apdcat
Autoritat Catalana de Protecció de Dades

Carrer Rosselló, 214, esc. A, 1r 1a
08008 Barcelona

In this resolution, the mentions of the affected population have been hidden in order to comply with art. 17.2 of Law 32/2010, given that in case of revealing the name of the affected population, the physical persons affected could also be identified.

File identification

Resolution of sanctioning procedure no. no. PS 47/2020, referring to the City Council of (...).

Background

1. On 07/02/2020, the Catalan Data Protection Authority received a letter from a person filing a complaint against the City Council of (...), on the grounds of an alleged non-compliance with the regulations on personal data protection.

Specifically, the complainant (an agent of the Urban Guard of (...)) set out the following facts:

ÿ That, even though the head of the Urban Guard of (...) was on leave, this police chief requested on 12/12/2018 to the Police of the Generalitat-Mossos d'Esquadra an audit on the accesses that the complainant had made through the SIP. He added that, in the same situation of leave, the head of the Urban Guard processed personal data and that he would also have accessed the images captured by the video surveillance system installed in the police stations.

ÿ That the City Council of (...) forwarded to him (the person making the complaint) the reserved report of 27/12/2018 on the "Request for disciplinary file instruction to two officials of the Urban Guard Corps of (...), to access the databases of the Police Information System (SIP), for purposes unrelated to the service itself" (reference: GUÀRDIA URBANA/jmb/28des2018), which contained the personal data he would have consulted another agent through the SIP, who was also subject to disciplinary proceedings.

ÿ That at the time of the initiation of disciplinary proceedings against the two agents, the City Council would have communicated the allegedly illicit access to the SIP to the affected persons, such as the members of the Popular Unity Candidacy (CUP). To this end, the reporting person contributed the news published on the CUP website in relation to these facts.

In the news published by the CUP on 08/04/2019, it was reported that the City Council of (...) had instituted a "(...)" [a disciplinary file against two agents of the Urban Guard] in relation to the data of many people that they had consulted through the SIP. In turn, the news added that "(...)" [the people who would have been investigated were linked to the CUP, as well as given the people filed, the motivation would be political].

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- That he requested from the City Council information on the connection of the cameras, on access to the images recorded by the cameras, to which terminals and ports the cameras were connected, as well as the audits on the computers in the room operator. This information would not have been provided to you.
- That the head of the Urban Guard would have requested several agents to carry out consultations with the SIP, which would not be linked to any police intervention, but to the purchase and sale of vehicles.
- That the head of the Urban Guard used the police headquarters for the purchase and sale of vehicles. In particular, the complainant pointed out that the police offices were constantly receiving packages addressed to the head of the Urban Guard from companies buying and selling vehicles. The complainant added that the head of the Guardia Urbana would also use the corporate telephone number of the Guardia Urbana as a contact phone number on various vehicle buying and selling websites.

ÿ That an audit of the NIP-SIP queries of those vehicles that had been checked in the name of the head of the Urban Guard was requested from the City Council, but that he did not receive a response to said request.

ÿ That in the report drawn up by the Civil Guard on access to the SIP to consult certain license plates, it is established that the head of the Urban Guard carried out the activity of buying and selling (specifically, 23 vehicles). Likewise, according to the complainant, it would also be proven that several vehicle registration numbers were consulted through the SIP by agents of the Urban Guard, at the request of the head of the Urban Guard, who then acquired the head of the Urban Guard or a member of your family.

ÿ That a complaint was made to the labor inspectorate about the use of the Urban Guard's offices and computer equipment, for the preparation of reports, requests for audits and the processing of personal data.

ÿ That the councilor for Citizen Security and Civil Protection of the City Council of (...) attached a traffic complaint to his personal email, which he shared with his wife.

The reporting person provided various documentation relating to the events reported.

2. The Authority opened a preliminary information phase (no. IP 52/2020), 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 they were likely to motivate the initiation of a sanctioning procedure, the identification of the person or persons who could be responsible and the relevant circumstances involved.

