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## File identification

Archive resolution of the previous information no. IP 307/2019, referring to the Metropolitan Area of Barcelona

## Background

1. On 11/13/2019, the Catalan Data Protection Authority received a letter from a person who filed a complaint against the Metropolitan Area of Barcelona (hereafter, AMB), on the grounds of 'an alleged breach of the regulations on the protection of personal data.

In particular, the complainant stated that to process a complaint through the web portal (<https://www.ambmobilitat.cat/Quejas/Quejas.aspx?>), the form that is downloaded marks as mandatory boxes to fill in "*data personal data that are not necessary to process the complaint*". In this respect, the reporting person provides a screen print of the complaints and suggestions form, in which it is verified that the fields relating to the first and last name, type of document and IPF/NIE, are data that must be entered in order to process the complaint/suggestion, given that they are marked with an asterisk.

The reporting person provided a screenshot related to the events reported.

2. The Authority opened a preliminary information phase (no. IP 307/2019), 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 28/11/2019 the Data Protection Officer of the defendant entity was required to report on the need to collect the DNI, NIE or Passport number, along with with the first and last name, of the people who want to submit a complaint and/or suggestion through the AMB website, from the point of view of the principle of data minimization (art. 5.1.c of the Regulation general data protection -RGPD-).

4. On 09/01/2020, the Data Protection Officer of the defendant entity answered the aforementioned request through a letter in which he set out the following:

- That the purpose of the data collection form is for the citizen to contact the AMB to present a complaint or suggestion in relation to the services provided by the AMB.

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- That *"to carry out any action provided for in the administrative procedure, it is sufficient for those interested to prove their identity beforehand through the means of identification established by Law 39/2015, of October 1 common administrative procedure of public administrations"*.
- That *"the public administrations have the obligation to verify the identity of those interested in the administrative procedure by checking their first and last names (...) that appear in the national identity document or equivalent identification document"*.
- That in telematic procedures, the identification of the interested party before the public administrations, requires an identification mechanism such as the digital certificate, but the AMB has chosen not to require it for this procedure (complaints and/or suggestions), in this way access to the procedure is facilitated, avoiding the initial barrier that would entail requiring identification through an electronic certificate.
- *"Requiring the NIP/DNI is considered sufficient to comply with the minimum requirement that allows the identification of the applicants in the majority of applications received, which do not involve action on their own person or at the information level their particular situation without the initiation of a regulated administrative procedure"*.
- *"Additionally, this requirement makes it possible to limit the reception of false requests aimed at disrupting the normal operation of the service"*.

The reported entity attached various documentation to the letter.

#### 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.

Specifically, it is necessary to determine whether the mandatory collection of the DNI, NIE or Passport number, together with the first and last name of the person, when presented, violates the principle of minimization regarding the processing of personal data a complaint and/or suggestion through the AMB website.

Article 5.1.c) of Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27/4, relating to the protection of natural persons with regard to the processing of personal data and the free movement thereof (henceforth, RGPD) regulates the principle of minimization determining that the personal data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

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In accordance with the provisions of section 1 of art. 11 of the LPAC, *"In general, to carry out any action provided for in the administrative procedure, it is sufficient for the interested parties to prove their identity beforehand through any of the means of identification provided by this Law"*.

In turn, article 9 of the LPAC, regarding the identification systems of those interested in the procedure, provides the following:

*"1. The public administrations are obliged to verify the identity of those interested in the administrative procedure, by checking their first and last names or name or company name, as appropriate, that appear on the national identity document or equivalent identification document"*.

In this case, the mandatory requirement of the DNI, NIE or Passport number, together with the first and last name of the people who submit a complaint and/or suggestion through the AMB website, is considered necessary in order to verify the identity of the interested person, in accordance with the provisions of art. 9.1 of the LPAC. In this sense, the treatment of the data established as mandatory in the data collection form to process the complaint/suggestion does not violate the principle of minimization, given that these are adequate, relevant and necessary in relation to the purposes for which are treated

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 307/2019, relating to the Metropolitan Area of Barcelona.
2. Notify this resolution to the Metropolitan Area of Barcelona and to the person making the complaint.
3. Order the publication of the resolution on the Authority's website (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 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 their notification, in accordance with what provided for in article 123 et seq

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

The director,

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