

File identification Resolution  
of sanctioning procedure no. PS 26/2018, referring to the City Council of Canet de Mar.

#### Background

- 1.- On 14/11/2016 the director of the Catalan Data Protection Authority issued a resolution in rights protection procedure no. PT (...), referring to the City Council of Canet de Mar, who was duly notified. In this resolution, the claim that had initiated that procedure was appreciated, and in the second point of the dispositive part, the City Council was required to enforce the affected person's right of access.
- 2.- By official letter dated 10/1/2017 notified on the same date, and following a letter from the affected person dated 2/1/2017, this Authority again required the City Council to enforce the affected person's right of access. The deadline granted in this request was exceeded without obtaining any response from the City Council.
- 3.- On 6/2/2017 and 9/1/2018 other letters were received from the affected person, with which he expressly denounced that the City Council had not yet made effective the right of access in the terms indicated in the resolution of guardianship procedure no. PT (...).
- 4.- On 27/2/2018 this Authority contacted the City Council by telephone, and following this conversation the Authority addressed the affected person by means of email of the same date in order to give his consent so that the City Council could send him various documentation in electronic format. On the same day, the affected person gave his consent.
- 5.- On 1 and 2/3/2018 the City Council addressed this Authority by email in order to inform that it had sent the affected person a letter informing him of the provision of the requested documentation. The City Council also indicated that the affected person had called to communicate that he would collect the aforementioned information and finally, also indicated that the documentation had been collected on 2/3/2018, attaching a document with the affected person's signature as he had received the documentation

In relation to this documentation sent by the City Council to the affected person, the latter stated that it was not what he requested: "I only asked in my solicitude y cite "... medical reports that according to the secretariat it is recorded that I have I am INGRESADE and that I suffered from PSYCHIATRIC DISEASES to which it refers before the workplace harassment that I suffered according to the court ruling. Today I went to collect the documentation and as I imagined they gave me everything but what I really asked for. In other words, they keep denying me access to the reports I requested."

6.- Faced with the statements of the person making the claim, this Authority, by means of an email dated 2/3/2018, requested the City Council to clarify whether it had in its possession the reports to which it alluded the affected person. In this respect, the City Council on 3/5/2018 replied to this Authority that: "the only thing I could reply to is that the file I have in the municipal offices does not show what he is asking for (I will have to read all the reports to verify this) but (...) I cannot guarantee that during the judicial proceedings (...) he had access to any document that would prove what he stated (...)."

7.- By email dated 7/3/2018, this Authority asked the affected person to indicate whether it had evidence that the City Council had collected the statements made by the secretary on 28/1/2015 - and in basis on which he based the existence of the medical reports - in some other act or document of the City Council.

On 7/3/2018, the affected person responded to the previous request in the sense that the statements would have been repeated both in the Minutes of the Plenary Session of the City Council dated 29/9/2016 and in a letter of reply from demand dated 4/5/2017 in the course of a judicial proceeding. The affected person provided a copy of the letter dated 4/5/2017 as well as the internet link where the aforementioned Plenary Minutes were available.

8.- On 6/26/2018 the Authority's Inspection Area carried out several checks on the internet related to the facts under investigation. In these checks, it was found, among others, that the Minutes of the Plenary session of the session dated 9/29/2016 were accessible on the internet, specifically at the link (...)

In this publication there was a notice indicating that the personal data had been deleted, but in point 4 of the Minutes there were the initials of the names and surnames of the affected person, along with the mention of your status as a local police officer, as well as other circumstances relating to your work situation and state of health.

9.- After analyzing the content of the documents located on the internet, and to which the affected person had referred in the email dated 3/7/2018, this Authority on 6/27/2018 required the City Council to that a clear statement be made as to whether he had the medical reports that would have served as the basis for the statements made by the City Council secretary on 28/1/2015, and later, in the Minutes of the Plenary meeting dated 29/ 9/2016 and in the written response to the demand dated 4/5/2017.