3. In this information phase, on 02/21/2020 the reported entity was required to report, among others, on whether the head of the Urban Guard of (...) was on sick leave when he requested the audit of the accesses to the SIP carried out by the subsequently expedient agents (on 12/12/2018), and if being in this situation of

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low also accessed the images captured by the video surveillance system; if the people affected by access to the SIP were informed that two agents of the Urban Guard carried out these events, as requested by the head of the Urban Guard in point 4 of the dispositive part of his report of 27 / 12/2018; and on the reasons why the reporting person was provided with the report of 12/27/2018, which also contained the SIP accesses made by another agent to the SIP in relation to third parties, who were identified.

In the request, it was also indicated that the person making the complaint stated that the head of the Urban Guard would have requested several officers to carry out inquiries in the SIP of certain vehicles, which would not be linked to any police intervention. Specifically,
it was pointed out that the person making the complaint was referring, among others, to the following inquiries carried out at the request of the police chief that would be included in the "historical police intervention" application:

or Notice no. 2043/2018, dated 04/09/2018, in which the registration (...) and the ID number (...) were consulted in the SIP.
or Notice no. 5394/2018, dated 09/17/2018, in which the SIP was consulted on license plates (...), (...) and (...).

On the other hand, the request also specified that the reporting person also provided a copy of the report issued by the Civil Guard on 04/04/2019 as part of police proceedings no. (...). From this report, it could be deduced that the head of the Urban Guard of (...), would have accessed the SIP (through his user -no. (...)-) for reasons unrelated to the exercise of their functions, in order to consult the following registrations:

or (...), on 04/12/2018.
or (...), on 04/13/2018.
or (...), on 02/05/2018.

Likewise, in said proceedings, the Civil Guard also found that the agent with SIP user code no. (...), consulted the following license plate corresponding to a vehicle that was subsequently acquired by the daughter of the head of the Urban Guard:

or (...), on 09/19/2018.

Well, in the same office, the City Council of (...) was also required to report on whether each of the inquiries to the SIP of the indicated license plates and IDs were linked to a police action.

This requirement will be reiterated on 08/06/2020, once the suspension of the administrative deadlines has been lifted following the declaration of the state of alarm.

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4. On 23/06/2020, the City Council of (...) responded to the aforementioned request through a letter in which it explained that the head of the Urban Guard had been on leave from 19/02/2018 to 03/23/2018, and from 12/13/2018 to 12/31/2018 (this suspension continued on 01/01/2019).

In turn, the City Council provided a letter from the head of the Urban Guard of (...), in which he stated, among others, the following:

- That the complaint to the Authority was part of a situation of workplace harassment ascending
- That notice no. 2043/2018 was a police intervention in which he intervened together with another officer. It consisted of a traffic identification in the exercise of his functions [the license plate (...) and the ID number (...) were consulted in the SIP.

- That notice no. 5394/2018, it was also a police intervention in which he intervened together with two other officers. It consisted of a traffic identification in the exercise of his duties [the registration plates (...), (...) and (...) were consulted in the SIP.

- That also in relation to notice no. 5394/2018, the computer application contains the annotation "Modification carried out by: (...)" (one of the agents investigated for illicit access to the SIP). This annotation is part of an internal security mechanism to be able to identify if any official accesses the file and makes any modification to its content.
- That, in relation to access to the SIP to consult vehicles with registration (...), (...) and (...) [accesses included in the report issued by the Civil Guard on 04/04/2019 as part of police proceedings no. (...)], the head of the Urban Guard stated the following:

  - That during the month of April 2018, the Cos de Mossos d'Esquadra discharged him as a SIP user.
  - That he had never before carried out any type of training on the use of the SIP platform, which is why he asked a certain agent to instruct him on this application.

  - That in the initial learning process, and in order not to violate the data protection regulations, nor make inquiries about vehicles or people that had no relation to the daily work of the police service, he consulted the vehicles of the your property

  - That on 04/12/2018 he carried out a first practice by accessing the vehicle with registration (...) (acquired on 06/25/2002), of which he was the owner together with his wife.

