

File identification

Archive resolution of previous information no. IP 37/2023, referring to the Illustrious Bar Association of Sant Feliu de Llobregat.

Background

1. On 18/01/2023, the Catalan Data Protection Authority (APDCAT), by transfer from the Spanish Data Protection Agency (AEPD), received the letter of complaint dated 02/12/2022 filed against the Illustrious Bar Association of Sant Feliu de Llobregat (ICASF), on the grounds of an alleged breach of the regulations on personal data protection .

The complainant explained that she is a member of the ICASF (with member number (...)), and that among her obligations as a member "is that of providing a postal address " to the bar association of membership. For this reason, at the time of joining the ICASF, he had provided the entity with "a postal address " located in the town of "(...)", which had not changed (" no he cambiado ").

Regarding this, the complainant explained that each bar association "provides the General Council of the Spanish Bar " (CGAE), among other data, the professional postal address that the members have previously communicated to the your college of membership; then it is the CGAE that publishes the professional data of the registered persons on the "censo de letrados" web search engine. The complainant complained because, " From the year 2020", in the census of lawyers of the CGAE there was published "a postal address " associated with his person which was incorrect, which he had not communicated to the ICASF, which " la averiguaron por su cuenta" and that he had also not authorized the use or publication of this data.

On the other hand, the complainant stated that, on (...)2022, he addressed a letter to the Board of Governors of the ICASF, through which he informed about his intention to lodge a complaint with the AEPD due to the fact that the ICASF had communicated to the CGAE " an address that I have neither provided to this school nor have I authorized it to use". The complainant provided a copy of this letter.

2. The Authority opened a preliminary information phase (no. IP 37/2023), to determine whether the facts were capable of motivating the initiation of a sanctioning procedure, in accordance with what is provided for in article 7 of the Decree 278/1993, of November 9, on the sanctioning procedure applicable 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 the administrations public (LPAC).
3. On 03/28/2023, also within the framework of this preliminary information phase, the Authority's Inspection Area carried out a series of checks via the internet on the facts subject to the complaint. Thus, it was found that by entering the data of the person making the complaint (name and surname, membership number and association of lawyers to which they belong) into the search engine of the list of lawyers ((...)) , the result of the search reports the membership data of the reporting person, i.e. the first and last name, the bar association to which he belongs, the membership number and the date of registration , but does not contain any professional or personal contact details of the reporting person.

Secondly, it is observed that the CGAE lawyer search engine informs that to " request a modification or rectification of the content" that is published in the lawyer census it is necessary to address " the Association of Lawyers of membership to make this change that you are now communicating to us for the purposes of the subsequent periodic transmissions/updates that are made to this General Council of your professional data."

4. In this information phase, on 04/27/2023 the reported entity was required to report on the following:

- If the ICASF had communicated to the CGAE a different postal address than the one the reporting person had previously communicated to the ICASF.
- What address did the reporting person give to the ICASF, at the time of registration as a member, and if it has changed at some point later.
- The legal basis that would legitimize the ICASF communicating the personal data of the reporting person to the CGAE.
- What information did you communicate to the CGAE about the reporting person?
- If the ICASF, as a result of the letter of (...)2022 from the complainant addressed to the Board of Governors of the ICASF, took any action.

5. On 11/05/2023, the ICASF responded to the request with a letter in which, in summary, it stated the following:

- That "(...) this institution has not notified the CGAE or any third party of a different postal address than the one the person provided to this college when registering for the first time, on (. ..) of 2007, and subsequently, after having been deregistered for a while, again on (...) of 2010."
- That "In both cases (both in the application for discharge and in the one for rehabilitation), the reporting person stated the same postal address, which corresponds to the one that the ICASF initially communicated to the CGAE ."
- That the reporting person "has not reported a change of postal address to this bar association at any time."
- That "Specifically, this college is only aware of changes in email addresses, which have been communicated to the institution by the person making the complaint, and which have been properly managed in all cases, proceeding to the its modification in the lawyer's file. However, this data is not published anywhere, being data that is merely internal (...)."
- That "The above can be seen from the history of modifications contained in our internal management system, the last modification being made by the same interested person in 2018 (moment well before the date on which, according to the reporting person, the events allegedly committed by this school took place), and which, in any case, corresponds to a change in his email data, not in the postal address."

