

File identification

Resolution of sanctioning procedure no. PS 40/2021, referring to the Department of Agriculture, Livestock, Fishing and Food (now, Department of Climate Action, Food and Rural Agenda)

Background

1. On 02/12/2020, the Catalan Data Protection Authority received a letter Mr. (...) for which he filed a complaint against the Department of Agriculture, Livestock, Pesca i Alimentació (hereinafter, DARPA), due to an alleged breach of the regulations on personal data protection.

In particular, the complainant stated that he was an official of the Generalitat and that he held the position of senior agronomist engineer at the General Secretariat of Territorial Services of DARPA in Lleida. That on 10/25/2019, the General Secretariat of DARPA initiated disciplinary proceedings against him for inappropriate use of ICT tools and for non-compliance with the regulations governing the incompatibilities of public employees. The complainant complained that DARPA accessed his emails sent or received from his private email address (...). As he stated, at this email address he received private communications and others relating to a private activity for which he had authorization by resolution of the Director of Public Service. And he added that he had not given consent for access to his private emails or for their subsequent use, referring to the disciplinary procedure that was initiated against him. For this reason, he considered that his personal data had been unlawfully processed.

The complainant provided various documentation, among which the resolution of the disciplinary file dated 07/08/2020 should be highlighted. This resolution included an annex consisting of a table where a series of e-mails were reviewed that constituted the evidentiary elements that were used to sanction the person making the complaint. The aforementioned table consisted of the following fields: date, time, sender, recipient, with copy, subject, content, attached files. It should be noted that in accordance with the aforementioned resolution, the complainant's e-mail address was not directly accessed (...), but the emails were accessed through an institutional address corresponding to another employee (Mr. (...)). According to said resolution, within the framework of a reserved information open to another employee (Mr. (...)), there was evidence of the emails exchanged between the employee investigated in the reserved investigation procedure and the reporting person. Ultimately, the resolution held that the whistleblower's e-mails became known through access to the institutional e-mail of another employee.

Specifically, always in accordance with the aforementioned resolution, the two employees would have exchanged emails with each other and with third parties (alleged clients). And in the case

specific to the reporting person, the emails were used to demonstrate that this person would have contravened the legislation on incompatibilities of public officials. Looking at the annex that incorporated said resolution, out of a total of 210 emails that were reviewed, it was found that in 18 emails the address of Mr. (...), neither as a sender, receiver or with a copy, which would make one think that the private mail of the person making the complaint had been accessed directly. This fact was observed, for example, in post office numbers: 50, 53, 54, (...), 64, 74, 76, (...), 136, 168, 162.

2. The Authority opened a preliminary information phase (no. IP 379/2020), 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 were capable of motivating the initiation of a sanctioning procedure.

3. In this information phase, on 02/12/2021 the reported entity was required to report on: - If in the framework of the reserved information procedure or during the instruction of the disciplinary file to the person complainant the private mailbox of the complainant was accessed and/or the content of emails sent, received or forwarded from this email address. If the answer is affirmative, indicate the legal basis that in your opinion would legitimize the access, indicating the specific rule that would enable this access.

- In the case of a negative answer to the previous question, explain the reason why the annex that accompanied the resolution of the disciplinary file dated 07/08/2020 reviewed a series of emails sent or received from the address of the person reporting, (for example, the post numbers: 50, 53, 54, (...), 64, 74, 76, (...), 136, 168, 162), without the address of Mr. (...) recorded as sender/addressee/forwarded/with copy.

- If in relation to access to employees' emails, both corporate and personal emails, any general action protocol had been followed regarding access and, with respect to this particular case, if any had been followed instruction In such a case, he was asked to provide the document containing the implemented protocol.

The reported entity was granted a period of 10 working days to comply with the information requirement. This deadline was exceeded without the reported entity providing the required information.

4. On 15/03/2021, the request for information dated 12/02/2021 was reiterated with the warning that if the reported entity did not comply with the request, it could incur an infringement of the regulations on protection of personal data.

