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## File identification

Archive resolution of the previous information no. IP 311/2019, referring to the Management Body Tax Office of the Provincial Council of Barcelona.

## Background

1. On 16/11/2019, the Catalan Data Protection Authority received a letter from a person who filed a complaint against the Tax Management Organization of the Barcelona Provincial Council (hereafter ORGT), due to an alleged breach of the regulations on the protection of personal data. Specifically, the complainant stated that, due to his membership of the entity (...) (hereafter, society) the ORGT continued to send him notifications to his mobile - via SMS - addressed to said society, although the same was extinct

The complainant provided a copy of the e-mails he sent to the ORGT's data protection representative's e-mail address requesting the removal of his mobile number as contact information associated with the company; as well as a copy of the automatic responses received in this regard.

2. The Authority opened a preliminary information phase (no. IP 311/2019), 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 preliminary information phase, on 11/29/2019, the Authority forwarded the complaint to the data protection representative of the ORGT, in order for him to respond within a month, in accordance with article 37.2 of Organic Law 3/2018, of December 5, on Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD).

4. On 12/30/2019, he received a letter from the ORGT in which he set out, among others, the following:

- That *"The claim refers to the contact details of a legal entity, which the Administration treated with a legal basis contemplated in article 19 of Law 3/2018, based on a legal obligation or/ and in the 'exercise of their powers'.*
- That *"The alert system is provided for in article 41.6 of Law 39/2015, and given that the Administration is obliged to notify its acts, and in the case of legal entities, the*

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*notifications must be made electronically, the actions have been made in compliance with a legal obligation."*

- That since *"the contact data includes e-mail and telephone, and the law does not impose the obligation to indicate a mobile number to receive the notices, the telephone number has been removed as contact data , in compliance with the request of the interested party"*.

- That with regard to the practice of notifications to the company *"it is considered that in the case of notifications addressed to a legal person, as part of the processing of a tax procedure, the allegation that the company it is extinguished, exceeds the scope of the data protection matter, and must be resolved with the resources and means that correspond within the procedure in process"*.

The ORGT also provided the email of 27/12/2019 and the letter of 30/12/2019, addressed to the complainant, through which the complaint was answered and he was informed, among others, that his mobile phone had been deregistered as the company's contact information.

#### 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. Article 37.2 of the LOPDGDD provides that when the affected person submits a claim to the Authority, it may refer the claim to the data protection delegate so that he can respond to the claim within a month.

In the present case, the complainant considered that his mobile number should be deleted as contact information for the company where electronic notifications are to be made.

In this sense, it is certified that the ORGT's data protection delegate has resolved the claim presented, since the reported entity proceeded to deregister the complainant's mobile number as contact information for the said society, as requested by the complainant.

On the other hand, by means of an official letter dated 28/11/2019, this Authority informed the complainant of the transfer of his claim or complaint to the data protection delegate of the ORGT and indicated that if the answer received from the data protection delegate did not satisfy her, she could bring it to the attention of the Authority. Well, the complainant has not expressed to this Authority any disagreement regarding the resolution of his claim by the data protection delegate of the ORGT.

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Given that, through its data protection delegate and in accordance with article 37.2 of the LOPDGDD, the ORGT has satisfactorily resolved the present claim, in the sense that it has responded to the claimant's request to deregister his number . mobile phone number from its database, and which was the subject of this claim, it is appropriate to agree on the archive of these actions, without further procedure.

resolution

Therefore, I resolve:

1. File the actions of prior information number IP 311/2019, relating to the Tax Management Body of the Provincial Council of Barcelona.
2. Notify this resolution to the Tax Management Body of the Provincial Council of Barcelona i to the reporting person.
3. Order the publication of the resolution on the Authority's website ([www.apd.cat](http://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 their notification, in accordance with what provided for in 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, interested parties may file any other appeal they deem appropriate to defend their interests.

The director,