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File identification

Archive resolution of the previous information no. IP 50/2019, referring to the Public Security Institute of Catalonia.

Background

1. On 02/15/2019, the Catalan Data Protection Authority received a letter from a person who filed a complaint against the Public Security Institute of Catalonia (hereafter, ISPC) on the grounds of an alleged breach of the regulations on the protection of personal data. Specifically, the complainant, Mr. (...) (...), local police officer of the City Council of (...), reported the following:

- Unjustified access to your ISPC personal file. The person making the complaint claimed that an *"agent of (...) (...)squad policemen"* and a *"sub-inspector of (...)"* of the ISCP, in January/February 2019, they made certain comments about him, referring to data that, according to the complainant, they could only have known by accessing his file, specifically:
 - a) They referred to the courses he had taken at the ISPC; specifically, to what he had done *"approximately in February 2018 (a 3-hour workshop on the use of firearms in police work). Number of assistants about 200 policemen"*.
 - b) They alluded to their *"previous job"*, given that, according to the complainant, it was included in a lawsuit that he had filed in 2006 against a resolution of the ISPC.
- Disclosure of data relating to your person. The reporting person stated that on February 4 or 5, 2019, the aforementioned sub-inspector (...) called (...) the Local Police of (...), providing this sub-inspector in the course of the conversation with relative data to his person, such as the fact that he was going to study in the ISPC library and the time he spent there. In this sense, the complainant transcribed in his written complaint an email that the head of the Local Police would have sent him, in which his superior referred to the conversation he had had with the sub-inspector of the PG-ME, in the following terms: *"at all times he was cordial and respectful towards you, and he talked about the strangeness of the time you were in the library, according to him important and possibly not compatible with the service around the local police (...) "*.

2. The Authority opened a preliminary information phase (no. IP 50/2019), 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.

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3. In this information phase, on 03/19/2019 the reported entity was required because reported on the following:

- Provide the log of accesses to the ISPC file relating to the person reporting here from 01/12/2018 to 15/02/2019 -both included-. It is necessary to justify each of the accesses to said file.
- Inform if the ISPC has any register containing data on the people who go to the library - as would be the case of the person making the complaint here - and the time they stay there.
- Report on the reasons that would have justified the call that the sub-inspector (...) made on February 4 or 5, 2019 (...) the local police of (...), and the legal basis that would justify the need to provide data relating to the complainant here (such as the fact that he was going to study at the ISPC library and the hours he spent there).

4. On 03/29/2019, the ISPC responded to the aforementioned request through a letter in which stated the following:

- That *"there is no record of access to the generic part (data associated with the person) of the ISPC application, which is why no evidence can be provided"*.
- That *"the Institute of Public Security of Catalonia does not have any register containing the data of the people who come to its library (Security Knowledge Center) and the time they stay there"*.
- That *"the reason for calling the sub-inspector (...) the local police of (...) is because of the continued presence and unusual behavior of Mr. (...) (...), at the Security Knowledge Center of the Institute of Public Security of Catalonia, based on the identification of the persons provided for in article 16 of Organic Law 4/2015, of March 30, for the protection of public safety"*.

The reported entity attached the following documentation to the letter:

- *"Informative note" issued by (...) of Administration and Academic Support, in which the Next:
"ISPC is a security site and, as such, it must follow the security measures and specific actions that the PG-ME has in the Specific Operational Plan (POE) with the current level 4 Anti-Terrorist Alert . (...) in order to be able to access the Security Knowledge Center and, consequently, the premises of the ISPC, Mr. (...) had to identify himself as an officer of the Local Police of (. ..). So, in order to comply with the provisions of the ISPC Internal Regulations and the POE, Mr. (...) identified himself to the ISPC Unit (...) as a Police officer Premises of (...), without having to access any file. Therefore, no query was made containing data from his personal file, simply, Mr. (...) provided the information that he was an officer of the Local Police of (...) to be able to access the premises.*

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Along these lines, inform that there is no record that contains data on the people who go to the library and, even less, the time they stay inside".

- Report issued by (...) of the (...) Police Area, in which the following verbatim is included:
"Knowing that Mr. (...) a few days ago (on November 30, 2018) she had behaved inappropriately with the Head of the Unit (...) and that (...) of the CCS was a little afraid of his presence and behavior of this user I decided to hold an interview with this gentleman in the company of the Head of the Unit (...). Given the strange and inconsistent behavior of Mr. (...), together with the fact that his attendance at the CCS was continuous from morning to afternoon from Monday to Friday, which could be contradictory to the usual shifts of an agent of the police, I decided, for security reasons, to be able to check if this gentleman was really a policeman and was working as he said at the Local Police of (...). We cannot ignore that he used a police credential from this police force to access the CCS on a daily basis. I raised the desire to make this call (...) the Police School of Catalonia, which considered it appropriate. This call can be framed within the own management that is framed in Law 4/2015, of 30 March on the protection of public safety, in its article 16.

