

Carrer Rosselló, 214, esc. A, 1st 1st  
08008 Barcelona

## File identification

Resolution of sanctioning procedure no. PS 42/2021, referring to Llimiana Town Council.

## Background

1. En data 08/03/2021, va tenir entrada a l' Autoritat Catalana de Protecció de Dades procedent de l'Agència Espanyola de Protecció de Dades, un escrit del Sr. (...) for which he filed a complaint against the Llimiana City Council (hereafter, the City Council), on the grounds of an alleged breach of the regulations on personal data protection .

Specifically, the complainant stated that when he did a *Google search* by entering his first and last name, he obtained a link (indicated in his complaint) that referred to a City Council report containing his personal data: no, surnames and NIF.

2. The Authority opened a preliminary information phase (no. IP 100/2021), in accordance with the provisions of article 7 of Decree 278/1993, of November 9, on the sanctioning procedure applied to areas of competence of the Generalitat, and article 55.2 of Law 39/2015, of October 1, on the common administrative procedure of public administrations (henceforth, LPAC), to determine whether the facts were susceptible to motivate the initiation of a sanctioning procedure.

3. On 05/13/2021, as part of this preliminary information phase, the Authority's Inspection Area made a search through *Google*, entering the name and surname of the person reporting. Thus, two links containing personal data of the reporting person were obtained. In particular, the links referred to two minutes of the Plenary sessions of the City Council on 22/11/2017 and 02/04/2019.

In the first place, there was a link to the minutes of the extraordinary session of the Plenary of the City Council on 22/11/2017, corresponding to the public draw that had the purpose of appointing the president, members and substitutes of a polling station . The minutes contained the personal data of the person reporting and other members of the electoral board. A total of nine people were identified with their first and last names, complete NIF and voter number.

(...)

Secondly, there was a link to the minutes of the regular session of the City Council meeting on 04/02/2019, corresponding to the public lottery that was intended to appoint the president, members and substitutes of the electoral board. In the eighth section, "Election of members of the polling station", there was the personal data of the complainant and eight

Carrer Rosselló, 214, esc. A, 1st 1st  
08008 Barcelona

other members corresponding to a polling station. The personal data published were: first and last name, full NIF and voter number.

(...)

4. In this information phase, on 05/13/2021, the reported entity was required because:

- It indicated the purposes of the treatment consisting in the publication of the aforementioned acts with the personal data of the person making the complaint and of the other members who were part of the electoral months.
- Indicate the legal basis that in your opinion would legitimize this data processing.
- It justifies the need to keep the personal data of the affected people published, taking into account that the acts correspond to the election of the members of the electoral months of the years 2017 and 2019.

5. On 05/26/2021, the City Council responded to the aforementioned request through a letter in which it stated the following:

- The City Council indicated that the legal basis that would justify the processing of data is the legal obligation applicable to the controller, specifically article 26.2 of Organic Law 5/1985, of June 19, regulating the General Electoral Regime ( LOREG). He explained that the draw through which the president, the members and alternates of the electoral months are designated, is public. Therefore, the transfer of data derived from the publication on the internet of the data of the designated persons was in accordance with article 8 of the LOPDGDD and article 11.2.a) of the LOPD, given that there is a rule with a range of law enabling this transfer of data. Likewise, it cites article 70 of Law 7/1985 regulating the Basics of the Local Government (LBRL) which provides for the publication of the minutes of the Plenum of the Local Corporations and the publication or notification of the agreements adopted in the local corporations. It also stated that it was endorsed by article 196 of Royal Decree 2568/1986 of November 28 of the Regulation on Organization, Operation and Legal Regime of Local Entities (ROF).
- He added that these acts were notified to the members of the electoral commissions and communicated to the Zonal Electoral Board and the Regional Administration, in accordance with the provisions of the applicable regulations.
- The City Council considered that it was not responsible for the treatment consisting in the publication of the acts subject to complaint, since the link through which the acts were accessed referred to the EACAT page, managed by the Consortium of the Open Administration of Catalonia (AOC Consortium). In addition, it stated that the AOC Consortium's privacy policy stated that it was responsible for the processing of personal data provided for the management of procedures and requests, as well as for the provision of municipal services. For this reason, he considered that, since the AOC Consortium is responsible for the treatment of published personal data, the City Council cannot be held responsible for the publication of the acts that are the subject of the complaint.