  - That on 04/13/2018 he carried out a second practice accessing the data of the vehicle with registration (...), acquired on 03/23/2018.
  - That on 05/02/2018 he carried out a third practice accessing the data of the vehicle with registration (...), acquired on 03/30/2018.

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- That in relation to SIP user person no. (...) that, according to the proceedings of the Civil Guard, on 09/19/2018 he consulted the SIP for the vehicle with registration (...), the head of the Urban Guard stated the following:
  - o That the user code (...) corresponds to a certain agent of the Urban Guard, who at the time of answering the request was in a situation of long-term incapacity for work.
  - o That the vehicle with registration (...) was acquired by his daughter on 09/14/2018 (before the SIP was consulted).
  - o That on 12/19/2018 his daughter parked said vehicle ((...)) in the police reserve at the entrance to the Urban Guard building in order to show her the vehicle he had purchased.
  - o That it was inferred that the agent who made the inquiry at the SIP, upon seeing the vehicle parked in front of the police stations, checked the ownership of the vehicle before reporting it and removing it with the crane.

The reported entity attached various documents to the letter, including the police intervention notices corresponding to notices nos. 2043/2018 and 5394/2018.

5. Given that in its response, the City Council did not provide the information that had been requested on 02/21/2020, regarding whether it communicated to the people affected by the access to the SIP that they carried out two agents of the Urban Guard these facts; as well as on the reasons for which the reporting person was provided with the report of 12/27/2018, which also contained the SIP accesses made by another SIP agent in relation to third parties, the Authority reiterate said request on 06/26/2020.

6. On 07/07/2020, the City Council of (...) responded to the previous request through a letter stating the following:

- That the report dated 12/27/2018 was forwarded to the person reporting the initiated a disciplinary case.
- That the Office of Personnel and Organization did not have the information relating to which specific data was provided to the people affected by access to the SIP.

7. Given that the City Council did not provide the information required by this Authority, as to whether it had been communicated to the people affected by access to the SIP that these events were carried out by two agents of the Urban Guard, it was reiterated said request on 07/22/2020.

8. On 07/29/2020, the City Council of (...) responded to the previous request through a letter stating the following:

- That "after the checks that have been carried out with the data and the current staff, the information on what is raised in point 1 [if the

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allegedly illicit access to the SIP to the affected persons] is being worked with the acting head of the Personnel and Organization Department, as the report mentioned in the letter and dated 12/27/2018, is part of a file that initiates the negotiation of Personnel and Organization, which at the same time specifies that it does not have information on the second part of the question. The city council repeats itself in its response, without being able to provide more information."

- That the CUP was part of the government team "on those dates" [it is inferred that it refers to the date on which the head of the Urban Guard issued his report in which he requested to inform the people affected by improper access to their data through the SIP -27/12/2018-].

9. On 14/10/2020, the director of the Catalan Data Protection Authority agreed to initiate disciplinary proceedings against the City Council of (...) for three alleged infringements: two infringements provided for in article 83.5 .a) in relation to article 5.1.f); and a third offense provided for in article 83.5.a) in relation to article 5.1.c); all of them from 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 the processing of personal data and the free movement thereof (hereinafter, RGPD). This initiation agreement was notified to the imputed entity on 10/20/2020.

10. Also on 14/10/2020, the director of the Authority issued a filing resolution regarding the reported conduct related to the dismissal of the head of the Urban Guard; with the requests for various information to the City Council; with the request for an audit to the City Council on access to the SIP; with the use of police facilities and the corporate mobile for the purchase and sale of vehicles by the head of the Urban Guard; with the rest of the reported SIP accesses that are not subject to the present sanctioning procedure; and with the sending of a traffic complaint by a City Council member to the personal email address of the person making the complaint.

11. On 30/10/2020, he received a letter from the City Council requesting an extension of the deadline for submitting objections to the initiation agreement.