I then called (...) the Local Police of (...) explaining the reason for my reasonable doubts, within the checks of access to a security compound such as the ISPC and with alert level 4 in which we find ourselves (...)"

5. On 04/05/2019, also during this preliminary information phase, a new request was made to the ISPC in order for the following to be answered:

- The complainant complained that the data that would have been the subject of consultation in relation to his person would be the following: a) data included in an appeal that the complainant here would have filed in 2006 against a resolution issued by ISPC; and, data relating to courses that the complainant here had taken at the ISPC (course taken in February 2018 on the use of firearms). Given the above, the ISPC was asked to answer the following questions:
 - Detailed information on the retention periods and filing system in relation to the following documentation: a) proceedings files (whether administrative or administrative contentious) to which the ISPC has been a party, especially with regard to those that they started in 2006 (as would be the one to which the complainant alludes); and, b) academic records of courses taken at the Police School of Catalonia.
 - Indicate the people who would have access to the cited information (administrative and/or contentious proceedings files and academic files), whether they are kept - if so - in physical or electronic format. • If the ISPC has implemented some type of control or registration (either manual or automated) that allows knowing the specific people who have been able to access the information mentioned in the previous sections. If yes, indicate the people who from

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01/12/2018 to 15/02/2019 they would have accessed this information and justified the reasons for each of the accesses.

- In relation to the call made by (...) the (...) Police Area (...) the Local Police of (...), it is necessary to indicate whether among the functions of this command this includes guaranteeing the safety of people and ISPC facilities. If so, indicate the rule that provides for it.

6. On 04/18/2019, the ISPC responded to this last request, through a report issued by the deputy general director of Administration and Academic Support of the ISPC, in which the following is set out:

- That with regard to the retention periods of the files, given *"that the CNAATD [National Commission for Documentary Access, Evaluation and Selection] has not issued a resolution regarding the conversation period for these series, it is not remove any file"*.
- That, with regard to the filing system of files relating to administrative and contentious appeals, and taking into account that these have historically been processed on paper, *"they are kept by (...) of Legal Advice and its personnel and are kept locked in locked cabinets until they are transferred to the ISPC archive, located in the same ISPC premises, in a locked bunker inside compact cabinets of which only the two have a key people responsible for the archive"*.
- That, with regard to the filing system of academic files, *"in the image and likeness of the previous section, all the documentation relating to courses and students has been filed on paper until 04/23/2018 and have applied conservation parameters equivalent to those described. On this date, the corporate application that manages the academic activity was updated with an evolutionary one that allows the management of several document series entirely electronically, among them, the document series of the course files and the document series of the file file student This corporate application, called the Academic Management Information and Registration System (SIRGA) is an application with low and high level security measures, depending on the application module managed and the information processed"*.
- That, with regard to access to the files of administrative and contentious resources, *"the persons authorized to carry out data processing in this file are (...) Legal Advice and its staff. Regarding access to the file relating to the appeals filed by Mr. (...) in 2006 and 2008 (administrative appeal and administrative dispute, respectively), on July 18, 2016, all the documentation was transferred to the "ISPC file (...) and, once the appropriate checks have been made, it has been possible to conclude that no person has accessed the files referred to above"*.
- That, with regard to access to the academic records of courses taken at the ISPC, *"the SIRGA corporate application incorporates basic, medium and high level personal data. It has a modular structure that makes it possible to facilitate user permissions to certain screens and menu options of the application at a very high level of detail and security (...)"*
- That, with regard to the type of control and registration of administrative and contentious appeals files, *"being at a high level there is a manual access register. Now, regarding the people who from 01/12/2018 to 15/02/2019 have been able to access this data"*

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indicate that as previously stated, the complete file was transferred on July 18, 2016 to the archive and, since then, there has been no access to it".

- That, with regard to the types of control and registration of the academic records of courses taken at the ISPC, *"the SIRGA application is configured so that each person has access to see the information they need for the development of their professional work . In order to carry out this determination, there is the "administrator" profile of the application where the registration of users and permissions is carried out by a User Responsible for the Application (URA). In relation to the specific security measures in the automated part of the file of academic and personal records of the ISPC relating to the file of the person when incorporating data with a low or medium level of security the application does not allow the registration of accesses*

However, regarding the application module that contains high-level data, there is indeed this record of SIRGA users who have accessed (query and/or modified)

the high-level data of SIRGA and, exclusively, the staff of the Selection, Evaluation and Monitoring Service of the ISPC who are professional psychologists have access to it.

In accordance with the request for information made by the APDCAT regarding the people who would have accessed this information from 1/12/2018 to 15/02/2019, once the check on the access register has been made able to verify that there has been no access to this module in relation to Mr. (...)"