On 6/28/2018, the City Council responded to the request in the following terms: "I inform you that on March 2, 2018, Mr. (...) all the medical reports on file at the municipal offices, both those contained in the legal claim brought by the interested party and those contained in the patrimonial responsibility file for City Council personnel and to which reference both to the opinion of the Legal Advisory Committee and to the agreement taken by the Plenum of the Corporation in the session of September 29, 2016."

10.- Faced with the contradictory positions of the parties, and in order to assess whether or not the affected person's right of access had been effective, this Authority on 7/19/2018 again requested the City Council, in this case in order to provide the documentation that had been given to the affected person in order to make effective the right of access object of the rights protection procedure no. PT (...).

The City Council complied with said request by means of an official letter dated 7/20/2018.

11.- On 7/31/2018 the affected person notified this Authority that the Minutes of the Plenary Session of 7/30/2015 had been published on the City Council's website, which included his data personal data, despite the existence of a notice indicating that all personal data had been deleted.

12.- On 8/27/2018 the Inspection Area verified that, indeed, in the link (...) the Minutes of the Plenary meeting dated 7/30/2015 were published, which contained data personal data of the affected person. Specifically, it contained his full name and surname, his status as an ex-local police officer as well as other employment circumstances, and this despite the existence of a notice indicating that personal data had been deleted . Likewise, it was also verified that the Plenary Minutes of the session dated 9/29/2016, to which reference was made in the 8th precedent, were still published.

13.- On 18/9/2018, the director of the Catalan Data Protection Authority agreed to initiate disciplinary proceedings against Canet de Mar City Council, for an alleged very serious infringement provided for in article 44.4. b) in relation to article 7.3 LOPD. Likewise, he appointed Mrs. (...), an employee of the Catalan Data Protection Authority, as the person instructing the file.

This initiation agreement was notified to the imputed entity on 9/19/2018. In the initiation agreement, the accused entity was granted a period of 10 working days, counting from the day after the notification, to formulate allegations and propose the practice of evidence that it considered appropriate to defend its interests.

Also, it is worth saying that in the same initiation agreement, the director of the Authority argued the reasons why it was considered that the City Council had finally made effective the right of access of the affected person. In relation to the documentation finally delivered by the City Council, as progress has been made in the antecedents, the affected person reiterated his complaint to consider that it was incomplete, as it did not contain certain reports with mentions of alleged illnesses to which the City Council had referred. In this regard, in the initiation agreement it was indicated that once the Authority had analyzed the documentation provided, no medical report was detected that literally contained the mentions of illnesses later reproduced by the City Council, such as in the demonstrations of the secretary of the City Council collected in the Minutes of the Plenary session of 9/29/2016.

However, it was added that it could not be ruled out that the City Council had carried out these

manifestations as a result of the linking and connection of information appearing in several of the documents. Based on this argument developed in the initiation agreement, it was considered that it was not appropriate to impute to the City Council the alleged violation of the principle of data quality, in its accuracy aspect of art. 4.3 of the LOPD.

In point 2 of the dispositive part of the agreement to initiate the present procedure, the precautionary measure consisting in requiring the City Council to carry out the necessary actions within a maximum period of 5 days was adopted in order to that the personal data of the affected person contained in the Minutes of the Plenary of the dates 30/7/2015 and 29/9/2016 cease to be accessible on the internet.

14.- On 9/25/2018 the City Council notified this Authority of the implementation of the precautionary measure detailed in the previous paragraph, and in this regard stated the following: "not only has the link that was in the City Council's website to access the minutes of the Corporation's Plenary Session of 07/30/2015 and 09/29/2016, but the said minutes have also been removed from the URL where they were located ."

15.- On 3/10/2018 the affected person notified this Authority that his personal data was also accessible on the internet in a Minute of the Board of Governors of the Canet de Mar City Council dated 22/1/ 2009

16.- On 4/10/2018, the City Council made objections to the initiation agreement.

