

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

## File identification

Archive resolution of the previous information no. IP 154/2019, referring to the Municipal Institute of Finance of Barcelona.

## Background

1. On 17/05/2019, the Catalan Data Protection Authority received a letter in which a person filed a complaint against the Municipal Institute of Finance of Barcelona, of Barcelona City Council (in hereinafter, IMHB), due to an alleged breach of the regulations on the protection of personal data.

The complainant, with an address in Sant Sebastià, stated that the IMHB had sent him a receipt corresponding to the payment of property tax to an address also in Sant Sebastià but different from the one he had indicated to the City Council ( IBI) of a property and its parking lot that he bought in 2016 in Barcelona. He also stated that the address to which the IMHB had sent the receipt (A) (...) had never communicated it to the IMHB, and added that this was harming him, as it prevented him from paying in time and form the IBI receipts for these goods, corresponding to the years 2017 to 2019. Accompany the letter of complaint with the following documentation:

- A letter submitted by the complainant on 11/04/2017 to the entry register of the District of Sant Martí of the Barcelona City Council, in which he indicated as his address the street (B) (...), of San Sebastià, and request to the City Council: *"Please send all correspondence to my address in San Sebastian.*

*The address of the relevant receipts in IBAN xxxxxxxxxxxxxxxxxxxxxxxxxx", noting that he accompanied the written copy of the deed of ownership of the indicated goods (where the street address was listed (B) (...)) and his ID card.*

- A letter dated 04/23/2019, sent by burofax to the IMHB, in which he pointed out the following:

*"On December 2, 2016, and at the notary (...) I signed a deed of purchase of the flat (...) and the parking lot nº (...) of C/(...) in Barcelona.*

*Later, on April 11, 2017, I registered, at the offices of the Barcelona City Council in the district of Sant Martí with entry number 1-2017-xxxxxx-1, writing that I requested that all correspondence be sent to my address of Donostia San Sebastián C/ (B) / (...)xx x 20002 Donostia San Sebastián. It also indicated a bank account number in which to pay the municipal taxes.*

*I also attached a copy of my ID and the deed.*

*Given that I still haven't received any notification from the City Council at my home, I'm asking you again. that they send me the IBI receipts for the apartment and the parking for the years 2017, 2018 and 2019.*

*I am attaching a copy of the aforementioned writing (...)"*

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- A letter of response from the IMHB dated 04/29/2019, sent to the address of the complainant on street (...), in which he stated the following:

*"In relation to your request, we inform you that in order to obtain the letter of payment of the outstanding debt, you have the following channels:*

- Via the internet ([ajuntament.barcelona.cat/hisenda](http://ajuntament.barcelona.cat/hisenda))
- On the phone 931 537 010"

- A letter from the complainant dated 05/15/2019 sent by burofax to the IMHB, in which indicated the following:

*"Following the instructions given to me in the letter sent by you. Registration number: 2019/xxxxxxx, xxxxxx, I called the telephone number 931 537 010. In it they tell me: a) That you they will not send the IBI receipt to my address, indicated in the deed and at my instance of 11-04-2017 and with Registry number 1-2017-xxxxxx-1, but they did it in (A) (...) of Donostia-San Sebastián because it is what appears in documents (i?), which is radically false. b) They ask me to change my fiscal address at the Barcelona City Council, and c) they ask me to go to the website they suggest.*

*Before this situation I have to clarify that: a) I have not made any mistake, but that the non-payment of IBIs is only due to your bad practice. B) Are you here? those who, with their negligence, have mistaken my fiscal address (in the Ayto. of Barcelona) for what corresponds to you. fix your error c) The proposed website does not work for me, since I do not know how to manage these pages.*

*For all that:*

*1- Making use of my right of access to the data that you you can have, I ask you to send me all the data you have on me. (...)*

*How do you know that I put a flat in (...) ¿ Housing of which, as is logical, I do not control or know its correspondence.*

*2.- I request that they correct their error and send me by ordinary mail the receipts of the pending IBIs so that I can pay them and domiciliate them."*

In the last one, the complainant stated that it was true that he had an apartment in (A) (...) in Sant Sebastià, but he pointed out that an old woman had lived in this apartment since 1992.

