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File identification

Archive resolution of the previous information no. IP 265/2021, referring to the Segarra County Council

Background

1. En data 30/06/2021, l'Agència Espanyola de Protecció de Dades va traslladar a l'Autoritat Catalana de Protecció de Dades un escrit d'una persona pel qual formulava una denúncia contra el Consell Comarcal de la Segarra, amb motiu of an alleged breach of the regulations on the protection of personal data, in accordance with article 156 of the Statute of Autonomy of Catalonia. The letter of complaint highlights, in literal terms, the following facts:

"On 06/03/2021, I went to the County Council's facilities to deliver personal and private reports, requested by the Social Worker, Mrs. (...). When handing them over to Ms. (...) for his entry register, he scans them and begins to read them, I explain to him that he does not have to read them and he replies that yes, he has to put a summary, I tell him again that no, that he only has to put that it is a Report for the Social Worker, he ignores my words and continues reading a private, personal report with data from a minor, so he is violating the privacy of my family, the protection of very personal data, he is allegedly committing a crime of disclosure of secrets and also as an official, she is allegedly exceeding/extralimiting her functions, as well as usurping the functions of the social worker who is the only one who has the right and qualification to receive, read and process said documentation [..]"

The person making the complaint provides an email sent to the social worker and a letter of complaint addressed to the Regional Council, as well as evidence of the registration of the reports submitted to the administrative register.

2. The Authority opened a preliminary information phase (no. IP 265/2021), 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 08/31/2021 the entity reported by so as to report on the following aspects:

- Duties attributed to Ms. (...) regarding the CCS Entry Register.

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- Instructions to be followed by the staff attending the CCS Registry regarding the registration of incoming documentation. If there is a protocol for this purpose, a copy is required.
 - If the reported events have occurred, the Authority requires that the reasons that would have justified Ms. (...) read a document addressed to the social worker.
4. On 10/09/2021 the response of the Segarra County Council to the request for information made by this Authority was received. In this regard, the following is reported:

- "Mrs. (...) is part of the administrative staff of the County Council and has duties assigned to the reception of the Council, which includes the entry of documentation in the Register of this council.
- In application of the provisions of Law 39/2015, of October 1, on Common Administrative Procedure of Public Administrations, all the administrative procedures of the Council are managed through an electronic file manager, at the time of registering any document that has input to the Council, it is necessary to review its content in order to enter it into this electronic file manager in order to include a description of it.

In the specific case of documentation related to the field of social services, and given its sensitivity, the Council has defined a protocol by which users request an appointment with the social worker assigned to them and hand over the documentation, and it is this person from the social services who proceeds directly to carry out these procedures. This protocol is not documented. In the specific case of the entry of the documentation of Ms. (...), which has been the subject of the present complaint, this protocol was not applied due to the fact that the interested party herself requested that the documentation be entered in the Council's general register.

- As indicated above, and at the request of Ms. (...), to enter the documentation for the general register Ms. (...) proceeded to examine the heading of the document in order to include the description of the same at the time of uploading it to the corporate file manager".
5. On 09/20/2021, the Authority required the reporting person to pronounce on relation to the following points:
- Confirm whether, as reported by CC Segarra, you asked to submit documentation addressed to the social worker assigned to you through the General Registry.
 - If you do not agree with the statements of the CCS, it is necessary to deny it expressly and indicate the reasons why the documentation was presented by the General Registry, instead of handing it directly to the social worker assigned

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6. On 09/22/2021, the reporting person responded to the request for information indicated in the previous precedent, in the following terms: "The social worker told me that it was not necessary for me to make an appointment with her again, that I could leave the report at reception, so I did what he told me. When I arrived at the reception, the receptionist (in this case (...)) took the envelope from me, opened it and began to read because I told her I couldn't read it and she said yes, I had to do it because I had to put what it was about and I told her again that no, that I couldn't, that I only had to put that it was a report for the social worker, I didn't care and I continued reading, because of what I told her again (in a sarcastic way because he didn't listen to me and ignored what I was saying) if you want I'll explain what the last 2 pages say... you can't read it. Therefore, when I got home, I sent an email to the social worker, who answered me very quickly and then called me on the phone. Then I presented the claim to the Council (which to date have not answered me) and then to vosotros".