Carrer Rosselló, 214, esc. A, 1st 1st  
08008 Barcelona

6. On 06/23/2021 and still within the framework of this preliminary information phase, the Authority's Inspection Area made a series of checks via the Internet on the facts subject to the complaint and they collected a series of evidence.

Specifically, access was made to the City Council website [https://www.llimiana.cat/Proceedings/Electronic Headquarters/Open Government and transparency/Government action and regulations/Plenary proceedings](https://www.llimiana.cat/Proceedings/Electronic%20Headquarters/Open%20Government%20and%20transparency/Government%20action%20and%20regulations/Plenary%20proceedings) were then accessed.

Thus, it was found that on page number 1 there was a record corresponding to the minutes of the Plenary Session of the ordinary session dated 04/02/2019. Subsequently, the link was clicked on and the Plenary minutes were downloaded with the personal data of the complainant and other members corresponding to a polling station. The link is the same one that was indexed by the "Google" search engine:

(...)

Then, page 2 showed, among others, the minutes of the Plenary meeting of the extraordinary session of 22/11/2017. The link was then clicked and the Plenary minutes were downloaded, which contained the personal data of the complainant and other members corresponding to a polling station. The link is the same one that was indexed by the "Google" search engine:

(...).

7. On 01/07/2021, the director of the Catalan Data Protection Authority agreed to initiate a disciplinary procedure against the Llimiana City Council for an alleged violation provided for in article 83.5.a), in relation to article 5.1.a); both of 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 07/02/2021.

8. 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.

9. On 07/19/2021, the City Council made objections to the initiation agreement , which are addressed in section 2 of the legal foundations. The accused entity provided various documentation with its letter.

10. Although in the initial agreement it was considered that the facts described in the proven facts section could violate the principle of lawfulness of the processing of Article 5.1.a) of the RGPD, in view of the allegations made by the City Council in the initial

Carrer Rosselló, 214, esc. A, 1st 1st  
08008 Barcelona

agreement, the legal classification was modified and the proven facts were classified as constituting a violation of the principle of minimization of article 5.1.c) of the 'RGPD. On 11/17/2021, the person instructing this procedure formulated a resolution proposal, for which he proposed that the director of the Catalan Data Protection Authority admonish the Llimiana City Council as responsible, first place, of an infringement provided for in article 83.5.a) in relation to article 5.1.c); both of the RGPD.

This resolution proposal was notified on 18/11/2021 and a period of 10 days was granted to formulate allegations.

11. On 03/12/2021, the accused entity presented a statement of objections to the proposed resolution.

### **proven facts**

The Llimiana City Council published on its Electronic Website the minutes of the Plenary sessions of the dates 22/11/2017 and 02/04/2019 with personal data of the people chosen to be part of a polling station. In these acts, the people chosen were identified with their first and last names, NIF and voter number.

These acts remained published at least until 16/07/2021, the date on which the Authority verified that they were no longer published.

### **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 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 made allegations both in the initiation agreement and in the resolution proposal. However, it should be clarified that the bulk of the allegations made in the resolution proposal are substantially the same as those made in the initiation agreement. That is why it is considered appropriate to mention them here, given that they are reproduced in the seconds. The set of allegations made by the accused entity are then analysed.

2.1. About the legality of the treatment.

The accused entity explained that the publication of the minutes with the personal data corresponding to the members of the electoral commissions is based on a legal obligation applicable to the City Council.

Carrer Rosselló, 214, esc. A, 1st 1st  
08008 Barcelona

Regarding the legality conditions of the treatments, article 6 of the RGPD provides that in order for a treatment to be lawful it must meet at least one of the conditions set out in the same article, among which is: " *c) the treatment it is necessary for the fulfillment of a legal obligation applicable to the person responsible for the treatment*". And it is also necessary to take into account section 3 of the same article which establishes: " *The basis of the treatment indicated in section 1, letters c) and e), must be established by: a) the Law of the Union, or b) the Law of the Member States that applies to the person responsible for the treatment*".

The City Council cited, and invokes again in the allegations in the proposal, article 26.2 of Organic Law 5/1985, of June 19, regulating the General Electoral Regime (hereafter, LOREG) as the provision of the rule of legal rank that would enable the publication of the acts of the result of the draw for the designation of the members of the electoral months. This article provides that:

*"2. The President and the members of each Bureau are appointed by public lottery among all the people included in the list of electors of the corresponding Bureau, who can read and write and are under seventy years of age, although from sixty and cinco años may express their resignation within seven days. The President must have a Bachelor's degree or Second Grade Professional Training, or secondarily a School Graduate or equivalent".*

Based on the cited article, the City Council concluded that: "LOREG provides that the draw through which the President, members and alternates of the electoral months will be designated, are public, therefore, the transfer of data derived from the publication on the Internet of the names of those who have been appointed as president, members and substitutes, is in accordance with the provisions of article 8 of the 2018 LOPD and the former article 11.2.a) of the LOPD of 1999, given that there is a rule with the rank of law enabling this transfer of data".