A period of 5 days was granted for the reported entity to provide the required information. Again, the deadline granted was far exceeded without the reported entity providing the required information.

5. On 04/12/2021, the reported entity was again required to provide the information required on 02/12/2021 and 03/15/2021 and it was warned that if it did not provide this information would be understood as having no legal basis for processing personal data, in particular, access to private personal emails of the reporting person.

Likewise, and given that DARPA had not notified the Authority that it had appointed a data protection delegate, that in accordance with article 37 of the RGPD in relation to article 34 of the LOPDGDD is a mandatory designation for Public Administrations, the reported entity was required to report whether it had designated a data protection delegate and, in such case, to certify it, on the understanding that in case of silence s I understand that DARPA has not designated a Data Protection Officer.

A period of 5 days was granted for the reported entity to provide the required information. Again, the deadline granted was far exceeded without the reported entity providing the required information.

6. On 21/06/2021, the director of the Catalan Data Protection Authority agreed to initiate a sanctioning procedure against the Department of Agriculture, Livestock, Fishing and Food for two alleged infringements: an infringement provided for in article 83.5.a) in relation to article 5.1.a) and another infringement provided for in article 83.4.a) in relation to article 37.1.a); 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 06/23/2021.

In the initiation agreement, the accused entity was granted a period of 10 working days to formulate allegations and propose the practice of evidence that it considered appropriate to defend its interests.

7. On 08/10/2021, DARPA made objections to the initiation agreement, which are addressed in section 2on of the legal foundations.

The accused entity provided various documentation with its letter.

8. On 22/11/2021, the person instructing this procedure formulated a proposed resolution, by which it was proposed that the director of the Catalan Data Protection Authority admonish DARPA as responsible for an infringement provided for in article 83.4.a) in relation to article 37.7 both of the 'RGPD.

Also, in view of the allegations made by DARPA in the initiation agreement, the investigating person proposed to withdraw the charges for the violation provided for in article 83.5.a) in relation to article 5.1. a) and the offense provided for in article 83.4.a) in relation to article 37.1.a); all of them from the RGPD.

This resolution proposal was notified on 22/11/2021 and a period of 10 days was granted to formulate allegations.

9. On 02/12/2021, the imputed entity submitted a letter in which it stated that it formulated allegations to the proposed resolution. However, the letter only informed the Authority that the corrective measure proposed in the proposed resolution had been implemented, that is to say, that on 11/25/2021 the Authority had been notified of the appointment of the data protection officer.

proven facts

1. In the agreement to initiate this sanctioning procedure, it was considered as a proven fact that DARPA accessed certain mail messages from the private e-mail mailbox of the reporting person, without having obtained their consent and without any of the conditions included in article 6 of the RGPD being met so that the processing of personal data is lawful. In its statement of objections to the settlement agreement, DARPA testified that it did not access the whistleblower's mailbox.

2. In the agreement to initiate this sanctioning procedure, it was considered a proven fact that DARPA had not designated a data protection officer, when it was required to do so. DARPA later acknowledged that it had appointed a data protection officer with temporary powers. However, he did not communicate this to the Authority when he was obliged to do so, in accordance with Article 37.7 of the RGPD.

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. Although, on 2/12/2021, the accused entity submitted a letter to the Authority in which it stated that it formulated allegations to the proposed resolution, in fact it only informed that he had implemented the corrective measure proposed in the proposed resolution, that is to say, that he had notified the Authority of the designation of the data protection officer.

However, the accused entity did present allegations in the initiation agreement. It is considered appropriate to reiterate below the most relevant of the instructor's motivated response to these allegations.