- That "(...) according to the census of lawyers of the CGAE, on date (...) of 2020, (precisely the same year that the person alleged in his complaint in relation to the alleged breaches committed by this college), the complainant also joined the ICA(...) under the same conditions as the ICASF." This bar association "(...) is also responsible for notifying the data of its members to the CGAE."
- That "From the ICASF we do not know the data that the same complainant provided to the said college of (...) in relation to his postal address at the time of enrolling in this other college of "lawyers."
- That "(...) it is clear that, from the moment the second collegialization took place, the data in the census was modified. This is so, since, according to the information provided by *redabogacia* (service in charge of the census of lawyers of the CGAE), the census does not show two professional addresses for the same lawyer, but only the last notified data appears by the last institution where the person concerned was registered (to be the most recent), and that this is the data that appears for all the person's registrations. Therefore, given that the membership in the ICA(...) is subsequent to the membership in the ICASF, the address data that in your case would appear in the CGAE census would be the one notified by the "ICA (...), not the one initially indicated by the ICASF."
- That in the census of lawyers of the CGAE "(...) the address, telephone or fax data of the person reporting do not currently appear, these being modifications and updates on the publication of their data that the person has not managed with this school."
- That "ICASF communicated the address that the person making the complaint stated in his registration form, namely the one located at (...). (...). On the other hand, this address has never been updated by the interested person in the database of this school."
- That "The legal basis that legitimizes this treatment (the communication of data to the CGAE) is the fulfillment of the legal and statutory obligations imposed on the ICASF, in its capacity as a professional association, and the General Statute of the Spanish Bar. Specifically, in accordance with what is foreseen in sections 2 and 4 of article 10 of the Law of Professional Associations (Law 2/1974, of February 13, on Professional Associations), this institution has the obligation to provide consumers and users with the information of their members and to provide the data to the general councils. (...)"
- That "In view of the letter presented by the complainant in (...) 2022 in front of this association, this institution verified that the data of the complainant had indeed been modified in both associations; and the corresponding inquiries were made with the CGAE to find out what had happened. To this end, the CGAE provided the information that has been recorded in this letter. In summary: a) That, as stated in the published census, the person is a member of two bar associations. b) that the data contained in the CGAE census are those communicated by the last institution in which the interested person was enrolled, to be the most recent."

The reported entity attached various documentation to the letter.

- A screenshot of the history of changes to the data relating to the reporting person, as recorded in the internal register of the ICASF. Among other things, it is noted that, on

(...) 2018, an "Automatic modification of address preferences" was made effective for the person reporting and that, on (...)2019, it was make effective the last change of addresses of the reporting person due to the communication of a new electronic address ("new email"). No communication of a change of postal address is observed.

- A screenshot of the two search results obtained in the CGAE list of lawyers, if the name and surname of the reporting person is entered. It is noted that she appears as a member of two different bar associations: on the one hand, at the "SANT FELIU" bar association, with membership number (...); on the other hand, at the bar association of "(...)", with membership number (...).
- A screenshot of the information relating to the complainant, collected at the ICASF ("SANT FELIU"), which was published in the CGAE list of lawyers on 05/10/2023. It is noted that the "Association data" section includes various information about the reporting person, among other things their first and last name, the name of the bar association to which they belong, the association number and the date of registration of association. And, in turn, that the "Contact details" section does not contain any address or any other information.
- A copy of the application for incorporation of the reporting person in the ICASF of (...) of 2007. And a copy of the application for incorporation of the reporting person in the ICASF of (...) of 2010. It is noted that, in both requests, the complainant indicated the same postal address located in the town of (...).

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 facts that are the subject of this archive resolution.

Specifically, the person making the complaint stated that since 2020, in the CGAE list of lawyers, a postal address associated with him had been published, which did not correspond to the data he had communicated to the ICASF at the time of enroll, and in relation to this, she pointed out that it would have been the ICASF that would have communicated to the CGAE a different postal address to the one she had communicated at the time of enrollment.