12. On 03/12/2020, the City Council of (...) made objections to the initiation agreement.

13. On 12/15/2020, the person instructing this procedure formulated a proposed resolution, by which it proposed that the director of the Catalan Data Protection Authority admonish the City Council of (...) as responsible for three infringements: an infringement provided for in article 83.5.a) in relation with article 5.1.f); and two violations provided for in article 83.5.a) in relation to articles 5.1.a) and 6.1, all of them of the RGPD.

This resolution proposal was notified on 12/21/2020 and a period of 10 days was granted to formulate allegations.

The deadline has passed and no objections have been submitted.

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proven facts

1. The City Council of (...) communicated to the people affected by illicit access to the SIP, the initiation of disciplinary proceedings for these facts against two agents of the Urban Guard of (...), which he identified

In this sense, in the reserved report of 12/27/2018 on the "Request for disciplinary file instruction to two officials of the Urban Guard Corps of (...), to access the databases of the System of "Police Information (SIP), for purposes unrelated to the service itself" (reference: GUàRDIA URBANA/ jmb/28des2018), issued by the head of the Urban Guard of (...), he requested that access to the legal in the SIP "To all people who have been investigated by the sergeant (...), and (...), for their knowledge and if they consider it appropriate to initiate any type of administrative or criminal action against the officials investigated."

On 08/04/2019, the CUP published a news item in which it informed about the initiation of a disciplinary case against two agents of the Urban Guard of (...) and where it pointed out that "(...)" [considering the people in charge, the motivation would be political].

The Authority, as explained in the antecedents section, requested on several occasions the City Council of (...), in order to confirm these facts, and this City Council, without denying them, he limited himself to replying that he did not have information regarding which specific data was provided to the people affected by SIP access.

2. The City Council of (...) provided a copy of the report of 27/12/2018 to the complainant, which contained the personal data that he consulted through the SIP without being justified in the exercise of their functions; it also contained the personal data consulted by another agent through the SIP, for which a disciplinary procedure was also initiated.

3. On 17/09/2018 the agent of the Urban Guard of (...) with user code (...) accessed the SIP to consult the vehicle with registration (...).

As reported by the head of the Urban Guard, this access resulted from a police intervention (notice no. 5394/2018) in which 3 agents of the Urban Guard intervened (different from the agent who carried out the consultation at the SIP) , among whom was the head of the Urban Guard himself. All this, for the purposes of carrying out an identification in traffic matters, as indicated by the head of the Urban Guard.

However, according to the report issued by the Civil Guard on 04/04/2019 as part of police proceedings no. (...), which referred to several accesses to the SIP by users of the Urban Guard of (...) to consult various vehicles between the month

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of December 2016 and 29/11/2018, the vehicle with license plate (...) was one of the 23 vehicles investigated by that police force that were owned by the head of the Urban Guard, his wife or his daughter.

In the same report, the Civil Guard recorded the consultation through the registration SIP (...), by the previously mentioned user identified ((...)), on 09/17/2018 .
In the police proceedings it was specified that the Civil Guard required the information on access to the SIP from the General Directorate of the Police of the Department of the Interior.

The City Council has not sufficiently justified the reasons for this access to the SIP.

Fundamentals of law

1. The provisions of the LPAC, and article 15 of Decree 278/1993, according to the provisions of DT 2a of Law 32/2010, of October 1, of the Catalan Data Protection Authority. 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.

2. The accused entity has not made allegations in the resolution proposal, but it did so in the initiation agreement. Regarding this, it is considered appropriate to reiterate below the most relevant part of the motivated response of the instructing person to these allegations.

2.1.- On the fact proven first.

In relation to the communication to the people affected by illicit access to the SIP, the initiation of disciplinary proceedings for these facts against two agents identified from the Urban Guard of (...), the City Council of (.. .) stated in his statement of objections to the initiation agreement that "he does not have the proof of this information as previously alleged and, therefore, it is not possible to part of the city council to be able to provide more information."

In similar terms, to what it set out in its statement of allegations, by means of a letter dated 07/07/2020 in response to the Authority's request, the accused entity indicated that it did not have the information relating to what specific data was provided to the people affected by the SIP accesses.