2.1 On access to certain e-mails of the reporting person.

First of all, in its statement of allegations, the accused entity framed the context in which the events complained of took place. These facts had their origin in a reserved information procedure initiated by the general secretary of the Department in order to find out the possible disciplinary responsibility for some facts and actions that had been carried out by an official of the Department, Mr. (...). At the suggestion of the instructor of this reserved information procedure, the general secretary decided to carry out certain tests and request the (CFB) to Security Center of Catalonia, in collaboration with the Telecommunications and Information Technology Center (CTTI), the information specified in the instructor's proposal. Specifically, the following information was requested:

"Type of information:

1-Emails sent by (...) ((...))

a) to mail recipient:

(...)

Temporal space:

Emails sent and documents created/modified from 02/01/2016 to the date of the act of access to information.

(...)

The accused entity stated that "access to the mails of Mr. (...) was carried out under the protection of article 55 of Law 39/2015, of October 1, of the common administrative procedure of public administrations and of Decree 243/19852, of June 27, by which the Regulation of the disciplinary regime of the public function of the Administration of the Generalitat of Catalonia is approved, following Instruction 3/2018, of the Secretariat of Administration and Public Function of 3.10.2018, on the use of information and communication technologies in the Administration of the Generalitat of Catalonia (currently repealed by Instruction 8/2020, of November 24).

As a result of the reserved information procedure it was concluded that Mr. (...) had exchanged several emails related to an unauthorized private professional activity that was directly linked to matters within the competence of this Department.

Likewise, the instruction of the reserved information procedure found indications of irregular conduct on the part of Mr. (...) reason for which a disciplinary file was initiated on 25.10.2019. In the course of the procedure followed, one of the pieces of evidence that served this Administration to verify non-compliance with the rules on the regime of incompatibilities of personnel in the service of Public Administrations was

the existence of the large amount of emails exchanged between the investigated, and Mr. (...).

It should be noted that in no case was the corporate, personal or professional email of Mr. (...), nor was there any intervention in his work station. The identification of his alleged responsibility in the imputed facts, which during the instruction of the disciplinary procedure could not be distorted, comes from his name and surname that appears referenced in more than a hundred of the emails exchanged with Mr. (...)."

Secondly, following the results of the reserved information file, a disciplinary file was initiated against Mr. (...), the reporting person. The resolution of this procedure contained an annex where a total of 210 emails were reviewed which, according to the same resolution, had as sender, recipient or with a copy Mr. (...). Well, the Authority found that 18 of the emails did not include the address of Mr. (...) nor as sender, receiver or with copy. For this reason, in the preliminary information phase, the Authority required DARPA to confirm or deny whether the complainant's private email had been accessed and, if denied, to specify the reasons for in which the name of Mr. (...) in these emails. As stated in the background, DARPA did not respond to the Authority's requests.

But he did respond to this question in the allegations he presented in the agreement to initiate the present sanctioning procedure. As he explained, "the fact that in some of the emails reviewed in the annex to the Sanctioning Resolution, Mr. (...), neither as sender, receiver, or with a copy, it is because in the mail in question, a forwarding of another pre-existing one was made. This fact can be seen, for example, in the following emails:

Mail no. 50

Mail of origin dated 28.3.2019, 11:39 a.m. between the sender (...) and the recipient (...) (...) with the subject "Re: Thermovinification information". This same email includes others forwarded and incorporated into the email thread:

- Sender (...) of 28.03.2019, 08:49 a.m. to recipient (...)
- Broadcaster "(...)" of 28.03.2019, 08:27h with copy (...).

Post office no. 53-54 and 64

Mail of origin dated 27.3.2019, 11:49 a.m. between the sender (...) and the recipient (...) (...) with the subject "Re: Appeal for replacement (...)". This same email includes others forwarded and incorporated into the email thread, namely:

- Sender (...) on 27.03.2019, 09:54h to recipient "(...)(...)" "(...)"
- Sender (...) on 13.03.2019, 14:17h to addressee "(...)(...)" "(...)"
- Broadcaster (...) (...) of 13.03.2019, 13:39h
- Broadcaster (...) of 11.03.2019, 8:22am
- Broadcaster (...) (...) of 6.03.2019, 8:

(...)