17.- On 5/11/2018 from the Inspection Area it was verified, on the one hand, that in the links (...) and (...) the personal data of the affected person, were still published on the internet. Specifically, this act was listed in the following link:

[\(...\)](#)

18.- On 11/19/2018, the person instructing this procedure formulated a proposed resolution, by which it was proposed that the director of the Catalan Data Protection Authority declare that the Canet de Mar Council had committed a very serious infringement, provided for in article 44.4.b), in relation to articles 7.3 and 7.5 LOPD.

This resolution proposal was notified on 20/11/2018 and granted a period of 10 days to formulate allegations.

19.- The City Council, by official letter dated 11/26/2018, notified this Authority of the adoption of the corrective measure proposed by the person instructing the proposed resolution, in the sense that it had unpublished the Minutes of the Board of Governors dated 01/22/2009.

20.- On 12/12/2018 from the Inspection Area it has been verified that the personal data of the person affected here that were in the Minutes of the Governing Board of date 01/22/2009.

Of all the actions taken in this procedure, the facts detailed below are considered accredited.

#### proven facts

The City Council published on its institutional website, accessible on the Internet, the Minutes of the Plenary Session of the regular sessions held on 7/15/2015 and 9/29/2016 as well as the Minutes of the Local Government Board of 22/1/2009, which contained various personal data - some of them health-related to the claimant in guardianship procedure no.

PT (...), who could be identified by stating their full name and surname (Acts of 22/1/2009 and 30/7/2015), or to include the initials of their name and surname and the condition of local police/ex-police of Canet de Mar (Minutes of 29/9/2016).

The acts dated 7/15/2015 and 9/29/2016 remained published on the internet until 9/19/2018, the date on which the City Council executed the precautionary measure adopted in the initiation agreement of this sanctioning procedure. On the other hand, the Minutes of 1/22/2009 remained published on the internet until after the present procedure had been initiated (17th precedent), although at the time this resolution was issued it was no longer accessible to internet (20th background).

#### Fundamentals of law

1. The provisions of Law 39/2015, of October 1, on the common administrative procedure of public administrations (from now on, LPAC), and article 15 of Decree 278 apply to this procedure /1993, of November 9, on the sanctioning procedure for application to the areas of competence of the Generalitat, according to what is provided for in DT 2a of Law 32/2010, of October 1, of the Catalan Authority of Data Protection. In accordance with articles 5 and 8 of Law 32/2010, the resolution of the sanctioning procedure corresponds to the director of the Catalan Data Protection Authority.

As a preliminary consideration, it should be indicated that the precept that contained the infringing type applied here, was repealed by Royal Decree-Law 5/2018, of 27/7, on urgent measures for the adaptation of Spanish law to the regulations of the European Union in matters of data protection, as well as the new Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD) has entered into force. But since it is a sanctioning procedure in which the previous actions that had preceded it had started earlier, it must be governed by the previous regulations.

Also, in this act, the eventual application to the present case of what is provided for in Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27/4, regarding the protection of natural persons, has also been taken into account with regard to the processing of personal data and the free movement thereof (RGPD) and the LOPDGDD. And as a result of this analysis, it is concluded that the eventual application of the RGPD and the LOPDGDD would not alter the legal classification that is made here, and in particular would not favor the presumed person responsible for the infringement. In any case, it is worth saying that the facts imputed in application of the now repealed LOPD as constitutive of a very serious infringement, would have this same qualification if the RGPD or the LOPDGDD were applied to the case (art. 72.1.e LOPDGDD ).

2. The accused entity has not made any objections to the resolution proposal, since in the hearing process it has submitted a written statement in which it only communicates that the relevant actions have been taken in order to prevent it from being accessible on the Internet the minutes of the Local Government Board of 01/22/2009. But before the initiation agreement the City Council had made allegations, regarding which, it is considered appropriate to reiterate below the more relevant than the reasoned answer given by the instructing person in his resolution proposal.

