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File identification

Resolution of the rights protection procedure no. PT 105/2021, urged against Aigües de Barcelona, Empresa Metropolitana de Gestió del Cicle de l'Aigua, SA

Background

1. On 09/17/2021, the Catalan Data Protection Authority received a letter from Ms. (...) (hereafter, the claimant), for which he made a claim for the alleged neglect of the right to rectification of his personal data, which he would have previously exercised before Aigües de Barcelona, Empresa Metropolitana de Gestió del Cicle de l'Aigua, SA (hereinafter, Aigües de Barcelona).

The person claiming stated that on 08/03/2021, due to a change of ownership, he canceled the water contract of the house he had rented and at that time he facilitated the reading of the meter relating to the consumptions made between on 09/02/2021 and on 08/03/2021 in order for Aigües de Barcelona to issue the invoice for this period which, according to him, should go to his name (he does not provide any document to justify this).

The claimant complained that he claimed the said invoice several times, and that Aigües de Barcelona told him that the invoice corresponding to the mentioned period had been invoiced in the name of the new contract holder and that he had also paid it.

The claimant requested Aigües de Barcelona to rectify the invoice in the sense that it would be invoiced in his name, because he argued that it was up to him to pay it.

But Aigües de Barcelona told him that it did not belong to him and that he would not be billed again.

On the other hand, he also complained that some emails from Aigües de Barcelona in response to his requests were headed with the name of another person, (...), (the new owner of the supply contract) and on other occasions they went to theirs

first name.

The complainant provided several emails:

- Email dated 03/28/2021 sent by the claimant to Aigües de Barcelona in which he explained that since 03/10/2021 he had been requesting the corresponding invoice for consumption between 02/09/2021 and 08/02 /03/2021 and that he was claiming it again, as well as the pending receipt and also mentioned that on 08/03/2021 he gave the meter reading when the change of ownership took place.
- Email dated 09/04/2021 from Aigües de Barcelona to the email account of the person making the claim. In this mail that was addressed to the claimant's mail, it was headed in the name of the new owner of the supply contract.

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- Email dated 04/09/2021 sent by the person claiming to Aigües de Barcelona with the following text: *"I insist. I am not (...) (the new contract holder). I am attaching a new claim to the one dated 03/28/2021. They correct and issue the invoice to the correct person".*

- Email dated 04/20/2021 from Aigües de Barcelona to the claimant's email account with the following content: *"Thank you for contacting us and I apologize for the previous email sent by mistake to another person's number (. ..)".*

- Email dated 04/22/2021 from Aigües de Barcelona to the claimant's email account with the following content: *"You ceased to be a holder on 03/09/2021. The invoice that indicates 09/02/2021 to 08/03/2021 was made to the number of the new owner. It will not be re-invoiced".*

- Email dated 04/23/2021, sent by the claimant to Aigües de Barcelona where she again asked them to rectify the invoice because she was the contract holder for part of the invoiced period.

2. On 08/10/2021, the claim was transferred to Aigües de Barcelona so that within 15 days it could formulate the allegations it considered relevant.

3. Aigües de Barcelona made allegations in a letter dated 11/05/2021, in which it set out, in summary, the following:

- That on 15/03/2021, the claimant contacted Aigües de Barcelona, requesting a duplicate of the last invoice issued corresponding to their consumption, indicating that, given that she was no longer the holder of the contract, she was no longer listed as a registered user in the network office (in relation to a supply that is no longer in her name) and, therefore, she could not view the invoice she was interested in either.

ÿ That, given that on 9/03/2021 the ownership of the reference supply was changed, it was found that in three of the communications sent to the claimant via email on the same matter, due to human error of the customer service person before making the shipments, did not properly check the recipient and did not remove the names and surnames of the person listed as the current holder of the supply contract - which appear by default in the system 'information and are editable, precisely for situations like the current one and, therefore, did not replace them with the names and surnames of the person to whom these communications were addressed.