The Central Electoral Board ruled on this issue, on 3/11/2011, through Agreement 663/2011 (file 140/261), which responded to a query regarding the possibility of publishing the composition of the electoral months resulting from the draw carried out by the Plenary of the City Council. The Central Electoral Board declares verbatim:

*"1º) The LOREG establishes the public character of the draw for the appointment of the members of the Board in article 26.2 LOREG, but not the publication of the data resulting from them, especially taking into account that they are not definitive since they could be submitted to excuse This Presidency does not agree to understand the justification for such an advertisement, with the sole exception that it is the interested party who can verify, by entering his personal data, if he has been designated as a member of an electoral committee, in the same way that it happens with the possibility of verification by the interested party of their census data.*

*2º) Said publication cannot in any case replace the act of notification of the designation. It is the doctrine of this Board that the notification will be made in the official model approved by Royal Decree (Ac. June 17 , 1987). The official model is contained in Annex 7. C. 7.4ª of Royal Decree 605/1999 of April 16, which establishes the complementary regulation of electoral processes."*

And in accordance with article 19 of the LOREG, the Central Electoral Board has, among others, the following powers: "d) *Resolve with a binding character the queries raised by the Provincial Boards and, where appropriate, those of the Autonomous Community*" and " f) *Unify the Interpretative criteria of the Electoral, Provincial and, as the case may be, of the Autonomous Community in the application of the electoral regulations.*"

Therefore, it is up to the Central Electoral Board to establish the binding interpretative criteria in relation to the provisions contained in the LOREG and the public administrations must act in accordance with the interpretation made by the Central Electoral Board.

Well, as was already highlighted in the proposed resolution, the Central Electoral Board considered that article 26.2 of the LOREG would not be the standard of legal rank that enables the publication of the minutes with the personal data of the members of the electoral months. In accordance with what has been stated, this allegation cannot succeed.

The City Council also alleged as an enabling rule article 70 of Law 7/1985, of April 2, Regulating the Bases of the Local Government (LBRL) which provides for the publicity of the sessions of the Plenum of the Local Corporations and the publication of agreements adopted by local corporations.

According to article 70 of the LBRL:

- "1. The plenary sessions of the local corporations are public. However, the debate and voting of those matters that may affect the fundamental right of citizens referred to in article 18.1 of the Constitution, when so agreed by an absolute majority, may be secret. The sessions of the Local Government Board are not public.*
- 2. The agreements adopted by local corporations are published or notified in the manner provided by law. (...)"*

Certainly, as the City Council maintained, article 70 of the LBRL provides legal cover for the publication of the agreements of local corporations. In the same sense, article 10.2 of Law 29/2010, of August 3, on the use of electronic media in the public sector, with regard to the minutes of the sessions, when it establishes: " *The local entities have to publish in their electronic headquarters the proceedings of the plenary sessions...*"

Nevertheless, the publication must respect the personal data protection regulations, as also provided for in article 10.2 of Law 29/2010 by providing that " *In their publication, the*



*principles and guarantees must be taken into account which establishes the data protection regulations and the protection of the right to honor and privacy. For these purposes, personal data may be included 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 the rest of the 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, in any case, be linked to the interested person himself".*

It should be clarified that the reference to the data protection regulations referred to in article 10.2 of Law 29/2010 must be understood in Regulation (EU) 2016/679 of the European Parliament and of the Council, of April 27 and Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (LOPDGDD).

Therefore, article 10 of Law 29/2010 does not provide for the indiscriminate publication of all personal data that is processed during the plenary session, but rather that the principles and guarantees must be taken into account in the publication of these acts which establishes the data protection regulations. One of the principles contemplated in the data protection regulations is that of data minimization (Article 5.1.c) of the RGPD), according to which published data must be limited to what is necessary in relation to the purposes of the treatment. Well, in the case at hand it is clear that for the purposes of identifying who had been elected in the lottery of the electoral months, it was sufficient to record the name and surname of the person chosen, and only for the case that the name and surname coincide with another person, the four random numerical digits of the DNI could be added (Additional provision seven of the LOPDGDD).

