

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

## File identification

Archive resolution of the previous information no. IP 219/2019, referring to the Prat de Llobregat Town Council

## Background

1. On 25/07/2019, the Catalan Data Protection Authority received a letter from a person who lodged a complaint against the Prat de Llobregat Town Council, on the grounds of an alleged breach of the regulation on protection of personal data. Specifically, the person making the complaint stated that in the mobile devices linked to the telephone numbers (...) and (...) (which the person making the complaint indicated were assigned to the service and duty officers of the Local Police of Prat de Llobregat, respectively) there was an application installed that allowed all calls made from those devices to be recorded. "Call recorder",

2. The Authority opened a preliminary information phase (no. IP 219/2019), 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.

3. In this information phase, on 03/12/2019 the Authority carried out an inspection at the offices of the Local Police of Prat de Llobregat, to verify the facts object of complaint. In that face-to-face inspection event, the representatives of the City Council they stated, among others, the following:

- That there was no evidence that any application had been installed on the mobile phones linked to the numbers (...) and (...) to enable call recording.
- That the installation of any application in this regard had not been authorized.
- That the conversations held through the two mobile numbers indicated above should not be recorded.

Also, on this same date, the Authority's inspection staff accessed the mobile devices linked to the numbers (...) and (...) and, after verifying their numbering, found that they did not have installed the mobile application", or any other that in appearance allowed to record the calls.

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## 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 presented in the background section, it is necessary to analyze the reported facts.

Well, as it has been explained in the factual background, the Inspector staff of the Authority verified on 03/12/2019, that in the mobile devices subject to the complaint it was not possible to verify that there was installed aside from the mobile application or any other that in appearance allowed to record the calls. "Call reminder"

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 219/2019, relating to the Prat de Llobregat Town Council.
2. Notify this resolution to Prat de Llobregat Town Council and communicate it to 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 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. An administrative contentious appeal can also be filed directly before the administrative contentious courts, within two months of

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count from the day after its notification, in accordance with articles 8, 14 and 46 of Law 29/1998, of July 13, regulating administrative contentious jurisdiction.

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

The director,

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