And he added that "the initial emails are always between Mr. This Administration derives from this fact, not from the access to the email account of Mr. (...)". DARPA substantiated the alleged fact by providing the copies of the disputed emails.

According to the accused entity, "the information obtained and which verifies the facts for which Mr. (...) was considered disciplinary responsible comes from a reserved information procedure, duly instructed in accordance with Law 39/2015, of October 1, on the common administrative procedure of public administrations and the Decree 243/1995, of 27 June, which approves the Regulation on the disciplinary regime of the civil service of the Administration of the Generalitat of Catalonia. At no time did the Department access their devices, or their emails, whether professional, corporate or personal. The knowledge of the existence of the e-mails referenced in the initial agreement of this Authority is a consequence of the e-mails provided by CESICAT, as part of the reserved information procedure, where Mr. (...) was listed as recipient or sender and in which other mails were incorporated, as forwardings, in which other actors appeared, who were not actually Mr. (...). Therefore, the action of this Department has been carried out in strict compliance with the rules on data protection, and in accordance with its obligation and authority to control and monitor ICT tools by its employees Administration." DARPA accredited the previous demonstrations by providing, among others, the following documents:

- Resolution of the General Secretary of the Department dated 11/02/2019 by which access to information is agreed, through the use of information and communication technologies within the framework of reserved information.
- Proof of delivery of the documentation by CESICAT on 09/09/2019, through the chain of custody.
- Report of the information security officer of the Cybersecurity Agency of Catalonia (previously CESICAT) regarding access to information through the use of information and communication technologies in the framework of an information reserved for Mr. (...).

In view of these allegations, it is necessary to analyze whether DARPA acted in accordance with Instruction 3/2018 on the use of information and communication technologies in the Administration of the Generalitat of Catalonia (in force in the time of the events).

In accordance with point 14.5 on the control and monitoring of ICT use, "in order to verify existing indications of improper, illegal or abusive use, access to the necessary information may be carried out by two different means:

b) On the elements of the IT and common communications infrastructure and the supervision and monitoring systems, with the nature of reserved information, through a request from the person in charge of the general secretariat or competent body of the entity corresponding to body responsible for ensuring cyber security in the Generalitat de Catalunya. The resolution must properly detail the information requested (type of information, time frame of its creation, etc.). The act of accessing the information must be done through procedures that guarantee its authenticity and integrity throughout the process of extraction, processing, transport, transfer, custody and preservation and in collaboration with the Center of Telecommunications and Information Technologies (CTTI), body responsible for administration and operation. The information must be given to the person designated in the request, by means that guarantee its security. In the absence of designation, it must be given to the person in charge of the general secretary or competent body of the corresponding entity".

In the present case, with the documentation provided by DARPA, it was proven that, within the framework of a reserved information procedure, the general secretary of DARPA, through a resolution dated 02/11/2019, made a request to CESICAT to request the e-mails sent from the e-mail address of Mr. (...) to the e-mail recipient (...), private address of the reporting person, during a certain time interval. On 09/09/2019, CESICAT delivered the requested information through the chain of custody (the proof is provided). And from the copies of the e-mails provided in the procedure, it appears that the complainant's private e-mail was not accessed, nor was his corporate e-mail. That the reason why Mr. (...) neither as a sender, receiver or with a copy because it was forwarding of other pre-existing mails.

This is why it has not been possible to uphold the imputation relating to the violation of the principle of legality, given that it has been proven that DARPA did not access the mailbox of the complainant, but accessed the corporate emails of another official with whom the complainant had exchanged emails.

2.2. On the appointment of a data protection delegate and his communication to the Authority.

In its statement of objections, DARPA stated that it had designated the delegated person for data protection with temporary attribution of functions, in accordance with the provisions of Instruction 1/2018 of May 16, on the attribution temporary duties of the data protection delegate in the area of the Administration of the Generalitat and its public sector. To prove this allegation, he provided a copy of the resolutions of the person in charge of the Department's general secretariat, by means of which certain people were designated the functions of data protection delegate.

