

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

## File identification

Archive resolution of the previous information no. IP 128/2021, referring to Palafolls Town Council.

## Background

1. On 29/03/2021, the Catalan Data Protection Authority received a letter from an entity for which it lodged a complaint against Palafolls Town Council, on the grounds of an alleged breach of the regulations on personal data protection.

Specifically, the reporting entity explained that, as Ràdio Palafolls reported on 06/05/2020, the City Council had installed 4 number plate reading cameras in the municipality (<https://www.radiopalafolls.cat/2020/05/06/palafolls-just-installed-the-license-plate-reading-cameras/>).

In relation to these cameras, the reporting entity pointed out that the Palafolls City Council would not have placed the corresponding informative posters of their existence. In turn, he also presumed that these cameras would have been installed by a certain company, without having signed the corresponding contract.

On the other hand, the reporting entity requested to know the purpose of the treatment, as well as "that I be offered mis opciones de derechos ARCO"

The reporting entity provided various documentation relating to the events reported.

2. The Authority opened a preliminary information phase (no. IP 128/2020), 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 22/04/2021, the reported entity was required to report on certain aspects linked to the cameras subject to the report.

4. On 04/29/2021, Palafolls City Council responded to the aforementioned request through a letter in which it stated the following:

- That although the cameras are installed, the system has not been put into operation. The cameras, on the date of responding to the request for information, are not operational.
- That the system will go into operation once the procedures for legalizing the installation have been completed, at which time it will be informed of its existence through the

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mandatory informative signs and information that will appear on the website and electronic headquarters of the City Council.

- That the purpose of said video surveillance system will be the control of the circulation of vehicles on municipal roads.
- That the installation and maintenance of the cameras has been entrusted to a certain company, with which the treatment order will be formalized prior to the start of the visualization and recording of images.

#### 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, the treatment carried out by means of 4 cameras that the Palafolls Town Council has installed on the public road, which according to the local Corporation has been informed, will have the purpose of traffic control, was reported.

Likewise, the City Council has also specified that these cameras, despite being installed, have not yet come into operation.

At this point, it should be pointed out that the reporting entity did not provide any evidence which allowed us to infer that these cameras were in operation and, therefore, that they captured images.

Since no personal data is processed through the reported cameras, the personal data protection regulations do not apply. It is for this reason that it is not appropriate to address the facts that have been reported linked to the installation of said cameras.

Without prejudice to the above, it should be remembered that it is not up to this Authority to inform the reporting entity about the purpose of the treatment or the exercise of the rights provided for by the data protection regulations, but that this obligation falls on the person responsible for treatment. However, it should be noted that the fundamental right to the protection of personal data does not protect legal entities.

3. In accordance with everything that has been set out in the 2nd legal basis, and since during the actions carried out in the framework of the previous information it has not been accredited, in relation to

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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 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 highlighted in the instruction of the procedure: "c) When the proven facts do not manifestly constitute an administrative infraction".

Therefore, I resolve:

1. File the actions of prior information number IP 128/2021, relating to Palafolls Town Council.
2. Notify this resolution to Palafolls Town Council and communicate it to the reporting entity.
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,