As noted in the proven facts section, in the reserved report of 12/27/2018 issued by the head of the Urban Guard of (...), he requested the City Council to be informed of the illicit access to the SIP "To all people who have been investigated by the sergeant (...), and (...), for their knowledge and if they consider it appropriate to initiate any type of administrative or criminal action against the investigated officials". In other words, he requested that said communication be carried out identifying the specific agents of the Urban Guard

of (...) who had allegedly carried out illicit access to the SIP, so that they could carry out the actions they considered relevant against said agents.

On the other hand, as indicated in the proposed resolution, it is certified that on 08/04/2019 the CUP published a news about the initiation of disciplinary proceedings against two agents of the Urban Guard of (. ..). In that article it was made clear that "(...)"
[considering the people in charge, the motivation would be political]. From this statement it is concluded that the CUP knew the identity of the people filed.

In the same news it was also specified that the illegal accesses carried out by two agents of the Urban Guard affected, among others, 6 councilors or former councilors of the CUP.

In relation to this issue, in the framework of the previous information, the City Council only stated that the CUP was part of the government team "at those dates".

From the above, it could be inferred that the City Council speculated that the members of the municipal group of the CUP, being part of the municipal government, could have had direct access to this information (the initiation of a disciplinary file against two agents of the Urban Guard identified).

However, when the proven fact 1st took place (in the previous legislature), the Mayor's Office (competent body to initiate and resolve disciplinary proceedings) and the Urban Guard and Personnel Office (responsible for the Urban Guard) were busy by people who were not part of the municipal group of the CUP, so it cannot be inferred that the processing of the disciplinary file against said agents became a matter of their responsibility.

There is also no evidence that any of the members of the municipal group of the CUP exercised, in their capacity as councillors, the right of access to know the identity of the persons filed.

In fact, as has been advanced, the City Council, without rebutting the reality of the facts alleged in its statement of allegations against the initiation agreement, limited itself to stating that it did not have evidence on how the affected people, among them, several people who held or had held an elected position as representatives of the CUP, became aware of the initiation of a disciplinary file against two certain agents of the Urban Guard for the alleged consultation il ·lawfulness of their data through the SIP, information that the City Council dealt with and with respect to which it had to guarantee confidentiality.

2.2.- On the second proven fact.

In relation to the second proven fact (facilitating a copy of the report of 12/27/2018 to the reporting person which also contained the personal data consulted by another agent through the SIP, for which a disciplinary procedure was also initiated), the City Council as well

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pointed out in his statement of objections to the initiation agreement that he did not have record of this information.

In this regard, as explained by the instructing person in the resolution proposal, it should be pointed out that the person making the complaint provided, together with his complaint, a copy of said report in which the other agent of the Urban Guard was identified and the accesses to the SIP that he had made, which showed that the City Council gave him this data without anonymizing it.

In the initiation agreement, the second proven fact of this proposal was included in the violation of the principle of data minimization (art. 5.1.c RGPD). However, as pointed out in the proposed resolution, from the careful assessment of the actions contained in the file and the City Council's allegations against the initiation agreement, this fact has to qualify as a violation of the principle of legality to the extent that in the present case it has not been proven that the access by the reporting person to the personal data consulted by another agent through the SIP that made up the report of 27/12/2018, was based on one of the legal bases provided for in article 6.1 of the RGPD. Therefore, it is considered more appropriate to incardinate the second proven fact in the violation of the principle of legality (arts. 5.1. and 6.1 RGPD).

2.3.- On the third proven fact.

Finally, in relation to the access to the SIP by a certain agent of the Urban Guard of (...) to consult the vehicle with registration (...) on 09/17/2018, the City Council also stated in his statement of objections to the initiation agreement that it was not possible for him to provide more information since the head of the Urban Guard was on leave.