#### 2.1.- On the obligation to publish the minutes of the Plenary sessions.

In the first three sections of its statement of objections, the City Council invoked various regulations on the basis of which it concluded that "The City Council of Canet de Mar has not committed any infraction of those typified by article 44 of the LOPD given that, in accordance with the previous considerations set out, the local bodies have the legal obligation to publish in their electronic headquarters and on the Transparency Portal the minutes of the plenary sessions where the matters debated and the agreements adopted are recorded. Therefore, there is legal authorization for the publication of these personal data, a fact that makes the possible infringement that is mentioned in the proposed resolution of the ACPD, (...) on the part of "this Corporation."

As the instructing person pointed out, this allegation cannot succeed for the reasons that will be pointed out below.

First of all, the City Council argued that the dissemination of personal data imputed here - and which includes specially protected data - would be authorized by article 11.2.b) of the LOPD, which allows the communication of data without consent of the affected person, "When it comes to data collected from sources accessible to the public". In this regard, it is sufficient to note that the personal data that were included in the minutes later disseminated were not collected from publicly accessible sources, but were collected by the City Council as part of a property liability file. It is also necessary to specify that personal data published on the internet, and in particular those included in the electronic headquarters of the City Council for the purpose of publishing the proceedings of the Plenary Session, are not considered sources accessible to the public. The art. 3.j) of the LOPD determines that "Only the promotional census, the telephone directories (...) and the



lists of people who belong to professional groups (...) newspapers and official bulletins and the media". In fact, the City Council itself transcribed this precept, but did not specify that the data had been obtained from any of these public access sources listed as such.

The City Council also alluded to the public nature of the Plenary Sessions, and to this effect, invoked several legal precepts of Law 7/1985, of April 2, regulating the bases of the local regime (hereafter, LBRL) of Legislative Decree 2/2003, of April 28, which approves the revised Text of the Municipal and Local Government Law of Catalonia (hereinafter, TRLMRLC) referring to the public nature of the sessions of the Plenum, and the article 10.2 of Law 29/2010, of August 3, on the use of electronic media in the public sector in Catalonia relating to the publication of minutes in the electronic headquarters. On the other hand, it also invoked Judgment 181/2015, of March 16, of the Superior Court of Justice of Catalonia regarding the right to information of citizens and the report 12/2014 of the Spanish Data Protection Agency regarding to the publication of the Plenary proceedings.

Regarding the authorization established in article 10.2 of Law 29/2010 to publish on the electronic site the minutes of the plenary sessions, and specifically, those minutes debated in the Plenary, first of all it is necessary to remember the literalness of the precept : "2. Local entities must publish the minutes of plenary sessions in their electronic headquarters. In their publication, the principles and guarantees established by the data protection regulations and the protection of the right to honor and privacy must be taken into account. For these purposes, they can include personal data without the consent of the person concerned, if it is data referring to acts debated in the plenary session of the corporation or provisions subject to publication in the corresponding official bulletin. In all other cases, without prejudice to the provisions of other laws, publication is only possible if the consent of the interested person is obtained or the data cannot, under any circumstances, be linked to the interested person himself."

Therefore, and contrary to what the City Council maintains, the authorization to publish the personal data appearing in the minutes of the plenary sessions is not formulated in absolute terms, but in the sense of taking into account "the principles and guarantees which establishes the data protection regulations and the protection of the right to honor and privacy", even for the case of acts debated in the Plenary, since the wording of the precept establishes that "they can be included ", not that personal data "must be included" without the consent of the data owner when it comes to matters debated in the Plenary, which obliges the Town Councils to carry out a weighting prior to publication .

