person who was a user of the ICS (the electronic addresses of 'both people were identical, except for one letter). So, it can be inferred that when the electronic address of the ICS user was registered in the system, the letter that differentiated one address from the other was omitted, which led to the add the e-mail address of the complainant here.

Therefore, it should be made clear that the ICS, once it received the request from this Authority, has adopted the corrective measures aimed at putting an end to the eventual breach of the principle of accuracy regulated in article 5.1.d) of the GDPR.

Likewise, in the present case it is not proven that any harm has been caused to the affected person who brought these facts to the attention of the Authority, beyond the inconvenience caused by the receipt of the e-mails; nor to the person using the ICS, to the extent that it is not known that any of their personal data has been disclosed (the email information provided by the affected person cannot be linked to the person using the ICS) .

In short, the facts that are the subject of the present preliminary information actions do not have the sufficient entity to consider that a sanctioning procedure should be initiated, for the reasons that have just been set out.

3. In accordance with everything that has been set forth in the legal basis 2, and given that during the previous information it has not been proven that there are rational indications that allow imputation of any fact that could be constitutive of any of the violations provided for in the applicable legislation, it is necessary to agree on the archive of these actions. Article 89 of the LPAC, in accordance with articles 10.2 and 20.1 of Decree 278/1993, provides that it is necessary to file the actions when the following is highlighted in the instruction of the procedure: "c) When the proven facts do not constitute, in a manifest way, an administrative infraction".

resolution

Therefore, I resolve:

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1. File the actions of prior information number IP 295/2018, relating to the Institute Health Catalan.
2. Notify this resolution to the ICS and communicate it to the affected person.
3. Order the publication of the resolution on the Authority's website (www.apd.cat), in accordance with article 17 of Law 32/2010, of October 1.

Against this resolution, which puts an end to the administrative process in accordance with article 14.3 of Decree 48/2003, of 20 February, which approves the Statute of the Catalan Data Protection Agency, the denounced entity can file, with discretion, an appeal for reinstatement before the director of the Catalan Data Protection Authority, within one month from the day after its notification, in accordance with the which provides for article 123 et seq. of Law 39/2015. You can also directly file an administrative contentious appeal before the administrative contentious courts, within two months from the day after its notification, in accordance with articles 8, 14 and 46 of Law 29/1998, of July 13, regulating the administrative contentious jurisdiction.

Likewise, the reported entity can file any other appeal it deems appropriate to defend its interests.

The director

M. Àngels Barbarà and Fondevila

Barcelona, (on the date of the electronic signature)