- That, in accordance with article 3 of Decree 160/2016, of February 2, restructuring the Public Security Institute of Catalonia, corresponds to the Area (...) of the Police - to which belongs to the sub-inspector who made the call (...) the Local Police of (...), superior of the complainant - guarantee the safety of the people and the facilities of the Public Security Institute of Catalonia

7. Based on the antecedents that have been related and the result of the investigative actions carried out in the framework of the previous information, on today's date an agreement is also issued to initiate disciplinary proceedings regarding the conduct reported related to the disclosure of data of the person reporting here by the ISPC (...) the Local Police of (...).

The rest of the behaviors reported are addressed in this file resolution.

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 Agency, and article 15 of Decree 48/2003, of February 20, which approves the Statute of the Catalan Data Protection Agency, the director of the Catalan Data Protection Authority.

2. Based on the account of facts that has been set out in the background section, it is necessary to analyze the reported facts that are the subject of this file resolution.

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The complainant complained about alleged unjustified access to his ISPC personal file. The person making the complaint claimed that an *"agent of (...) (...) of police officers"* and a *"sub-inspector of (...)"* of the ISCP, in January/February 2019, they made certain comments about him, referring to data that, according to the complainant, they could only have known by accessing the said file, specifically:

a) They referred to *"their professional training and the last training I did at the ISPC. Which I did approximately in February 2018 (a 3-hour workshop on the use of firearms in police work). Number of assistants about 200 policemen"*.

b) They alluded to *"their previous job"*, given that, according to the complainant, it was included in a lawsuit that in 2006 the complainant here had filed against a resolution of the ISPC.

The first thing that should be evidenced is that there is no element that supports the content of the comments that, according to the complainant, were made to him by two members of the PG-ME body -both with regard to their academic data (participation in a course) and those relating to their previous occupation-, except for their own statements.

Despite the above, in view of the complaint made, the Authority proceeded to initiate investigative actions in relation to the alleged improper access to the complainant's data contained in ISPC files. In the course of these investigations, it was evident that the data referred to by the complainant were included in separate files; thus, the data relating to his previous employment were included in the file of administrative and contentious resources, and the data relating to the course he had taken, in the file of academic files.

Well, in relation to the alleged access to the complainant's data contained in the file of administrative and contentious appeals files, it must be said that it has not been established, not even circumstantial evidence, that any improper access has occurred by part of person or persons who provide service in the ISPC in the file that contains the data of the complainant here. Indeed, as stated in the antecedents, the ISPC has informed that the file containing the data of the person reporting here (specifically, data on his previous employment), was transferred to the ISPC file on 07/18/2016 and that since that date there was no access to said file.

At this point it should be noted that, as this class of files contains specially protected data (in the RGPD, special categories of data), the ISPC has implemented a register in which any access to said files is recorded; and, as has been said, since the date of its filing there was no record of access to the file in question. On the other hand, it must be said that, even in the case - as has been said, not proven - that a member of the PG-ME body did indeed make a comment about the previous employment of the complainant here, of this cannot necessarily be inferred that the data came from an ISPC file, since it cannot be ruled out that the disputed data could be known in an area and circumstances completely unrelated to the ISPC.

On the other hand, in relation to the academic data of the complainant here, specifically, the data that he himself cites (having participated in a course on the use of firearms), it should be noted that The ISPC has informed that these are included in the SIRGA file management application

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academics This institution has also reported that it had been established that from 01/12/2018 to 15/02/2019 there had been no access to the data of the complainant contained in the SIRGA application module that contains data of high level - the only one that has access registration. Certainly, this application does not have a log of access to those modules that do not contain specially protected data, and therefore it is not possible to check if someone with permission to access the application accessed the person's academic data reporting without justification; but what cannot be overlooked is that, as stated by the complainant himself, around 200 people would have participated in the aforementioned course, so it is obvious that not only the ISPC had this information.

In short, and as has been advanced, there is no element that allows to prove, not even circumstantial evidence, that people in the service of the ISPC improperly accessed the data of the reporting person included in the said entity's files, either in the case file of administrative and contentious resources, either in the academic files file.

3. In accordance with everything that has been set out in the 2nd legal basis, and given that during the actions carried out in the framework of the previous information it has not been accredited, in relation to the facts that have been addressed in this resolution, no fact that could be constitutive of any of the infractions provided for in the applicable legislation, should be archived.

resolution

Therefore, I resolve:

1. File the actions of prior information number IP 50/2019, relating to the Institute of Public Security of Catalonia, with regard to the conduct analyzed in this resolution.
2. Notify this resolution to the Public Security Institute of Catalonia and the person making the complaint.
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 persons interested parties may] file, as an option, 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. An administrative contentious appeal can also be filed directly 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, governing the contentious administrative jurisdiction.

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Likewise, interested parties may file any other appeal they deem appropriate to defend their interests.

The director,

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