## 2.2. About the data controller.

Next, the accused entity alleged, and now reiterates, that the person responsible for processing the publication of the plenary minutes was the Open Administration Consortium of Catalonia (hereinafter, the AOC Consortium) and that the City Council he was only a registered user of the transparency portal. The City Council based its claim on the following argument:

*"The owner of the internet domain seu-e.cat is the AOC Consortium and the electronic headquarters of the City Council expressly states that this is a service provided by the AOC Consortium. In addition, the link that appears on the electronic headquarters of the City Council is the same link as the one that appears in the EACAT. This shows that the documents on the Internet are published by EACAT".*

Likewise, the City Council cited the privacy policy of the AOC Consortium, which stated that this body is responsible for the processing of data related to the management of procedures and requests, as well as the provision of municipal services. And it concluded: *"the subject responsible for the processing of the acts that appear published in the Google*

*search for the acts, is the EACAT website, managed by the AOC Consortium and the subject responsible for the treatment of data from the electronic headquarters of the 'City Council, it's the AOC Consortium'.*

Given the definition of data controller in article 4.7 of the RGPD: *"For the purposes of this Regulation, it shall be understood by: 7) "responsible for the treatment" or "responsible": the natural or legal person, public authority, service or other organism that, alone or together with others, determine the ends and means of the treatment; if the Law of the Union or of the Member States determines the purposes and means of the treatment, the person responsible for the treatment or the specific criteria for his appointment may be established by the Law of the Union or of the Member States;*

Given the definition of treatment in article 4.2 of the RGPD: *"any operation or set of operations carried out on personal data or sets of personal data, either by automated procedures or not, such as collection, registration, organization, structuring, conservation, adaptation or modification, extraction, consultation, use, communication by transmission, diffusion or any other form of enabling access, comparison or interconnection, limitation, deletion or destruction".*

In view of the definition of data controller in article 4.8 of the RGPD: *"the natural or legal person, public authority, service or other body that processes personal data on behalf of the data controller".*

The publication of the plenary minutes with personal data constitutes data processing consisting of the dissemination of this data by automated procedures. The City Council, in this case by legal obligation, is the one who decides to publish said acts in its electronic headquarters and also who decides whether to publish them with personal data, publishes them previously anonymized, and if it applies the principle of data minimization, it is that is to say, with the data necessary to fulfill the purposes of the treatment. Consequently, the City Council decides the means and ends of the treatment.

The person in charge of the treatment for the provision of a service to the person in charge of the treatment treats the personal data on behalf of the person in charge of the treatment. Applied to the case at hand, the AOC Consortium, in the processing of personal data that it processes on behalf of the City Council, offers the platform for the City Council to publish the controversial acts and as the controller applies the security measures required and is subject to the instructions given by the entity responsible for the information.

Therefore, contrary to what the City Council claimed, the AOC Consortium is not responsible for the processing relating to the publication of the minutes of the municipal meeting, but rather the processor. And so it is determined in Law 29/2010, of August 3, on the use of electronic media in the public sector of Catalonia, which is established in article 22 , that: *"1. The Consorci Administració Oberta Electrònica de Catalunya, in order to make effective the interoperability between the applications and the information systems used by the*



*entities that make up the public sector of Catalonia, may have access to data from files or data processing of entities, if access is necessary to provide the services established by this law . 2. The Consorci Administració Oberta Electrònica de Catalunya, in the processing of personal data that it must carry out on behalf of the entities that make up the public sector of Catalonia, both with respect to the entities that make certain information available electronically and with respect to those who are interested in accessing it, is in charge of this treatment, must apply the required security measures and is subject to the instructions given by the entity responsible for the information, without being able to allocate the information for purposes other than those established by the responsible entity, nor allow access to the information to persons or entities that do not meet the legally enforceable requirements. Likewise, it is subject to the rest of the requirements established by the regulations for the protection of personal data".*

It is also necessary to take into account the document relating to the general conditions for the provision of services of the AOC Consortium created on 03/05/2012, modified on 19/12/2019. The purpose of these general conditions is to establish the conditions for the provision of the AOC Consortium's services. Thus, section 6.2 relating to "Personal data protection" contains the clauses required by article 28.3 of the RGPD. Indeed, this article establishes the legal link between the person in charge of the treatment and the person responsible for the treatment. Indeed, according to this section of the aforementioned general conditions:

