

File identification

Archive resolution of the previous information no. IP 245/2022, referring to the Integral Health Consortium

Background

1. 07/02/2022 , the Catalan Data Protection Authority received a letter from a person who filed a complaint against the Consorci Sanitari Integral (hereinafter, CSI), on the grounds of an alleged non-compliance with the regulations on personal data protection .

Specifically, the complainant stated that, on 03/04/2022, his medical history had been unjustifiably accessed from the Sagrada Família Primary Care Center (CAP) -managed by the CSI-, since on that day he had not went to the aforementioned center for consultation, and added that he suspected that this access could have been carried out by the entity in order to adopt certain decisions regarding his employment as a nursing professional.

The reporting person provided various documentation relating to the events reported. In particular, he attached the letter, dated 22/06/2022, that the CSI had addressed to him in response to a previous request. In this response, the person making the complaint was provided with the list of accesses to their clinical history, specifying the day, time, professional profile of the staff and place of access, and it was concluded that " *it has not occurred none access improper or illegitimate* ". Among the list of accesses to the clinical history, all of them carried out by CAP Sagrada Família, is included the one that is the subject of a complaint, carried out on 03/04/2022, at 1:14 p.m., by a person with the professional category of nurse.

2. The Authority opened a preliminary information phase (no. IP 245/2022), 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 07/19/2022 the reported entity was required to report, among other issues, on the justification of access to the medical history of the complainant here who had been object of complaint.

4. On 07/25/2022, the CSI responded to the aforementioned request through a letter in which it stated the following:

- That, " *access is adequately protected in the seventeenth additional Provision of Organic Law 2/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights, in relation to article 9.2 h) of the Regulation (EU) 2016/679. According to the available information, the access in question occurred in the context of the management and follow-up of the anti -Covid-19 vaccination by the nursing team of the CAP Sagrada Família attached to the Consorci Sanitari Integral and, precisely, in the tasks of updating the vaccination data.*
- That, " *with respect to CSI workers, the vaccination data is included in the PREVEN Occupational Health program (confidential for the worker). They are not automatically*

entered from the program of the Primary Care Clinic (ECAP) nor from the CSI vaccination program, which is where they are recorded, but must be entered manually from the review of the data contained in the indicated programs. (...) The questioned access is registered in the review process indicated. It is made clear that the review of the data relating to the complainant was justified in his status as an CSI worker, which he had recently ceased".

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 complainant complained about an alleged improper access to his medical history, carried out on 03/04/2022. In this regard, he added that this access could have been carried out by the CSI, with the purpose of adopting certain decisions, regarding his recruitment as nursing staff.

For its part, the reported entity has argued that the reference access was carried out by a professional person from the nursing service, in the context of the management and follow-up of the vaccination against Covid-19 of the staff of the entity - as was the case of the person reporting -, in order to update the vaccination data.

Well, apart from the statements of the now complainant, there is no other element that allows us to corroborate the improper nature of the access to the clinical history that is the subject of the complaint. On the contrary, as has been advanced, the CSI has reasoned and sufficiently argued that the access was carried out, by an authorized person, with the purpose of updating information relating to vaccination against Covid-19 from its staff, of which the complainant had been a part until recent dates.

this way, the principle of presumption of innocence is applicable, provided for in article 53.2 b) of Law 39/2015, of October 1, on the common administrative procedure of public administrations, which recognizes the right "*to the presumption of non-existence of administrative responsibility until the contrary is proven*".

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 the facts that have been addressed in this resolution, any fact that could be constitutive of any of the infractions provided for in the legislation on data protection, it is necessary to agree to its archive.

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 : "*b) When the facts are not accredited*".

Therefore, I resolve:

1. File the previous information actions number IP 245/2022, relating to the Integral Health Consortium.
2. Notify this resolution to the Consorci Sanitari Integral 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,

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