

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

File identification

Archive resolution of the previous information no. IP 400/2020, referring to the Corporation Catalana de Media Audiovisuals, SA.

Background

1. On 22/12/2020 the Catalan Data Protection Authority became aware that the website of the TV3 and Catalunya Ràdio store had been the subject of a computer attack that would have affected personal data, which would have taken place between the months of November and December 2020. In turn, it verified that the Corporació Catalana de Mitjans Audiovisuals, SA (hereinafter, CCMA) had not notified this security breach to the Authority.
2. The Authority, on 12/22/2020, opened a preliminary information phase (no. IP 400/2020), in accordance with the provisions of article 7 of Decree 278/1993, of 9 of November, on the sanctioning procedure applied to the areas of competence of the Generalitat, and article 55.2 of Law 39/2015, of 1 October, on the common administrative procedure of public administrations (from now on , LPAC), to determine if the facts exposed 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 that could be involved.
3. In this information phase, on 12/23/2020 the CCMA was required to report, among others, on the date on which the security breach that would have affected the website of the TV3 and Catalunya Ràdio store; as well as the reasons why the security breach would not have been notified to the Authority.
4. On 12/24/2020, the CCMA responded to the aforementioned request through a letter in which it set out the following:
 - That there was evidence of a possible security breach on 12/22/2020, at about 8:30 a.m., following information published on the same date by a certain medium (El Mundo newspaper).
 - That prior to the response to the request, on 12/24/2020 the security breach was also notified to the Authority.
 - That on 12/23/2020 this security breach was communicated to the people who could be affected.

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 from

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Data Protection, and article 15 of Decree 48/2003, of February 20, which approves the Statute of the Catalan Data Protection Agency, the Director of the Authority is competent to issue this resolution Catalan Data Protection Authority.

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

In the present case, this Authority initiated the present actions of prior information for not having notified the Authority of a security breach affecting the website of the TV3 and Catalunya Ràdio store, of which it became aware on 12/22/2020.

Article 33 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 circulation thereof (in hereinafter, RGPD) provides that the controller must notify any violation of the security of personal data to the competent control authority (unless it is unlikely that the violation constitutes a risk to the rights and freedoms of natural persons) within a maximum period of 72 hours after it became known.

Well, in response to the request made by this Authority, the CCMA has indicated that it became aware of said security violation on 12/22/2020 following the publication of a news item in a certain media (the newspaper El Mundo) where it was reported that this violation had occurred.

On the other hand, it is certified that on 24/12/2020 the CCMA notified this security violation to the Authority, which was accompanied by a responsible report from the person in charge of the treatment corroborating that both (responsible and data controller) became aware of the security breach on 12/22/2020.

Given the above, all indications point to the fact that the CCMA was aware of the security breach, as stated in its response to this Authority's request, on the same day 12/22/2020 when a media published this news, and there is no other element available to infer the opposite, which is why it must be concluded that the CCMA notified the security breach within 72 hours of becoming aware of it and that, consequently, the obligation imposed by article 33 of the RGPD was not breached.

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.

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Therefore, I resolve:

1. File the actions of prior information IP number 400/2020, relating to the Corporation Catalana de Media Audiovisuals, SA.
2. Notify this resolution to the CCMA.
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 CCMA can 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 provisions 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 CCMA may file any other appeal it deems appropriate to defend its interests.

The director,