Prior to the analysis of the allegations made by the accused entity, it is convenient to refer to the regulations that are applicable in this case.

Regarding the obligation of the data controller to appoint a data protection delegate, it is necessary to refer to article 37.1.a) of the RGPD, which states that the data controller and the person in charge of the treatment will designate a data protection delegate of data as long as "a) the treatment is carried out by a public authority or organism, except the courts acting in the exercise of their judicial function". And the fact of not designating a data protection delegate when this designation is mandatory constitutes a violation of the obligations of the person in charge of the treatment, an offense classified in article 83.4.a) of the RGPD and collected as serious in the GDPR article 73.1.v) of the LOPDGDD, in the following form:

"According to what is established in article 83.4 of Regulation (EU) 2016/679, infractions that involve a substantial violation of the articles mentioned therein and, in particular, the following are considered serious and will be prescribed within two years: v) Failure to comply with the obligation to appoint a data protection officer when his appointment is required in accordance with article 37 of Regulation (EU) 2016/679 and article 34 of this organic law".

It is also necessary to take into account article 37.7 of the RGPD, which states that "The person responsible or the person in charge of the treatment will publish the contact details of the data protection delegate and communicate them to the control authority." And article 34.3 of the LOPDGDD establishes the deadline for notifying the competent data protection authority of the designation and termination of the data protection delegates: the Spanish Data Protection Agency or, as the case may be, the autonomous data protection authorities, the designations, appointments and terminations of the data protection delegates both in the cases in which they are obliged to their designation and in the in case it is voluntary".

In accordance with the regulations transcribed, DARPA had the obligation to designate a data protection delegate and notify the Authority within the legally established deadline.

The accused entity cited in its statement of objections Instruction 1/2018 which aims to establish uniform criteria for the temporary assignment of the functions of the data protection delegate, criteria which are transitory until the entry into force of the regulation of the statute of the data protection delegate.

In its point 6, this Instruction establishes the procedure for the temporary assignment of the functions of the data protection delegate. Specifically, section 6.1 provides that the functions of data protection delegate will be assigned, through a resolution of

the person in charge of the general secretary or the person to whom he delegates. And point 7.1 establishes that the temporary attribution of functions will be valid until the entry into force of the regulation governing the statute of the data protection delegate. Regarding the validity of the Instruction, point 9 specifies that it will remain in force until the creation of the corresponding bodies or workplaces in accordance with the regulatory provision governing the statute of the data protection delegate.

According to the allegations and documents provided by DARPA, it is necessary to analyze whether it complied with its obligation to appoint a data protection officer, taking into account that:

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- On 07/10/2018 the General Secretary of DARPA issued a resolution by which he temporarily assigned the functions of data protection delegate to Mr. (...), department official.
- On 06/11/2020, the Secretary General of DARPA issued a resolution by which he temporarily assigned the functions of data protection delegate to Ms. (...).
- On 06/15/2021 the General Secretary of DARPA issued a resolution by which he temporarily assigned the functions of data protection delegate to Ms. (...).

DARPA has therefore certified that it has assigned the functions of data protection delegate on a temporary basis to the persons mentioned above and that it did so following Instruction 1/2018, still in force and until the regulation of the statute of the data protection delegate.