2. The Authority opened a preliminary information phase (no. IP 154/2019), 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 22/05/2019 IMHB was required to report on the origin of the address to which IMHB had sent the IBI receipt or receipts mentioned (A) (...), from San Sebastián); to point out the reason why the IMHB has not sent the corresponding receipts to the address indicated by the person here denouncing in his letter dated 04/11/2017, and which he will later reiterate in the letter dated 04/23 /2019 (street B) (...), (...), 20002, San Sebastián); and also to inform and certify the address that was currently listed in the IMHB database regarding the payment of the IBI related to the flat in Barcelona of the complainant who has been indicated.

4. On 12/06/2019, the IMHB responded to the aforementioned request in writing in which it set out the following:

*"1.- Regarding the origin of the address to which this IMHB would have sent the IBI receipts to (...), in Sant Sebastià, we inform you that this address is the one that was listed in our municipal collection system as the fiscal address of the interested party and the fiscal address that was and is listed in the State Tax Administration Agency comes from his. (Document 1. Hard copy of the fiscal address inquiry at the AEAT).*

*2. Regarding the reason why the IMHB has not sent the corresponding receipts to the address indicated by the person here denouncing in his letter dated 04/11/2017, and which he will later reiterate in the letter dated 23/04/2019 (calle B (...), (...), Sant Sebastià), we must inform you that in the instance of 04/11/2017, the interested party only indicates the following:*

*"Please send all correspondence to my address in San Sebastian.*

*The domiciliation of the relevant receipts in /BAN (...)"\*\*\*\*\**

*But he does not specify his home address.*

*(Document No. 2 instance of 04/11/2017)*

*The official who changed the ownership of the properties to the name of the interested party, as a Sant Sebastià address was already listed in the municipal collection databases, checked the fiscal address at the AEAT and verified that maintained that of A (...), from Sant Sebastià, carried out the corresponding liquidations, maintaining the same address as already it consisted*

*On the other hand, in the instance of 04/24/2019, and as a substantial difference to the previous one, the interested party has expressly stated that he wants all correspondence to be sent to his address, which he identifies as that of the street B (...) Donostia San Sebastian.*

*(Document No. 3 instance of 04/24/2019).*

*3.- This street address B (...), (...), Sant Sebastià, on 05/14/2019 has been indicated in the collection database as the notification address, remaining as tax address that of A (...), from Sant Sebastià, since this address continues as such at the AEAT and he has not informed us that the tax address is another (...)."*

Fundamentals of law

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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.

The complainant complains about the address where the IMHB notified him of the IBI receipts corresponding to his property and parking lot in Barcelona, during the period between 2017 and 2019. He considers that the address he used the IMHB does not correspond to what it stated before the City Council in writing on 04/11/2017, nor in subsequent writings.

The reason for complaint requires analyzing the processing of this personal data carried out by the IMHB, mainly from the perspective of the principle of accuracy provided for in article 5.1.d) of Regulation (EU) 2016/679 of the European Parliament and of the Council, of April 27, relating to the protection of natural persons with regard to the processing of personal data and the free movement thereof (hereafter, RGPD), which establishes that personal data will be:

*"Accurate and, if necessary, updated; reasonable steps must be taken to delete or rectify without delay any personal data that is inaccurate in relation to the purposes for which it is processed ("accuracy")."*

Given the statements made by the complainant in the set of documents submitted to the Authority, it is necessary to differentiate the tax address from the address registered for notification purposes.

#### 2.1. About the fiscal address

First of all, it is necessary to analyze the fiscal address of the reporting person that appears in the database of the IMHB.

Article 48 of General Tax Law 58/2003, of December 17, establishes that: "1. *The tax domicile is the location of the taxpayer in his relations with the Tax Administration*" and also that: "2. *The fiscal address will be: a) For natural persons, the place where they have their usual residence (...)*". This must be supplemented with the provisions of the General Fiscal Ordinance of the Barcelona City Council (as amended in 2019), which determines in article 30 that: "1. *For municipal tax purposes, the fiscal domicile is: a) For natural persons, that of their habitual residence, meaning that which appears in the population register, unless there is evidence to the contrary (...)*", and article 31 establishes that: "1. *Taxpayers, as well as their representatives, administrators or attorneys, must communicate*

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*by means of an express declaration, to the municipal tax administration, both their tax domicile and the changes that occur (...)"*.