As part of the preliminary information phase, the reported entity has certified that in the two applications submitted to the ICASF (2007 and 2010), the reporting person always communicated the same postal address, located at population of (...). In this sense, the ICASF maintains that this data of the reporting person's domicile is the data that he communicated to the CGAE, in compliance with the legal obligation provided for in sections 2 and 4 of article 10 of Law 2/1974 , of February 13, on professional associations, and in article 90.1. k of Royal Decree 135/2021, of March 2, which approves the General Statute of the Spanish Bar. It also certifies that it is not registered in the ICASF's internal history that the reporting person has reported a change of postal

address, and that the last modification of data relating to the reporting person corresponds to a change in your email address, not your postal address.

Likewise, the ICASF states that, following the complainant's letter of complaint dated (...)2022, it checked the list of lawyers of the CGAE and found that the complainant was registered in two colleges different bar associations (ICASF and "ICA (...)", and that their data had been modified in both associations. According to the census of lawyers, the complainant was a member of the ICASF since (...)2007, and the ICA(...) since (...)2020. The CGAE informed the ICASF that in the census of lawyers only the last data notified by the last institution where the interested person was enrolled (to be the most recent) appears, and that this is the data that appears for all the associations of the person.

From all of the above, it can be inferred that the publication in the legal register of the erroneous address of the complainant would not have had as its origin a prior communication from the ICASF to the CGAE, but would have been facilitated by another col professional association in which the reporting person would have joined later, in 2020. In this sense, it should be emphasized that the registration in the new professional association coincides with the year in which the reporting person indicates that the address information in the CGAE list of lawyers was changed. From here it can be inferred that, taking into account that the CGAE informed the ICASF that in the census of lawyers only the last data notified by the last institution where the interested person was enrolled (to be the more recent), it would have been the information provided by the new professional association (ICA (...)) that would have promoted the updating of the data published in the CGAE list of lawyers, among which, the professional address of the reporting person

Be that as it may, from the documentation provided it cannot be inferred that the ICASF had carried out any data processing that contravened the principles of the data protection regulations, since it has certified that the only data of the person's address complainant that they have registered is the one that she provided herself at the time of joining, and her records do not show any other changes. Therefore, it seems natural that this was the only data relating to the domicile that they provided to the CGAE.

Consequently, apart from the statements made by the complainant, there is no element that can prove that the ICASF has committed an infringement of the data protection regulations.

Finally, it should be indicated that, in the hypothetical case of an infringement attributable to the other referenced entities (ICA(...)or CGAE), the Spanish Data Protection Agency would be the competent control authority for resolve this matter, which remains outside the competence of the APDCAT in accordance with the provisions of article 156 of the Statute of Autonomy of Catalonia and article 3 of Law 32/2010.

3. Article 10.2 of Decree 278/1993, of November 9, on the sanctioning procedure applied to the areas of competence of the Generalitat, provides that "(...) no charges will be drawn up and the dismissal of the file and the archive of actions when the proceedings and the tests carried out prove the non-existence of infringement or liability. This resolution will be notified to the interested parties". And article 20.1 of the same decree determines that dismissal is appropriate: "a) When the facts do not constitute an administrative infraction; (...)."

In accordance with everything that has been set forth in the 2nd legal basis, and given that during the actions carried out within the framework of the previous information, no fact has been proven that could constitute any of the violations provided for in the legislation on data protection, it is necessary to agree on its archiving.

resolution

Therefore, I resolve:

1. File the previous information actions number IP 37/2023, relating to the Illustrious Bar Association of Sant Feliu de Llobregat (ICASF) , since it has not been established that any act has taken place that could constitute any of the violations provided for in the legislation on data protection.
2. Notify this resolution to the Illustrious Bar Association of Sant Feliu de Llobregat (ICASF) and the complainant.
3. Order that the resolution be published 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 articles 26.2 of Law 32/2010 and 14.3 of Decree 48/2003, of February 20, which approves the Statute of the Catalan Agency of Data Protection, the interested parties may file an appeal before the director of the Catalan Data Protection Authority, within one month from the day after notification, in accordance with the provisions of article 123 et seq. of Law 39/2015. An administrative contentious appeal can also be filed directly before the administrative contentious courts of Barcelona, within two months from the day after its notification, in accordance with Law 29/1998, of July 13 , regulator of administrative contentious jurisdiction.

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

The director