*"The AOC Consortium and all its staff are subject to the personal data protection regulations, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council, of April 27, in Organic Law 3 /2018, of December 5, on protection of personal data and guarantee of digital rights, and specifically, upon compliance with the following conditions:*

*a) Use the personal data subject to treatment, or those collected for inclusion, only for the purpose of this assignment. In no case will he use the data for his own purposes.*

*b) Treat the data in accordance with the instructions of the data controller.*

*(...)*

*c) Keep, in writing, a record of all categories of processing activities carried out on behalf of the person in charge.*

*(...)*

*s) In no case will the AOC Consortium solve the procedures for exercising the rights of access, rectification, deletion, opposition, limitation and portability of the data that will always be assumed, exclusively, by the users of the services.*

*It is the user's responsibility to comply with the RGPD and national and regional data protection regulations with regard to personal data associated with the documentation that makes up the service".*

Carrer Rosselló, 214, esc. A, 1st 1st  
08008 Barcelona

In addition, section 6.8 on the formalization of the provision of services establishes that: *"To be a user of a service provided by the AOC Consortium you must accept these general conditions and the specific conditions of that through the corresponding request according to the procedure established for that purpose for each case in the conditions document specific"*.

In accordance with section 6.2 of these general conditions which contains the legal act that regulates the relationship between the person in charge and the person in charge of the treatment, the AOC Consortium does not use the data for its own purposes and treats the data of in accordance with the instructions of the data controller.

In accordance with what has been explained, this allegation cannot succeed either.

Regarding the new allegations made in the proposed resolution, the City Council refers to the conditions of use of its transparency portal (...). First of all, it should be pointed out that these terms of use are addressed to users of the portal. Despite this, it is necessary to refer to it in order to respond to what the City Council alleges. Thus, it refers to the section *" I) the general conditions of use of the transparency portal"*.

*"I. General conditions of use of the transparency portal  
Ajuntament de Llimiana (hereafter, Owner Administration) (...) is the owner of this transparency portal and is responsible for ensuring the integrity, veracity and updating of the information and services contained therein.*

*For its part, the Consorci de l'Administració Oberta de Catalunya (hereinafter, AOC), (...) is the owner of the internet domain seu-e.cat."*

It follows from the above information that the City Council is responsible for the information that is published and must ensure that it is truthful and up-to-date. And also that the AOC Consortium is the owner of the internet domain, but this fact does not imply that it is responsible for the processing of the data published by the City Council.

Next, the City Council refers to the conditions relating to hyperlinks that refer from the transparency portal to other websites, as well as from third-party websites to the transparency portal. And its conclusion is the following: *" Transferring the specified in the present case, the City Council of Llimiana, being the titular administration of the electronic headquarters, cannot be held responsible, nor guarantee the quality, accuracy, purpose, correctness or morality of the contents or services that the establishment of hyperlinks may offer"*. Well, in the present case it is not about information from third parties, nor is it being discussed about hyperlinks that refer to third party web pages (outside the electronic headquarters of the City Council), but about the publication of the minutes of the plenary session in the electronic headquarters of the City Council, by the City Council itself. This is why he cannot evade his responsibility, because the one who was responsible for applying

Carrer Rosselló, 214, esc. A, 1st 1st  
08008 Barcelona

the principle of minimization (also the rest of the principles relating to data processing) was the City Council and it did not do it.

On the other hand, the conditions of use of the portal of its electronic headquarters to which the City Council refers in its allegations, there is section 1.2 relating to responsibilities, which determines the following: *"The titular Administration is responsible for the contents of the transparency portal, as well as the integrity, veracity and updating of the information published and the services that can be accessed"*. Therefore, as it could not be otherwise, the responsibility for the content published on the electronic headquarters and on the transparency portal lies with the City Council, which is the one who publishes them and not with the AOC, which is the one who offers the platform for the publication of the contents.

Finally, the City Council claims that a section III) relating to the privacy policy and the protection of personal data, the AOC Consortium is listed as responsible for the treatment. Specifically, the paragraph that says:

*"The titular Administration guarantees compliance with the General Data Protection Regulation and Organic Law 3/2018, of December 5, on the protection of personal data and the guarantee of digital rights, Consorci Administració Oberta de Catalunya - as responsible for the treatment - guarantees the protection of the privacy and confidentiality of personal data, implementing the necessary and appropriate security measures for the type of personal data."*

The Authority has been able to verify that the AOC Consortium does indeed appear as the person responsible for the treatment. But this reasoning is not admissible. It is clear that this is an error committed by the City Council itself when establishing the legal notice, since the AOC Consortium is not responsible for the treatment consisting in the publication of the content that the City Council itself decides to publish. Indeed, as has been highlighted above, the City Council attributes the status of data controller to the owner of the domain of the electronic headquarters. It should be noted that this information is incorrect and that the City Council has the obligation to modify it.