In this regard, from the statements and documentation provided by the complainant, it can be inferred that this person would not have his usual residence at the address located at A (...), in Sant Sebastià, where the IMHB would have carried out some notifications corresponding to the IBI for the years 2017 to 2019, but in Carrer B (...) in Sant Sebastià. This last address is the one that appears as his domicile in the public deed of sale of the property that the complainant presented to the City Council on 04/11/2017, and the one that appears in his ID.

Faced with this lack of coincidence, the IMHB has pointed out that the address A (...) (...) is the one that appears in the database of the State Tax Administration Agency (AEAT) as fiscal address. And he has provided a printout of the AEAT taxpayer database, corresponding to a query carried out on 05/27/2019 of the reporting person's tax address, where this address appears.

On the other hand, the same complainant has pointed out that, following a telephone call from the IMHB, the institute informed him that he had to change his fiscal address that was registered with Barcelona City Council following the procedure established.

In view of this, it should be noted that the Authority does not know that the reporting person has requested before the IMHB, by means of an express declaration and following the established procedure, a change of domicile or fiscal address, as required by the Article 31 of the General Fiscal Ordinance.

From the above it can be inferred that the eventual inaccuracy of the complainant's fiscal address for the purposes of the settlement of the IBI receipts, would not be imputable to the action of the IMHB.

## 2. About the address or domicile for the purposes of notifications

Article 110.1 LGT establishes that: *"In the procedures initiated at the request of the interested party, the notification will be carried out in the place designated for that purpose by the taxpayer or his representative or, failing that, in the fiscal domicile of one or the other"*.

The complainant requested the IMHB on 11/04/2017 that the notifications made by the IMHB in order to manage the payment of the IBI be sent to his address.

But as the IMHB points out, he did not specify any, referring only to the municipality of Sant Sebastià, where he has two addresses, the one where he currently resides and the one listed in the AEAT as his fiscal address. Specifically, he noted the following:

*"Please send all correspondence to my address in San Sebastian.  
The domiciliation of the relevant receipts in (...)"*

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Faced with this request, the IMHB has stated that the official who processed the complainant's request carried out an action to check the address, and verified that the fiscal address of the reporting person that was recorded in the AEAT database was A (...) de *Sant Sebastià*, so he made the corresponding IBI notifications at this address.

So things are, although in the heading of the letter dated 11/04/2017 the complainant indicated the address of *street B (...) in Sant Sebastià*, the fact that in his request he did not specify the address in Sant Sebastià, together with the fact that he had two addresses in this municipality, and that the fiscal address that appeared in the AEAT at the time of the request was another one in Sant Sebastià, induced the IMHB to the noted confusion.

The reasons indicated lead to consider that the action of the MHB would not meet the element of guilt necessary to initiate a sanctioning procedure at the IMHB. And in any case, it is considered that the set of facts analyzed would not constitute a sufficient entity to initiate a sanctioning procedure, if, in addition to what has been indicated, we take into account that when on 04/24/2019 the reporting person expressly indicated his street address *B (...) of Sant Sebastià*, the IMHB modified on 05/14/2019 the notification address that appeared in its collection base (as stated and inferred from the documentation provided to the Authority), and addressed - him the letter of response to this address in San Sebastià.

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 violations provided for in the legislation on data protection, should be archived.

resolution

Therefore, I resolve:

1. File the actions of prior information number IP 154/2019, relating to the Municipal Institute of Finance of Barcelona.
2. Notify this resolution to the Municipal Tax Institute of Barcelona and to the person making the complaint.
3. Order the publication of the resolution on the Authority's website ([apdcat.gencat.cat](http://apdcat.gencat.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 February 20, which approves the Statute of the Catalan Protection Agency

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of Data, the interested persons may file, on an optional basis, an appeal for reinstatement before the director of the Catalan Data Protection Authority, within a period of one month from the day after its notification, in accordance with the provisions of 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.

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

The director,