

## File identification

Archive resolution of the previous information no. IP 367/2021, referring to the Catalan Traffic Service.

## Background

1. On 09/19/2021, 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 an alleged breach of the regulations on personal data protection.

Specifically, the complainant stated that the SCT did not inform the affected persons about the processing of personal data through the cameras or section radars installed on the C-58 highway (in particular, regarding the section radar located between kilometers 15 to 12, in the direction of Barcelona).

The complainant, who had previously contacted the SCT's data protection officer, provided various documentation relating to the events reported.

2. The Authority opened a preliminary information phase (no. IP 367/2021), 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 05/04/2022, the Authority's Inspection Area carried out a series of checks via the internet on the facts reported. Thus, the following was established:

- That through the "*Protection of personal data*" section of the SCT website, it can be obtained detailed information on data processing carried out by the entity ([http://transit.gencat.cat/ca/el\\_servei/proteccio\\_dades/](http://transit.gencat.cat/ca/el_servei/proteccio_dades/)).
- That, in relation to the treatment activity called "*Registration registration in section radar*" ([http://transit.gencat.cat/ca/el\\_servei/proteccio\\_dades/informacio-detallad-dels-tratamientos/captacio-matricules-radar-tram/](http://transit.gencat.cat/ca/el_servei/proteccio_dades/informacio-detallad-dels-tratamientos/captacio-matricules-radar-tram/)), the following information is provided:

***"Who is responsible for the processing of my personal data?"***

*Responsible unit: Catalan Traffic Service*

*Address: Diputació, 355*

*08009 Barcelona*

*Email address of the data protection officer: [dpd.interior@gencat.cat](mailto:dpd.interior@gencat.cat)*

***"What are the purposes of collecting and processing my personal data?"***

*Check the speed of vehicles traveling along a stretch of road.*

**Can the data be communicated to third parties?**

No.

**How long is my data kept?**

During the period necessary to carry out the declared purpose.

**What is the legitimation for the processing of my data?**

The exercise of the powers attributed to the Catalan Traffic Service and which are detailed in Law 14/1997, of December 24, creating the Catalan Traffic Service, and in Royal Legislative Decree 6/2015, of 30 October, by which the revised text of the Law on traffic, circulation of motor vehicles and road safety is approved.

**What rights do I have regarding the data I have to provide?**

You have the right to obtain information about whether or not we are processing personal data concerning you at the Department of the Interior.

As interested persons, you have the right to access your personal data, as well as to request the rectification of inaccurate data or, where appropriate, to request its deletion, among other reasons, when the data is no longer necessary for the purposes for which they were collected.

You can request the limitation of the processing of your data in accordance with the conditions set out in Article 18 of the GDPR. In this case, we will only process your data to exercise or defend claims or in case of protection of the rights of another natural or legal person or for reasons of important public interest.

In certain circumstances, you can object, giving reasons for your request, to the processing of your personal data.

**How can I exercise my rights?**

You can exercise your rights of access, rectification, deletion, opposition to treatment and request limitation:

by sending a paper request to the Catalan Traffic Service (Diputació, 355, 08009 Barcelona) or, in electronic format, through the generic request available at gencat procedures (the submission of the request by electronic means requires a certificate electronic or the alternative IDCAT Mobile identification system). You must clearly state in your application which right or rights you are exercising.

**Can I make a claim?**

If you consider that your rights have been violated, you have the right to submit a claim to the Catalan Data Protection Authority. You can do it in writing or from its electronic headquarters.

**What categories of data do we process?**

Identification data: vehicle registration plate.

***How did we get your data?***

*Through means of capturing and reproducing images that allow the identification of the vehicle."*

- That, through "Google Maps", it is verified that approximately at the height of the kilometer 16 of the C-58 highway and in the direction of Barcelona, there are 2 informational signs installed (on the right and on the left of the road), through which information is given of the existence of a section radar and that the maximum speed allowed is 120 kilometers per hour.

**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.

Article 22.6 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (hereinafter LOPDGDD) establishes the following:

*"6. The processing of personal data from the images and sounds obtained through the use of cameras and video cameras by the forces and security bodies and the competent bodies for surveillance and control in penitentiary centers and for control, the traffic regulation, surveillance and discipline is governed by the legislation transposing Directive (EU) 2016/680, when the treatment has the purposes of prevention, investigation, detection or prosecution of criminal offenses or the execution of criminal penalties, including protection and prevention against threats to public safety. Outside of these cases, this treatment is governed by its specific legislation and additionally by Regulation (EU) 2016/679 and this Organic Law."*

For its part, the first additional provision of Organic Law 7/2021, of May 26, on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal sanctions (hereinafter, LO 7/2021), regarding the specific regimes, provides the following:

