

File identification

Archive resolution of the previous information no. IP 291/2021, referring to the Catalan Traffic Service.

Background

1. 07/19/2021 , the Catalan Data Protection Authority received a letter from a person who filed a complaint against the Catalan Traffic Service (hereinafter, SCT), on the grounds of a alleged breach of the regulations on personal data protection .

In particular, the person making the complaint stated that the SCT was dealing with ' *an outdated, unauthorized postal address* ' and not linked to the vehicle it owns. The complainant stated that this was an inappropriate and illegal use as it involved a violation of his personal data, an impediment to his right to information and, most likely, the dissemination of his data to third parties.

Together with the complaint, he provided a series of documents of which, for what is of interest here, it is necessary to highlight an image of a file containing a file with a reference number (...) and which shows an address at (. ..) (Barcelona), and a notification of an agreement for the ex officio initiation of a disciplinary file with reference number (...) and in which an address appears in Solsona (Lleida).

2. The Authority opened a preliminary information phase (no. IP 291/2021), in accordance with the provisions of article 7 of Decree 278/1993, of November 9, on the sanctioning procedure applied to 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 susceptible to motivate the initiation of a sanctioning procedure.

3. In this information phase, on 04/13/2022 the reported entity was required to report on the legal basis that legitimized the treatment of the postal addresses included in the documentation provided by the complainant as well as any other reason that justified the treatment of those addresses.

4. On 04/25/2022, the SCT responded to the aforementioned request through a letter in which it stated the following:

- That the processing of postal addresses was necessary for the fulfillment of a legal obligation applicable to the data controller, in accordance with article 6.1.c) of the RGPD in relation to Law 14/1997, of December 24, of creation of the Catalan Traffic Service, and with Royal Legislative Decree 6/2015, of 30 October, which approves the revised text of the Law on traffic, motor vehicle circulation and road safety.
- That with respect to the use of the complainant's data in the files (...) and (...), in both cases, firstly, a notification was made to the address that was included in the database of the General Directorate of Traffic (hereafter 'DGT'), that of (...) and, being unsuccessful, a telematic inquiry was made to 'A EAT/Padró' obtaining another address, that of Solsona, and carried out the notification at this address. In other words, as the address listed in the

DGT could not be notified, the address listed in the database of the Spanish Tax Administration Agency/Padró (hereafter 'the 'AEAT/Register').

- Finally, he recalled what is established in article 60 of the Royal Legislative Decree 6/2015, of October 30, which approves the revised text of the Law on traffic, circulation of motor vehicles and road safety with respect to 'updating the domicile, and reproduced sections 1 and 2, by virtue of which:

"1. The holder of a permit or driving license or of a vehicle circulation permit will notify the records of the autonomous body Head of Traffic Central of his address. This will be used to make notifications regarding all the authorizations you have. To this effect, the town councils and the State Agency for Tax Administration may communicate to the autonomous body the Central Traffic Office the new addresses of which they have evidence.

2. In the history of each vehicle, an address may also be entered for the sole purpose of managing the taxes related to it. (...)"

5. On 2/05/2022, also during this phase of prior information and in view of the letter presented by the SCT, the Inspection Area of the Authority required the reporting person to you certify that you requested the address update to the DGT and/or the municipal register, and the date of the request, in accordance with the aforementioned article 60.1 and with article 15 of Law 7/1985, of April 2, regulator of local regime bases.

6. On 05/15/2022, the reporting person responded to the request in writing stating: "*My postal address for Notifications was the same as that of the vehicle (listed in the DGT) and documented by the payment of IVTM 2020. My notification email address is and was (...) and my phone number (...). *The SCT sent notification with my private data to an outdated address, ignoring postal address of notifications/DGT/fiscal and email address of notifications. I request: I am attaching the historical certificate of registration in the register of 2020 and 2021, when the SCT began to commit deliberate irregularities and errors in the processing of my data, for which they insist on imposing a penalty of more than 300% on me of the original amount, due to ignoring my updated data in DGT, ORGT and municipal register. (...)."*

Along with this letter, he provided an individual historical certificate issued by the municipal register of inhabitants, which stated verbatim: "*I CERTIFY: That in the Municipal Register of this municipality, dated November 2, 2020, the inscription following: (...)"*. And he continued to illustrate a file that contained the details of the complainant's home in the street: "*(...) de Solsona*".

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 Catalan Authority of 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 background story, it is necessary to analyze the reported events that are the subject of this archive resolution.

The fact reported is the use of an outdated postal address by the SCT (that of (...)). The complainant, to prove it, provided an image of a traffic ticket file (number (...)) in which said address was included; and, on the other hand, provided a notification of an agreement for the ex officio initiation of a sanctioning file (number (...)) in which it can be seen that the notification address is that of Solsona. The complainant pointed out that this notification in which a serious penalty was imposed was given '*due to the misuse of my personal data (...) for: - Not being able to be informed earlier, unable to receive and respond. – Without informing me of the facts or details of the alleged initial serious infringement to which it refers*'. He also provided a certificate from the municipal register of the Solsona City Council stating that the address registered in the municipal register on 2/11/2020 was that of Solsona.

The fact reported could involve inaccurate treatment, for having used an incorrect postal address as can be seen from the statements made by the person reporting here. Consequently, the fact could constitute a violation of article 5.1.d) 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 processing of personal data and the free circulation thereof (hereinafter, RGPD) which regulates the principle of accuracy in the following terms: "*d) accurate and, if necessary, updated; all measures will be taken reasonable for them to be deleted or rectified without data delay _ personal data that are inaccurate with respect to the purposes for which they are treated (<<accuracy>>)*".

