

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

## File identification

Archive resolution of the previous information no. IP 126/2021, referring to Palafolls Town Council.

## Background

1. On 03/28/2021, the Catalan Data Protection Authority received a letter from an entity in which it filed a complaint against Palafolls Town Council, on the grounds of an alleged breach of the regulations on personal data protection.

The reporting entity stated that through the information poster of the existence of "a hidden camera (or several)" installed in the container area located in (...) of Palafolls (specifically, in the container area located on avenue (...), the identity of the data controller was not disclosed. In the photographs provided, it was observed that the information poster about the existence of the cameras was cut off in its lower part. On the other hand, in said photographs it was not observed that any video surveillance device had been installed.

On the other hand, the reporting entity pointed out that the information poster was only written in Catalan.

2. The Authority opened a preliminary information phase (no. IP 126/2021), 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 were capable of motivating the initiation of a sanctioning procedure.

3. In this information phase, on 03/30/2021, the reported entity was required to report on whether the information poster subject to the complaint was installed without indicating the identity of the data controller.

4. On 06/04/2021, Palafolls City Council responded to the aforementioned request through a letter in which it stated the following:

- That the Palafolls City Council has not installed the signs that are displayed in the photographs provided by the reporting entity.
- That the City Council's services were able to know that the signs were placed by neighbors of the urbanization where the containers are located.
- That the aforementioned signs have been removed.
- That the container area is not equipped with video surveillance cameras that record the images.  
No image recording.

5. On 04/14/2021 and still within the framework of this preliminary information phase, Palafolls City Council was once again requested to confirm that in the container area

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subject of complaint there was no camera installed to capture images, nor any fake camera.

6. On 04/15/2021, Palafolls City Council responded to the previous request through a letter confirming that in the area subject to the complaint there was no camera installed to capture images, nor nor was there any false camera installed by the City Council "or observed by the City Council during the inspection of the area subject to the complaint."

#### 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 background story, it is necessary to analyze the facts reported that are the subject of this file resolution.

In the present case, it was reported that the informative poster of the existence of the camera or cameras that would have been installed in the area of containers located in the avenue (...) of (...) de Palafolls, allegedly by the Palafolls Town Council, did not include the information on the identity of the data controller.

In this regard, the Palafolls City Council has informed that it has not installed the informational poster that is the subject of the complaint and presumes that it would have been placed by the residents of the development. In turn, he reports that he has proceeded to withdraw it.

Likewise, the City Council has also confirmed that it has not installed any cameras (not fake either) in said container area.

In this sense, it should be emphasized that the reporting entity has not provided any evidence of the installation of any video surveillance device in the area subject to the complaint.

In accordance with the above, it must be concluded that in the present case the Palafolls City Council did not process any personal data, which is why the data protection regulations do not apply.

Without prejudice to the above, and with regard to the language of the video surveillance poster, it must be pointed out that the personal data protection regulations do not specify the languages in which the information must be given to the affected persons, as as this Authority has pointed out in opinion CNS 22/2020. Having said that, it is necessary to demonstrate that the video surveillance poster object of complaint (which the complained entity has denied having installed)

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it was written in Catalan, which is the official language in Catalonia (art. 6 of the Statute of Autonomy of Catalonia).

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.

Article 89 of the LPAC, in accordance with articles 10.2 and 20.1 of Decree 278/1993, foresees that the actions should be archived when the following is made clear in the instruction of the procedure: "a) The non-existence of the facts that may constitute the infringement".

Therefore, I resolve:

1. File the actions of prior information number IP 126/2021, relating to Palafolls Town Council.
2. Notify this resolution to Palafolls Town Council and communicate it to the entity reporting
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 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 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 reported entity can file any other appeal it deems appropriate to defend its interests.

The director,