Weighting that must take into account the principle of data quality, regulated in article 4 of the LOPD, applicable to the facts analyzed here for temporary reasons, and specifically in terms of the principle of proportionality (art. 4.1 LOPD) , today collected in art. 5.1.c) of the RGPD as a principle of "data minimization". By virtue of this principle of proportionality or data minimization, only data that are "adequate, relevant and not excessive in relation to the scope and the determined, explicit and legitimate purposes for which have been obtained".

In the case at hand, it is considered that to comply with the legal obligation established in article 10.2 of Law 29/2010, that is to say, in order to publicize the matters debated and agreements adopted in the Plenary, it was not necessary to transcribe in full the "PROPOSED RESOLUTION ON ASSETS RESPONSIBILITY OF PERSONNEL IN THE SERVICE OF THE ADMINISTRATION" formulated by the person instructing the procedure (Minutes of 29/9/2016) - which included health data of the complainant here - nor the full content of the provision dictated by the person instructing in the asset liability file - in the one in which the affected person was identified with full name and surname, but rather the debate generated and the agreements adopted in relation to those matters. In this respect, it is worth saying that the fact that these administrative acts (proposal and provision) served as a basis for the debate and the adoption of agreements in the Plenary does not necessarily entail their full dissemination on the internet with the inclusion of personal data, since as has been said, the purpose of the publication of the minutes of the Plenary provided for in article 10.2 of Law 29/2010 is to publicize the debate generated in the Plenary and the agreements adopted by the corporation, which is why this authorization to publish is not absolute in relation to personal data. Proof of this is that the City Council itself, surely aware of its duty to also respect the fundamental right to the protection of personal data, tried to anonymize - with regard to the person reporting here - the aforementioned Acts, as can be inferred from the notice that appears in the heading of the published acts: "Notice: this act has been retouched and all the personal data it contains has been removed, in order to comply with the protection legislation of data." The problem, however, is that the retouching carried out did not lead to its anonymization, given that by maintaining the initials of the name and surname of the affected person, together with their status as a local police officer, the information published there could be linked to a identifiable person without disproportionate efforts, which is why the information fits the concept of personal data (art. 3.a LOPD). This issue will be referred to later, when responding to an allegation from the City Council specifically dedicated to this.

In relation to the public nature of the sessions and the citizen's right to information, it must be said that certainly, as stated in the Judgment invoked by the City Council, the jurisprudence has allowed the publication of information containing personal data from the Public Administrations, although this dissemination is subject to the informational interest of the information disclosed and the weighting that shows that the injury to the right of the individual affected is proportional. In this last sense, the jurisprudence has pointed out as factors to be taken into account to carry out said weighting: the nature and sensitivity of the data disclosed, the informative interest of the same, the degree of voluntariness in obtaining it, its value as control data for administrative activity or the concurrence of other public interests.

That being the case, and in application of the jurisprudential criteria mentioned above, it must be concluded that in the case at hand, the internet dissemination of the acts in question here is considered illegal. First and foremost, due to the nature of the data disclosed, given that health data was included, relating to the consequences suffered by the person here



affected related to a case of possible workplace harassment, while detailing the circumstances surrounding it. Secondly, because this Authority already sanctioned the City Council in a previous sanctioning procedure (PS (...)) for the publication on the Internet in the open, an act that contained personal data also of the person affected here, including data of health, which is why the City Council had to be fully aware of the illegality of the treatment that is the subject of the present procedure. And thirdly, as previously stated, because the fact that the City Council itself tried to hide the personal data that appeared in the aforementioned Acts - although unsuccessfully - shows that it was aware of the impropriety of identifying the person affected

Finally, in its allegations the City Council also referred to articles 22 and 24 of Law 19/2014, of December 29, on transparency, access to public information and good governance, with the same intention of justifying the publication of the personal data of the affected person that appeared in the disputed plenary minutes. In this regard, it is sufficient to note that article 7 of Law 19/2014, when it provides for the limits applicable to the obligations relating to the Transparency Portal, provides that they are the same as those relating to the right of access to public information. Well, the art. 23 of Law 19/2014 - located in the chapter dedicated to the limits to the right of access to public information - refers to the limit derived from specially protected data (art. 7 LOPD) or special categories of data (art. 9 RGPD), as is the case with health data (art. 7.3 LOPD) and in this respect prohibits its disclosure without the express and written consent of the affected person.