In this sense, in the framework of the previous information, the head of the Urban Guard reported that in the framework of notice no. 5394/2018 a police intervention was carried out in which he intervened together with two other officers. And he added that this intervention, in which the SIP was consulted for the registration (...), consisted of an identification in traffic matters in the exercise of its functions.

However, as stated in the proven facts section, in the report drawn up by the Civil Guard on 04/04/2019 as part of police proceedings no. (...), which referred to various accesses to the SIP by users of the Urban Guard of (...) to consult various vehicles between December 2016 and 29/11/2018, the vehicle with registration (...) was one of the 23 vehicles investigated by that police force that were owned by the head of the Urban Guard, his wife or his daughter.

In the present case, the motivation given by the City regarding said access to the SIP was provided by the same person who was linked to the ownership of the vehicle in question (either directly or through his wife or daughter).
But no other evidence was provided to show that the access was justified

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in the exercise of police functions. Therefore, as set out in the resolution proposal, it must be considered that access to the SIP to consult the aforementioned vehicle has not been sufficiently justified, taking into account the circumstances surrounding the ownership of that vehicle

Aside from the above, the third proven fact of this proposal was provisionally qualified in the agreement to initiate the present sanctioning procedure as a violation of the principle of confidentiality (art. 5.1.f RGPD). However, as indicated by the instructing person in the resolution proposal, bearing in mind that the person responsible for the SIP files accessed by the Urban Guard of (...) is the Department of the Interior and not the City Council, and that said access was also not based on any legal basis, it is appropriate to typify this fact also as a violation of the principle of legality (arts. 5.1. and 6.1 RGPD).

3. In relation to the facts described in point 1 of the proven facts section, it is necessary to refer to article 5.1.f) of the RGPD, which regulates the principles of integrity and confidentiality determining that personal data will be "treated in such a way as to guarantee adequate security of personal data, including protection against unauthorized or illegal processing and against accidental loss, destruction or damage, through the application of appropriate technical or organizational measures".

For its part, article 5 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (hereinafter LOPDGDD) regulates the duty of confidentiality in the following terms:

> "1. Those responsible and in charge of data processing as well as all the people who intervene in any phase thereof are subject to the duty of confidentiality referred to in article 5.1.f) of Regulation (EU) 2016/679.
>
> 2. The general obligation indicated in the previous section is complementary to the duties of professional secrecy in accordance with its applicable regulations.
>
> 3. The obligations established in the previous sections remain even if the obligee's relationship with the person in charge or person in charge of the treatment has ended."

As indicated by the person instructing, during the processing of this procedure the fact described in point 1 of the proven facts section, which is constitutive of the infraction provided for in article 83.5.a) of l 'RGPD, which typifies as such the violation of the "basic principles of treatment, including the conditions for consent pursuant to articles 5, 6, 7 and 9", among which the principle of confidentiality is contemplated (art. 5.1 .f RGPD).

The conduct addressed here has been included as a very serious infraction in article 72.1.i) of the LOPDGDD, in the following form:

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"i) The violation of the duty of confidentiality established in article 5 of this Organic Law."

4. With regard to the fact described in point 2 of the proven facts section, it is necessary to go to the principle of legality (articles 5.1. and 6.1 RGPD).

Article 5.1.a) of the RGPD regulates the principle of legality determining that the data will be "treated in a lawful manner (...)".

For its part, article 6.1 of the RGPD provides for the following:

"1. The treatment will only be lawful if at least one of the following conditions is met:

a) the interested party gives his consent for the treatment of his personal data for one or several specific purposes;
b) the treatment is necessary for the execution of a contract in which the interested party is a party or for the application at the request of this pre-contractual measures;

c) the treatment is necessary for the fulfillment of a legal obligation applicable to the person responsible for the treatment;
d) the treatment is necessary to protect the vital interests of the interested party or another natural person;
e) the treatment is necessary for the fulfillment of a mission carried out in the public interest or in the exercise of public powers conferred on the person responsible for the treatment;

f) the treatment is necessary for the satisfaction of legitimate interests pursued by the person responsible for the treatment or by a third party, provided that these interests do not prevail over the interests or fundamental rights and freedoms of the interested party that require the protection of personal data, in particular when the interested party is a child.