- That, in response to the repeated requests to send the last invoice issued, it was confirmed to the claimant that it was not up to her to make the payment, and she was informed that it had already been paid by the new owner, when making the change from

first name.

ÿ That at no time were the claimant's personal data erroneously, incompletely or inaccurately recorded in the Aigües Barcelona database. That what the person claimed was related to the management of the disassociation of the claimant from the supply policy that became the holder of another person, due to a change of name.

- That the person claiming did not really exercise the right of rectification in the terms established by article 16 of the RGPD and 14 of the LOPDGDD.
- That even if it could be considered as a request for the right of rectification it would have been attended to and answered within the deadline, because the deadline for answering was interrupted when he was required to prove his identity, since he was not listed as the holder of the policy (15/03/2021).
- That the claimant provided his ID on 03/26/2021 via email (a copy is provided) and, therefore, the one-month period ended on 04/26/2021.
- That Aigües de Barcelona responded to the exercise of the right of rectification within the legally established deadline by means of an email dated 04/22/2021. (It provides the previous email, the content of which is as follows: *"The invoice that you indicate was made in the name of the current owner and it was also paid, so no re-invoicing of the same should be done"*).

Fundamentals of Law

1. The director of the Catalan Data Protection Authority is competent to resolve this procedure, in accordance with articles 5.b) and 8.2.b) of Law 32/2010, of October 1, of the Catalan Data Protection Authority.
2. Article 16 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 of such data (hereinafter, the RGPD), regulates the right of rectification in the following terms:

"The interested party will have the right to obtain without undue delay from the controller the rectification of inaccurate personal data concerning him. Taking into account the purposes of the treatment, the interested party will have the right to complete the personal data that are incomplete, including by means of an additional declaration".

For its part, article 14 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (hereinafter, LOPDGDD), determines the following, also in relation to the right of correction:

"When exercising the right of rectification recognized in Article 16 of Regulation (EU) 2016/679, the affected person must indicate in his request which data he refers to and which correction must be made. It must be attached, when necessary, the supporting documentation of the inaccuracy or the incompleteness of the data being processed".

In relation to the rights contemplated in articles 15 to 22 of the RGPD, paragraphs 3 to 5 of article 12 of the RGPD, establish the following:

"3. The person in charge of the treatment will provide the interested party with information related to their actions on the basis of a request in accordance with the

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articles 15 to 22, and, in any case, within one month from the receipt of the request. This period can be extended another two months if necessary, taking into account the complexity and the number of applications. The person in charge will inform the interested party of any such extension within one month of receipt of the request, indicating the reasons for the delay. When the interested party submits the request by electronic means, the information will be provided by electronic means whenever possible, unless the interested party requests that it be provided in another way.

4. If the person in charge of the treatment does not comply with the request of the interested party, he will inform him without delay, and no later than one month after receiving the request, of the reasons for his non-action and of the possibility of submitting a claim before a control authority and exercise judicial actions.

5. The information provided under articles 13 and 14 as well as all communication and any action carried out under articles 15 to 22 and 34 will be free of charge. When the requests are manifestly unfounded or excessive, especially due to their repetitive nature, the person in charge may:

a) charge a reasonable fee based on the administrative costs incurred to facilitate the information or communication or perform the requested action, or

b) refuse to act in respect of the request.

The person responsible for the treatment will bear the burden of demonstrating the manifestly unfounded or excessive nature of the request.

(...)"

In relation to the above, article 16.1 of Law 32/2010, of the Catalan Data Protection Authority, regarding the protection of the rights provided for by the regulations on personal data protection, provides the following:

"1. Interested persons who are denied, in part or in full, the exercise of their rights of access, rectification, cancellation or opposition, or who may understand that their request has been rejected due to the fact that it has not been resolved within the established deadline, they can submit a claim to the Catalan Data Protection Authority."