In addition, it must also be taken into account that when this Law obliges public administrations to publish on the Transparency Portal certain information of legal relevance (art. 10) and specifically in section 1.h), "administrative resolutions and judicial that may have public relevance", he adds in the 3rd section expressly that this information "must not include personal data or references."

2.2.- On the difficulty of identification only with the initials and the disclosure made by the affected person.

The City Council denied that with the indication of the affected person's initials in the Act of 9/29/2016, together with his status as an official of the Local Police of Canet de Mar, the affected person could be "easily identifiable" then "in recent years, there have been around a hundred officials in the local police of Canet de Mar, because it is one of the bodies where there is more geographical mobility" and "to identify with initials a police officer among a hundred requires, at the very least, to obtain a list with the names of all the policemen who have provided services to the Canet de Mar City Council in recent years, to then identify what is being sought with their initials (. .)". All this led the City Council to conclude that in order to be able to identify the affected person, disproportionate periods or activities would be required, which, in accordance with the provisions of art. 5.1.o) of Royal Decree 1720/2007, of December 21, which approves the Regulation of the LOPD (RLOPD), means that in no case can the affected person be considered "identifiable".

Next, the City Council stated that it was the affected person himself who would have been responsible for keeping this topic hot on social networks. Specifically, the City Council referred to information disseminated by the affected person on 7/10/2014, in which a photograph appeared of the letter that he presented to the City Council on the same date, in which in relation to a procedure that the City Council allegedly initiated against two City Council officials, the person affected here requested "that I be considered an interested party", a letter in which he identified himself with his first and last name and in which it made clear that it was him to whom the City Council had to pay the compensation set by the judgment, and that it was he who would have suffered workplace harassment by the two City Council officials.

Firstly, as argued by the instructing person, it is considered that the replacement of the name and surname by the initials of the person concerned, together with the mention of his status as an official of the local police of the City of Canet de Mar and the circumstances relating to the employment situation, allow the affected person to be easily identified based on the context in which the dissemination is framed. Even more so if you take into account that the City Council has at no time proven the existence of any other Canet de Mar police or ex-policeman with the same initials as the person affected here, as well as the fact that the City Council itself had previously published his full name and surname in the Act of 30/7/2015, also subject to imputation in this sanctioning procedure.

In relation to the second part of this allegation by the City Council, regarding the alleged disclosure made by the affected person himself, it must be emphasized that the fundamental right to data protection, as the Constitutional Court warned in Judgment no. 292/2000, of November 30, grants the individual a series of powers to control their personal data, regardless of whether these are intimate, and whether they are known or not by the generality of people or institutions. Well, from the moment when the City Council, in its capacity as file manager, had included in its files and files data relating to the affected person, all the guarantees of the LOPD had to be put into operation, and in his status as file manager, he had to preserve its confidentiality.

Having said that, it should be noted that in the course of the present procedure, the City Council has not provided any element tending to accredit that the affected person himself had previously disseminated the full content of the "PROPOSED RESOLUTION OF PERSONNEL ASSETS RESPONSIBILITY IN THE SERVICE OF THE ADMINISTRATION" and of the provision issued by the instructing person in the patrimonial responsibility file, especially all the personal information contained there, including those that had the status of specially protected. What's more, it should be remembered here again that this Authority already declared in a previous sanctioning procedure (PS (...)) that the City Council had violated the LOPD by publicly publishing on the internet, an act that contained personal data of the person affected here including health data -, so the City Council had to be perfectly aware of the illegality of the disclosure of the documents that are the subject of imputation here.