The provisions in letter f) of the first paragraph shall not apply to the processing carried out by public authorities in the exercise of their functions."

The fact recorded in point 2 of the section on proven facts constitutes the violation provided for in article 83.5.a) of the RGPD previously transcribed and which includes the violation of the principle of legality.

The conduct addressed here has been included as a very serious infraction in article 72.1.b) of the LOPDGDD, in the following form:

"b) The processing of personal data without any of the conditions for legality of the processing established by Article 6 of Regulation (EU) 2016/679."

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5. With regard to the fact described in point 3 of the proven facts section, it is necessary to refer again to articles 5.1.a) and 6.1 RGPD, which regulate the principle of legality.

The fact recorded in point 3 of the proven facts section also constitutes the infringement provided for in article 83.5.a) of the RGPD, previously transcribed and which includes the violation of the principle of legality. For its part, as has been advanced, this conduct has been included as a very serious infringement in article 72.1.b) of the LOPDGDD.

6. Article 77.2 LOPDGDD provides that, in the case of infractions committed by those in charge or in charge listed in art. 77.1 LOPDGDD, the competent data protection authority:

> "(...) must issue a resolution that sanctions them with a warning. The resolution must also establish the measures to be adopted so that the conduct ceases or the effects of the offense committed are corrected.
>
> The resolution must be notified to the person in charge or in charge of the treatment, to the body to which it depends hierarchically, if applicable, and to those affected who have the status of interested party, if applicable."

And section 3 of art. 77 LOPDGDD, establishes that:

> "3. Without prejudice to what is established in the previous section, the data protection authority must also propose the initiation of disciplinary actions when there are sufficient indications to do so. In this case, the procedure and the sanctions that must be applied are those established by the legislation on the disciplinary or sanctioning regime that is applicable.
> Also, when the infractions are attributable to authorities and managers, and the existence of technical reports or recommendations for the treatment that have not been properly attended to is proven, in the resolution in which the penalty is imposed, to include a warning with the name of the responsible position and it must be ordered to be published in the "Official Gazette of the State" or the corresponding regional newspaper.

In terms similar to the LOPDGDD, article 21.2 of Law 32/2010, determines the following:

> "2. In the case of violations committed in relation to publicly owned files, the director of the Catalan Data Protection Authority must issue a resolution declaring the violation and establishing the measures to be taken to correct its effects . In addition, it can propose, where appropriate, the initiation of disciplinary actions in accordance with what is established by current legislation on the disciplinary regime for personnel in the service of public administrations. This resolution must be notified to the person responsible for the

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file or of the treatment, to the person in charge of the treatment, if applicable, to the body to which they depend and to the affected persons, if any".

By virtue of this power, as explained by the instructing person in the proposed resolution, it is appropriate to propose to the City Council of (...) the initiation of disciplinary actions against the person responsible for access to the SIP in order to check the vehicle with registration (...) on 17/09/2018 (tested fact 3rd).

On the other hand, it is not appropriate to require the adoption of any corrective measures to correct the effects of the infringements, since these are facts already accomplished.

For all this, I resolve:

1. Admonish the City Council of (...) as responsible for three infractions: an infraction provided for in article 83.5.a) in relation to article 5.1.f); and two violations provided for in article 83.5.a) in relation to articles 5.1.a) and 6.1, all of them of the RGPD.

It is not necessary to require corrective measures to correct the effects of the infringement, in accordance with what has been set out in the 6th legal basis.

2. Propose to the City Council of (...) the initiation of disciplinary actions against the person responsible for accessing the SIP in order to consult the vehicle with registration (...) on 09/17/2018 (proven fact 3rd).

3. Notify this resolution to the City Council of (...).

4. Communicate the resolution to the Ombudsman, in accordance with the provisions of article 77.5 of the LOPDGDD.

5. Order that this 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, 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.

Carrer Rosselló, 214, esc. A, 1r 1a
08008 Barcelona

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,