

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

## File identification

Archive resolution of the previous information no. IP 141/2021, referring to the Department of Agriculture, Livestock, Fisheries and Food of the Generalitat de Catalunya.

## Background

1. On 04/10/2021, the Catalan Data Protection Authority received a letter from a person for which he made a complaint against the Department of Agriculture, Livestock, Fishing and Food (hereinafter, Department ARP), due to an alleged breach of the regulations on the protection of personal data.

In particular, the complainant explained that, putting her name in Google, one of the search results showed that she had been a beneficiary of a new incorporation grant for young farmers granted by the ARP Department.

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

2. The Authority opened a preliminary information phase (no. IP 141/2021), 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 04/12/2021, the Authority's Inspection Area made a series of checks via the Internet on the facts subject to the complaint. Thus, the following was established:

- That when searching, through Google, the name and surname of the person reporting, one of the results shown corresponded to an XLS file (Excel format) published on the website of the Department of Agriculture, Livestock and Fishing (https://sejra.jugencat.cat/.content/granted/2018/binary/files/2018\_RESOLUCIO\_ARP\_0742\_2018\_ORDRE\_ARP\_0035\_2018\_Primerainstallacio-joves-2018.xls).
- That in this file 321 beneficiaries of the aid for the first installation of young farmers and farmers were identified, through their first and last names. Among the beneficiaries was the complainant.
- That according to the said file, these grants were called for by Resolution ARP/742/2018, of April 11, and approved by Order ARP/35/2018, of March 23.

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

- That this file could also be downloaded through the Transparency Portal of the ARP Department (<http://agricultura.gencat.cat/ca/departament/transparencia-i-bon-govern/economia-finances/subvencions-ajuts/subvencions-ajuts-public-awarded/>).

#### 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.

In the present case, the complainant complains about the fact that the ARP Department has published, via the internet, that he was a beneficiary of the aid for the first installation of young farmers and farmers.

As indicated in the background, the Authority's inspector staff found that the complainant was identified through his first and last name as a beneficiary of the aid for the first installation of young farmers and farmers, granted by the ARP Department in 2018. It has also noted that this file has been published on the ARP Department Transparency Portal.

Well, article 8.1.g) of Law 19/2014, of December 29, on transparency, access to public information and good governance (hereafter, LTC), in relation to information subject to the transparency regime, provides that the Public Administration, in application of the principle of transparency, must make public the information relating to:

"g) The calls for proposals and the granting of subsidies and public aid."

Also, article 15.1.c) of the LTC determines that:

"1. The information relating to subsidies and public aid that the obliged entities must make public in application of the principle of transparency must include: (...)

c) Subsidies and public aid granted, with an indication of the amount, the purpose and the beneficiaries. This information must include grants and aid, must be up-to-date and must refer to the last five years.

It must also include subsidies and grants awarded without advertising and competition if these requirements have been exempted, in the cases established by law. In the case of subsidies and public aid granted for reasons of

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

social vulnerability, the identity of the beneficiaries must be preserved."

In accordance with these provisions, the grant-granting entities, in this case the ARP Department, are obliged to publish on their electronic headquarters or website information relating to the beneficiaries of subsidies and public aid.

Article 6 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 a treatment is lawful if any of the legal bases provided for there are met. Among these legal bases, there is that the treatment is necessary to fulfill a legal obligation applicable to the person responsible for the treatment (art. 6.1.c RGPD); or that the treatment is necessary for the fulfillment of a mission carried out in the public interest or in the exercise of public powers conferred on the person responsible for the treatment (art. 6.1.e RGPD).

In the present case, the identification of the beneficiaries of public aid during the period of 5 years, derives from the fulfillment of a legal obligation and a mission in the public interest, in accordance with the LTC (art. 15.1. c). Given the above, it should be considered that the treatment object of complaint is lawful.

Although the treatment object of complaint is lawful, it is worth remembering that once the 5-year period established by the LTC has passed, the Department will have to withdraw this publication in application of the principle of limiting the retention period (art. 5.1 .and GDPR).

On the other hand, the complainant considers that he should not be identified through his first and last name.

In this regard, this Authority has pronounced in Opinion CNS 45/2020, in the sense that when the publication of the administrative act containing personal data obeys the purpose of publicity or general knowledge by any person, the identification of those affected must be done in accordance with what is established in the first paragraph of the first section of additional provision 7a of the LOPDGDD, that is, through the name and surname of the affected person adding four random numerical figures of your national identity document number, alien identity number, passport or an equivalent document.

Therefore, the identification of the reporting person through their first and last name would not be contrary to data protection regulations.

It is also inferred from the letter of complaint that the complainant wishes to exercise his right to deletion, which is provided for in article 17 of the RGPD.

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

The first thing to say is that the habeas data rights regulated in articles 15 to 22 of the RGPD must be exercised before the data controller (in this case, the ARP Department).

Given the above, without prejudice to the fact that the right of deletion must be motivated in some of the causes established in article 17.1 of the RGPD, it must be made clear that this right does not apply when the treatment is necessary to fulfill a legal obligation that requires the treatment of data imposed by the law of the Union or of the member states to which the person in charge of the treatment is subject, or to fulfill a legal obligation that requires the processing of data imposed by the law of the Union or of the member states to which the person in charge of the treatment is subject, or to fulfill a mission carried out in the public interest or in the exercise of public powers conferred on the person in charge (art. 17.3.b RGPD).

Having said that, we should also address the fact that the information published by the ARP Department is indexed by internet search engines.

At this point, as this Authority already explained in the audit report 1/2018, on the transparency portals, the "transparency purpose does not imply, nor justifies, the indexing of the data. For this reason, it is recommended that tools be implemented to prevent internet search engines from indexing the information published on the transparency portal."

Recommendation 1/2008 of the APDCAT already referred to this issue and indicated several measures, which are in force and may be appropriate.

Therefore, the ARP Department should be recommended to implement the appropriate measures to prevent the information published on the Transparency Portal from being indexed by internet search engines.

Given the above, the reporting person can also exercise before the ARP Department their right to object to the information about them published on the Transparency Portal being indexed by internet search engines, in accordance with article 21 of the RGPD, taking into account what has been explained.

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.

Therefore, I resolve:

1. File the previous information actions number IP 141/2021, relating to the Department of Agriculture, Livestock, Fisheries and Food.

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

2. Notify this resolution to the ARP Department and 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. 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,