3. With regard to the fact described in the proven facts section, it is necessary to refer to articles 7.3 and 7.5 of the LOPD, which provide the following:

"3. Personal data that refer to racial origin, health and sexual life can only be collected, processed and transferred when, for reasons of general interest, this is provided for by law or the affected person expressly consents .

(...)

5. Personal data relating to the commission of criminal or administrative offenses can only be included in the files of the competent public administrations in the cases provided for by the respective regulatory rules."

In accordance with what has been presented, as indicated by the person instructing the facts included in point 2 of the proven facts section constitutes a very serious violation of article 44.4.b) of the LOPD, which typifies as such:

"b) Treat or transfer the personal data referred to in sections 2, 3 and 5 of article 7 of this Law except in the cases in which it is authorized by the same Law (...)"

4. Article 21 of Law 32/2010, in line with article 46 of the LOPD, provides that when the infractions are committed by a public administration, the resolution declaring the commission of an infraction must establish the measures to be taken so that the effects cease or are corrected.

As stated in the background, in the resolution proposal dated 19/11/2018, the instructing person proposed that the City Council carry out the necessary actions so that the personal data of the person affected here and that are contained in the Minutes of the Local Government Board dated 22/1/2009 as well as any other published on the internet by the City Council, cease to be accessible through this channel. In this regard, the City Council, by means of official notice dated 11/26/2018, has informed this Authority "that on November 21 of this year, not only has the link that was on the page been removed website of the City Council to access the Minutes of the Board of Governors dated 01/22/2009, but that said minutes have also been removed from the URL where it was located."

And on 12/12/2018 from the Inspection Area it has been verified that the personal data of the person affected here that were found in the Minutes of the Board of Governors of 22/01/2009. Likewise, given that the City Council has stated that it has implemented the corrective measure proposed by the instructor, it is inferred that it will have also verified that there is no other record on the internet with personal data of the complainant here. Consequently, it is considered unnecessary to make any request, given that the City Council would have already adopted the relevant corrective measures to cease the effects of the infringement.

In short, with this action accredited by the City Council, the main purpose pursued with the exercise of the inspection and sanctioning powers entrusted to this Authority, which is to ensure that the data protection regulations of personal character and prevent this fundamental right from being violated again.

resolution

For all this, I resolve:

1. Declare that the City Council of Canet de Mar has committed a very serious infringement provided for in article 44.4.b) in relation to articles 7.3 and 7.5, all of them of the LOPD, without it being necessary to make any request, in accordance with what is stated in the 4th legal basis.
2. Notify this resolution to Canet de Mar City Council and communicate it to the person affected
3. Communicate this resolution to the Ombudsman and transfer it to him literally, as specified in the third agreement of the Collaboration Agreement between the Ombudsman of Catalonia and the Catalan Data Protection Agency, dated June 23, 2006.
4. Order that this resolution be published on the Authority's website ([www.apd.cat](http://www.apd.cat)), from \_\_\_\_\_ 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, of October 1, of the Catalan Data Protection Authority, and 14.3 of Decree 48/2003, of February 20, by which the Statute of the Catalan Data Protection Agency is approved, the imputed entity can file, with discretion, an appeal for reinstatement before the director of the Catalan Data Protection Authority Data, within one month from the day after its notification, in accordance with what they provide article 123 et seq. of the LPAC. You can also directly file an administrative contentious appeal 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, regulating the administrative contentious jurisdiction.

If the imputed entity expresses to the Authority its intention to file an administrative contentious appeal against the final administrative decision, the decision will be provisionally suspended in the terms provided for in article 90.3 of the LPAC.

Likewise, the imputed entity can file any other appeal it deems appropriate to defend its interests.

The director

M. Àngels Barbarà and Fondevila

Barcelona, (on the date of the electronic signature)

Machine Translated