Also, this error can lead to the following error:

*"The personal data required will be adequate, relevant and not excessive in relation to the scope and the determined, explicit and legitimate purposes for which they have been obtained and will be subjected to automated processing. The Owner Administration undertakes to respect the privacy and confidentiality of your data."*

*Interested persons can obtain any clarification on confidentiality, the treatment received by their personal data or exercise any of the rights of access, rectification, cancellation and opposition:*

*In person: City Council of Llimiana (Lleida)".*

Therefore, who is in control of the publication of the electronic headquarters is the City Council and interested persons should contact the City Council for any clarification in relation to the treatments.

In relation to the concept of data controller, please refer to the argument made at the beginning of this section 2.2. Just add that in section 6.2 of the general conditions of provision of AOC Services regarding the protection of personal data, updated on 10/13/2021 and published at: [https://www.aoc.cat/wp-content/uploads/2021/10/CON\\_GENERALS-PRESTACIO-SERVEIS\\_13102021.pdf](https://www.aoc.cat/wp-content/uploads/2021/10/CON_GENERALS-PRESTACIO-SERVEIS_13102021.pdf), contains the clauses relating to the data processor contract between the AOC and the data controller (in the case at hand, the City Council). All this confirms the status of the AOC Consortium's data controller.

Finally, the City Council alleges that the LOREG obliges to notify the respective minutes of the extraordinary and ordinary session to the presidents and members of the electoral mesas and communicate them to the Electoral Board of the Zone. And that the celebration of the minutes, as well as the adoption of the agreement, was communicated to the Electoral Board of the Zone that corresponds to each municipality, likewise, in order to comply with the duty of communication provided for both in the LRBRL as in the ROF communicated the adoption of this agreement, among others, to the Autonomous Administration. This allegation is not applicable to the case at hand, given that the facts considered proven do not include the notification or the communication referred to.

According to what has been explained so far, the City Council's allegations cannot succeed.

**3.** In the publication of the minutes of the plenary session, the principle of minimization (2.1 of the legal foundations) was not taken into account, since more data than was strictly necessary in relation to the purposes was published. In this regard, it is necessary to go to article 5.1.c) of the RGPD, which provides that "*Personal data will be: "c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (" data minimization»).*

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 83.5.a) of the RGPD, which typifies the violation of: "*a) the basic principles for treatment, including the conditions for consent pursuant to articles 5, 6, 7 and 9*".

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

*a) The treatment of personal data in violation of the principles and guarantees established in article 5 of Regulation (EU) 2016/679."*

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".*

The City Council submitted a document dated 16/07/2021 with the allegations in the start-up agreement requesting the AOC Consortium to remove or modify the acts that appeared on the portal. In particular, the deletion of names and surnames, complete NIF and voter number from the corresponding acts.

After making the relevant checks, the information with personal data is no longer published. This is why it is not necessary to require corrective measures to correct the effects of the infringement.

However, following the City Council's allegations made in the resolution proposal, the Authority has been able to verify that the legal notice of the City Council's electronic headquarters and transparency portal contains the mention of responsible of the treatment in relation to the AOC Consortium.

By virtue of this power, it is necessary to require the City Council to modify the legal notice as soon as possible, and in any case within a maximum period of 10 days from the day after the notification of this resolution the mention "responsible for treatment" in relation to the

Carrer Rosselló, 214, esc. A, 1st 1st  
08008 Barcelona

AOC Consortium that appears on the electronic headquarters and transparency portal of the City Council.

Once the corrective measure described has been adopted, within the specified period, the City Council must inform the Authority within the following 10 days, without prejudice to the inspection powers of this Authority to carry out the corresponding checks .

For all this, I resolve:

1. Warn the City Council of Llimiana as responsible for an infringement provided for in article 83.5.a) in relation to article 5.1.c), both of the RGPD.
2. To require the City Council of Llimiana to adopt the corrective measure indicated in the 4th legal basis and to accredit before this Authority the actions carried out to comply with them.
3. Notify this resolution to Llimiana City Council.
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 the provisions of 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,