*"1. The treatment of personal data from the images and sounds obtained through the use of cameras and video cameras by the Security Forces and Bodies, by the competent bodies for surveillance and control in prisons and for the control, regulation, surveillance and traffic discipline, for the purposes set forth in article 1, will be governed by this Organic Law, without prejudice to the requirements established in special legal regimes that regulate other specific areas such as criminal proceedings, traffic regulation or the protection of own facilities ."*

*2. Outside of these cases, said treatments will be governed by their specific legislation and additionally by Regulation (EU) 2016/679 and by Organic Law 3/2018, of December 5."*

Therefore, the cameras installed for traffic control, regulation, surveillance and discipline are regulated in the eighth additional provision of LO 4/1997, in the following terms:

*"The installation and use of video cameras and any other means of capturing and reproducing images for the control, regulation, surveillance and discipline of traffic will be carried out by the authority in charge of traffic regulation for the purposes provided for in the articulated text of the Law on Traffic, Circulation of Motor Vehicles and Road Safety, approved by Royal Legislative Decree 339/1990, of March 2, and other specific regulations in the matter, and subject to the provisions of Organic Laws 5/1992, of October 29, Regulation of the Automated Treatment of Personal Data, and 1/1982, of May 5, Civil Protection of the Right to Honor, Personal and Family Privacy and One's Image, in the framework of the principles of use of the same provided for in this Law."*

In turn, in the second additional provision of Decree 134/1999, in relation to said cameras, it is provided that:

*"2.1. The police of the Generalitat-mossos d'esquadra and the local police will carry out the installation of video cameras and any other means of capturing and reproducing images and will use them for the control, regulation, surveillance and discipline of the traffic on public roads subject to the regulations included in additional provision 8 of Organic Law 4/1997, of August 4, which regulates the use of video cameras by security forces and bodies in public places, and the present Decree.*

*2.2. The competent authorities to order the installation and use of the devices referred to in the previous section are:*

*On public roads where traffic regulation is not attributed to the municipalities, the director of the Catalan Traffic Service in the territory where the police officers exercise this competence.*

*In public roads under the jurisdiction of the municipalities, the mayor of the respective municipality.*

*2.3. The resolution ordering the installation and use of these devices will state: the body responsible for the recording operation, the identification of the public roads or sections thereof, the measures to be adopted for in order to guarantee respect for the legal provisions in force, as well as the body in charge of its custody and the resolution of requests for access and cancellation. The validity of the resolution will be indefinite as long as the circumstances that motivated it do not change.*

*2.4. This resolution must be notified to the Commission for the Control of Video Surveillance Devices, which, if appropriate, may issue a report on the adequacy of the resolution to the general principles of Organic Law 4/1997, of August 4*

*The custody and conservation of the recordings and the resolution of access and cancellation rights will correspond to the bodies that are fixed in the resolution through the*

*which authorizes the installation and use of the devices. The regime of conservation and custody of the recordings obtained will be governed by the same principles applicable to the recordings obtained using the video cameras regulated by this Decree.*

*2.5. The exercise of rights of access and cancellation of recordings by those affected will be governed by the provisions of article 15 of this Decree.*

*2.6. The resolution of authorization will not be necessary when means of capturing and reproducing images of a mobile nature are used in order to ensure compliance with traffic and road safety regulations. However, the Catalan Traffic Service and/or the General Directorate of Citizen Security may issue the necessary instructions and guidelines on their use by the agents of the Generalitat police force in charge of traffic surveillance."*

Well, neither LO 4/1997, nor Decree 134/1999 determine how the right to information regarding traffic cameras should be implemented, which is why the data protection regulations must be applied additionally.

In this regard, sections 6 and 8 of article 12 of Instruction 1/2009 establish the following:

*"12.6. The person responsible for the treatment, or whoever designates in their place, must also provide the affected persons with information on the rest of the points provided for in article 5.1 of the LOPD through printed materials or through their website or electronic office, where the specific purpose of the surveillance must be stated, as well as the rest of the information established in sections a), d) and e) of article 5 of the LOPD. (...)*

*12.8. In fixed cameras for the control, regulation, surveillance and discipline of traffic on public roads, the content of the sign may be limited to reporting the existence of the camera or speed control device, without prejudice to the that establishes section 6 of this article."*

As part of the present preliminary information actions, it has been noted that the SCT has placed two information signs at the height of kilometer 16 of the C-58 highway, in the direction of Barcelona, through which the existence of a section radar is reported, which is in accordance with article 12.8 of Instruction 1/2009. At this point, it should be noted that the complainant admitted the existence of these signs.

On the other hand, it has also been noted that the SCT website offers additional information on the processing of personal data, as transcribed in the 3rd precedent of this resolution. This additional information complies with the provisions of Article 13 of the RGPD. In addition, it should be noted that information is also provided on the categories of personal data being processed and on the manner in which the images are obtained. Likewise, the specific purpose of video surveillance is also specified, as required by article 12.6 of Instruction 1/2009.

**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 previous information actions number IP 367/2021, relating to the Catalan Traffic Service.
2. Notify this resolution to the SCT and communicate it to 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 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,