3. Having explained the applicable regulatory framework, it is then necessary to analyze whether, in accordance with the precepts transcribed in the 2nd legal basis, the rectification of the data in the terms requested by the person making the claim is necessary in this case.

In advance, it is necessary to analyze whether the claimant's request refers to the right of rectification contained in articles 16 of the RGPD and 14 of the LOPDGDD.

The claimed company considers that in the case at hand it is not a request for the right to rectification of the personal data of the claimant, but that this

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disputes that the new holder of the supply contract was billed for consumption that had been made in the period in which she was still the holder of the said contract. I request that she be billed. For its part, the claimant company considers that the invoice issued in the name of the new owner has been made correctly. It also says that this is how the person making the claim was informed and that it had already been paid by the new owner.

Likewise, the claimed company declares that at no time have they found the claimant's personal data to be incorrect, incomplete or inaccurate in the Aigües Barcelona database.

The Authority has analyzed the information relating to the request for change of ownership of the water supply contract that is provided on the website of Aigües de Barcelona (<https://www.aiguesdebarcelona.cat/ca/la-your-water/your-contract/owner-change>). Among the related sections is a link to the pdf document "Change of owner of the water supply contract". This is a downloadable document that must be filled out and signed to make the change of ownership. The document contains the following clauses:

"According to the request of the occupant of the housing object of supply mentioned above (henceforth, the customer) in his capacity as owner/tenant, dated (...) has been carried out in his favor the change of ownership by subrogation/assignment of the supply contract number (...)

4th The customer expressly requests that the change of owner take effect before the 14 calendar days following the conclusion of this contract.

5th At the time of the change of ownership, the customer must take charge of the invoices pending settlement or in the process of invoicing the supply, if there are any".

According to the document on the change of ownership of the supply contract, at the time of making the change of ownership of the contract, the new holder takes the position of the former holder of the contract and assumes all the rights and obligations, and among the obligations is that of taking charge of invoices pending settlement or those that are in the process of being invoiced. Well, at the time of the change of ownership of the contract (09/03/2021), supplies between 09/02/2021 to 08/03/2021 were still pending billing. And in accordance with point 5 of the change of ownership document, it is up to the new owner to take charge of the invoicing of the supply in the invoicing process. From the point of view of data protection, the invoice in the name of the new holder cannot be considered to contain incorrect data, since the disputed invoice was issued with the data of the contract holder who at that time was bound to his payment

In short, and from the perspective of the protection of personal data, given that article 16 of the RGPD regulates the right of rectification as the right of the affected person

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08008 Barcelona

modify their data that are inaccurate or incomplete, and that in this case there is no processing of inaccurate personal data of the person claiming, because the invoice and its payment corresponded to the new contract holder, the claim cannot be accepted of the person claiming to modify the data relating to the invoice.

On the other hand, it has not been established that Aigües de Barcelona had treated inaccurate data of the person making the claim.

For all this, I resolve:

1. Dismiss the guardianship claim made by Ms. (...) against Aigües de Barcelona, Empresa Metropolitana de Gestión del Cicle de l'Aigua, SA
2. Notify this resolution to Aigües de Barcelona, Empresa Metropolitana de Gestió del Cicle de l'Aigua, SA and the person making the claim.
3. Order the publication of the resolution 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 20 February, by which the Statute of the Catalan Data Protection Agency is approved, the interested parties can file, as an option, an appeal for reinstatement before the director of the Catalan Data Protection Authority, in the period of one month from the day after its notification, in accordance with the provisions of article 123 et seq. of the LPAC or to directly file an administrative contentious appeal before the administrative contentious courts of Barcelona, in the period of two months from the day after its notification, in accordance with articles 8, 14 and 46 of Law 29/1998, of July 13, regulating administrative contentious jurisdiction.

Likewise, interested parties may file any other appeal they consider convenient for the defense of their interests.

The director,