However, DARPA did not comply with the obligation to communicate to the Authority any of the designations made. Well, article 37.7 of the RGPD establishes that communication to the Authority is mandatory: "The person responsible or the person in charge of the treatment will publish the contact details of the data protection officer and communicate them to the control authority". In the same sense, article 34.3 of the LOPDGDD provides that: "Those responsible and responsible for the treatment will communicate within ten days to the Spanish Agency for Data Protection or, as the case may be, to the autonomous authorities for the protection of data, the designations, appointments and terminations of the data protection delegates both in the cases in which they are obliged to their designation and in the case in which it is voluntary". In addition, it is necessary to remember the importance of communicating to the Authority the designation and contact details of the data protection delegate, given that their functions include the following: "d) cooperate with the control authority ; e) act as the point of contact of the control authority for issues related to the treatment, including the prior consultation referred to in article 36, and carry out consultations, as the case may be, on any other matter" (art. 39.1 RGPD). Likewise, it is also necessary to remember that there is an obligation to publish the data of

contact of the data protection officer so that the people affected by the treatment can address questions relating to the treatment and the exercise of their rights recognized by the Data Protection Regulation (art. 38.4 of the RGPD).

3. In relation to the fact described in section 1 of proven facts, the imputation of the initiation agreement is withdrawn for the reasons set out in legal basis 2.1.

Regarding the fact described in section 2 of proven facts, in the agreement to start this sanctioning procedure, the lack of designation of a data protection delegate was considered a proven fact. This behavior was qualified as a violation of the obligations of the person in charge of the treatment, specifically the fact of not having designated a data protection delegate, which constitutes a serious infringement contained in article 73.1.v) of the LOPDGDD.

In view of the allegations made in the initiation agreement by the accused entity (legal basis 2.2) and after DARPA had certified that it had temporarily assigned the functions of data protection delegate to personnel of his department, but that he had not communicated it to the APDCAT, it was considered appropriate to modify the initial imputation in the resolution proposal and classify the infringing behavior as a violation of the obligation to communicate to the Authority the designation of the person data protection officer.

In accordance with art. 89.3 of the LPAC, which provides: "In the resolution proposal, the facts that are considered proven and their exact legal classification must be determined in a motivated manner, the offense must be determined that, if applicable, those constitute, the person or persons responsible and the sanction that is proposed, the assessment of the tests carried out, especially those that constitute the basic foundations of the decision, as well as the provisional measures that, if applicable, have been adopted. When the investigation concludes that there is no infringement or responsibility and the power provided for in the first section is not used, the proposal must declare this circumstance".

Once the facts that are considered proven, relating to the obligation to notify the Authority of the designation of the data protection delegate, it is necessary to refer to article 34.3 of the LOPDGDD, which provides that: "Those responsible and encargados of the treatment will communicate within ten days to the Spanish Data Protection Agency or, as the case may be, to the autonomous data protection authorities, the designations, appointments and terminations of the data protection delegates both in the cases in that are obliged to their designation as in the case where it is voluntary".

During the processing of this procedure, the fact described in the proven facts section, which is considered constitutive of the violation provided for in article 83.4.a) of the RGPD, which typifies the violation of "a) the obligations of the person in charge and the person in charge pursuant to articles 8, 11, 25 to 39, 42 and 43".

The conduct addressed here has been included as a minor infraction in article 74.1.p) of the LOPDGDD, in the following form:

"Not to publish the contact details of the data protection delegate, or not to communicate them to the data protection authority, when their appointment is required in accordance with article 37 of Regulation (EU) 2016/679 and article 34 of this organic law."

4. 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."

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 file or 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".

In this case, it is not necessary to establish any corrective measure, given that on 11/25/2021, by means of a letter from the Secretary General of the DACC (previously, DARPA), the Authority was notified of the designation of the delegated person for data protection .

For all this, I resolve:

1. Admonish the Department of Agriculture, Livestock, Fishing and Food (now, Department of Climate Action, Food and Rural Agenda) as responsible for an infringement provided for in article 83.4.a) in relation to the article 37.7, both of the RGPD, and article 34.3 of the LOPDGDD.

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 4th legal basis.

2. Notify this resolution to the Department of Agriculture, Livestock, Fishing and Food (now, Department of Climate Action, Food and Rural Agenda) as responsible for an infringement provided for in article 83.4.a) in relation to article 37.7, both of the RGPD, and article 34.3 of the LOPDGDD.

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

4. 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.

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,