Regarding the actions carried out by the SCT, it is necessary to proceed with their analysis. The SCT detected an alleged speeding violation with respect to the complainant's vehicle and proceeded to consult the DGT's database in order to obtain the data and be able to notify the '*driver requirement*'. Tried unsuccessfully to notify the address listed in the DGT database (that of (...)), made a telematic inquiry to '*AEAT/Padró*' as indicated in the letter of response to the request of this Authority and in accordance with article 60.1 of Royal Legislative Decree 6/2015 ('*A estos efectos, the town councils and the State Agency of Tax Administration may communicate to the autonomous body Jefatura Central de Tráfico the new domiciles of which they have evidence*'). As a result of this inquiry, he obtained another address (that of Solsona), in which the notification was attempted again, resulting, in this case, '*absent*' and the reason for which the corresponding announcement was published in the DOGC and the BOE. Given that the said request was not met within the deadline granted, a new file was initiated and, once again, a first notification is attempted at the address that was included in the DGT database and, subsequently, it is returned to carry out a telematic consultation with '*the AEAT/Padró*' and the address of Solsona is obtained again, in which, finally, the agreement to initiate ex officio disciplinary proceedings could be notified.

So things are, and with regard to the use of the address contained in the DGT's database, that of (...), the SCT acted in accordance with article 90 of the Royal Legislative Decree 6/2015, relating to the practice of notification of complaints and in what is foreseen: "*Article 90. Practice of notification of complaints . " 1. The Administrations with competences penalties in traffic matters _ they will notify the complaints that are not delivered in the act and the others notifications to what day place the sanctioning procedure in the Electronic Road Directorate (DEV). In the event that the denounced party does not have it , the*

notification will be made at the address specified would have indicated for the procedure , and above default , at the address listed in the organization 's records autonomous Central Traffic Headquarters ." Subsequently, based on article 60.1 of the same rule, the SCT proceeded to practice the notification at Solsona's address.

The actions carried out by the SCT are based on the exercise of a public power provided for in Organic Law 6/1997, of December 15, on the transfer of executive powers in matters of traffic and the circulation of motor vehicles to the Autonomous Community of Catalonia. This is how it is established in its article 1, saying: "*The powers of execution of state legislation in matters of traffic, vehicle circulation and road safety are transferred to the Autonomous Community of Catalonia, (...)*". More specifically, article 2.4.a) of Law 14/1997, of 24 December, creating the Catalan Traffic Service, establishes: "*The following functions correspond to the Catalan Traffic Service: (...) 1.) Instruct and resolve the disciplinary proceedings that are imposed for infractions committed against traffic regulations, vehicle movement and road safety, object of transfer*". Also, article 7 of the Royal Legislative Decree 6/2015 establishes the powers of the municipalities, and among them, foresees: "*a) The regulation , ordenación , gestion , vigilance y discipline, por medio de agentes propios , of traffic on the roads urban areas of su ownership , as well as the denunciation of the infractions that are committed in said ways and the sanction of the same when he 's not expressly attributed to another Administration.*"

Based on the aforementioned precepts, the SCT exercises a public power which justifies the processing of personal data for the management of administrative files for traffic violations, protected by letter e) of article 5.1 of the RGPD, under of which ' 1. *The treatment will only be permitted if at least one of the following conditions is met: (...) e) the treatment is necessary for the fulfillment of a mission carried out in the public interest or in the exercise of powers public information given to the person in charge of the treatment ; '.*

For all that has been said, the SCT acted in accordance with the regulations in force regarding the processing of the data of the reporting person, since it used the postal address that was in the database of the DGT and, seeing which was unsuccessful, he went to the data contained in the register of ' *the AEAT/Padró* ', and which coincide with those contained in the certificate of the municipal register of Solsona provided by the complainant in response to his request authority

Likewise, it should be added that the notification provided by the complainant along with the complaint contained the information on ' *the source of the data* ', literally:

" Data protection. Treatments : (...) **Purpose:** *to manage data relating to disciplinary proceedings instituted for violations of traffic regulations. (...) Data categories:* *Identification (DNI/NIF, name and surname, postal address, vehicle registration number). (...) Data source:* (...) *Vehicle and driver data from the DGT public register. From the owner of the vehicle when it has been required to identify the driver and provide the data by means of a form.* (...) **Additional information:** *access the SCT website.*

In relation to this, the lack of compliance with the obligation to update the address of notifications in the DGT database does not fall on the administration but, in accordance with article 60.1 of the Royal Legislative Decree 6 /2015, of October 30, corresponds to the owner of the vehicle, which the complainant has not proven . In addition, said non- compliance cannot hinder the practice of notifications that derives from the instruction and resolution of sanctioning files for the commission of infringements against traffic regulations. For this

reason, despite having provided , the complainant, a certificate from the municipal register stating that her usual address at the time of the events was that of Solsona, this does not prevent the SCT from making use, in the first place, of the address that was in the database of the DGT, as provided for in the current regulations referred to above.

For all of the above, the complaint cannot succeed given that the facts complained of do not constitute unlawful processing of personal data.

3. In accordance with what was stated in the 2nd legal basis, and given that during the actions carried out within the framework of the prior information, no facts have been proven, in relation to the facts that have been addressed in this resolution that may constitute any of the violations provided for in the legislation on data protection, it is necessary to agree on the archive of the present actions.

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 constitute, in a manifest manner, an administrative infraction;*".

Therefore, I resolve:

- 1.** File the previous information actions number IP 291/2021, relating to the Catalan Traffic Service.
- 2.** Notify this resolution to the Catalan Traffic Service and the reporting person.
- 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,