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.

Based on the background story, it is necessary to analyze the reported events that are the subject of this resolution.

The complainant complains that, without his consent, a CCS worker would have read information relating to social service reports addressed to a social worker. For its part, the CCS has informed the Authority that Mrs. (...) is a CCS worker, in charge of registering administrative documents, who read the documents presented by the complainant, in order to be able to register them and make them

reach the recipient.

So, the only element on which the complainant and the CCS disagree is on the eventual overreach of the official in charge of document registration, in her duties.

Well, for the purposes of discerning whether an infringement of the data protection regulations occurred from the CCS, it is necessary to bear in mind the provisions mentioned below.

Article 6 section e) of Regulation (EU) 2016/679 of the European Parliament and of the Council, of April 27, 2016, relating to the protection of natural persons with regard to the treatment

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of personal data and the free movement of such data (RGPD) provides that the treatment is lawful when it is necessary to fulfill a mission carried out in the public interest or in the exercise of public powers conferred on the person in charge of the treatment, among other conditions .

In this regard, article 8 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights, relating to the processing of data for legal obligation, public interest or exercise of public powers, provides:

"1. The processing of personal data can only be considered based on the fulfillment of a legal obligation required of the person in charge, in the terms provided for in article 6.1.c) of Regulation (EU) 2016/679, when this is provided for by a rule of European Union law or a rule with legal status, which can determine the general conditions of treatment and the types of data subject to it, as well as the transfers that are appropriate as a result of compliance with the legal obligation. This rule may also impose special conditions on treatment, such as the adoption of additional security measures or others established in Chapter IV of Regulation (EU) 2016/679. 2. The processing of personal data can only be considered based on the fulfillment of a mission carried out in the public interest or in the exercise of public powers conferred on the person in charge, in the terms provided for in article 6.1 e) of the Regulation (EU) 2016/679, when it derives from a competence attributed by a rule with the status of law."

Well, article 16 of Law 39/2015, of October 1, on the common administrative procedure of public administrations (LPAC) establishes the obligation of each Administration to have a general electronic register, in the which must be recorded in any document that is presented or received in any administrative body, public body or entities linked or dependent on them. In this regard, section 5 of the aforementioned article provides the following:

"5. The documents presented in person before the public administrations must be digitized, in accordance with the provisions of article 27 and other applicable regulations, by the registration assistance office in which they have been presented for its incorporation into the electronic administrative file, and the originals must be returned to the interested party, without prejudice to the cases in which the rule determines the custody of the documents presented by the Administration or it is mandatory to present objects or documents in a specific support not susceptible to digitization.
By regulation, administrations can establish the obligation to submit certain documents by electronic means for certain procedures and groups of natural persons who, due to their economic, technical capacity, professional dedication or other reasons, are accredited as having access and availability of the necessary electronic media."

As the claimed entity has stated, from the CCS all the documents that are presented in person at the registry are entered into the electronic file manager

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the entity To make effective the obligation provided for in article 16 LPAC, at the time of registering any document, it is necessary to review its content, in order to include a brief description of the matter in the reference electronic manager.

It appears from the background that the reading of the registered document by the CCS employee was carried out for the purposes of including a description of the document, at the time of uploading it to the corporate file manager. And although the reporting party has questioned the legality of this action, in accordance with the aforementioned precepts, and in accordance with the registration functions entrusted to this official, it cannot be considered that a treatment has been carried out of illicit data, given that the transcribed legal rules enable the processing of the reported data, without the need to obtain consent.

2. 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 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 265/2021, relating to the Regional Council of Segarra.
2. Notify this resolution to the Regional Council of Segarra 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.

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Likewise, interested parties may file any other appeal they deem appropriate to defend their interests.

The director,

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