

Report issued at the request of the Commission for the Guarantee of the Right of Access to Public Information in relation to the claim submitted by a citizen for denial of access to the complete documentation of the file related to an alleged case of school bullying which affects his minor daughter

The Commission for the Guarantee of the Right of Access to Public Information (GAIP) asks the Catalan Data Protection Authority (APDCAT) to issue a report on the claim submitted by a citizen to deny him access to the documentation entire file related to an alleged case of school bullying affecting his minor daughter.

Having analyzed the request, which is accompanied by a copy of the administrative file processed before the GAIP, and in accordance with the report of the Legal Counsel, I issue the following report:

Background

1. On June 13, 2022, a citizen wrote to the competent Department of Education requesting the following public information:

"- All my daughter's file in relation to the case of harassment and application of the protocol by the school, as well as the final assessment report dated 06/11/21.

- All the file and documentation of the actions and interventions of the inspector in the center (in the case of my daughter).

- The documentation and information on which the different Directors of the Territorial Education Services have relied to reach their conclusions, especially the details of the duly proven facts that, allegedly, our daughter has done and we do not want to admit.

- The report/s that were delivered to the Barcelona Juvenile Prosecutor's Office related to the preliminary proceedings (...).

- All the documentation related to the management and actions carried out by the education administration to comply with the suggestions that the Ombudsman made in his resolution (annex 3). Especially those referred to the audit/supervision by the inspection of the application/management of the anti-harassment protocol carried out by the school (...)."

2. On July 11, 2022, the Department issues a resolution approving the request for access to the requested public information.

The list of documentation delivered to the applicant, as stated in the file, is divided into the following two appendices:

Annex 1. Documentation of the file linked to the alleged case of school bullying.

- DOC. 1. Copy of the evaluation report of the school director (...), dated June 9, 2021, in application of the peer harassment protocol, issued in response to the suspicion of a possible case of harassment
- DOC. 2. Copy of the letter from Mr. (...), dated July 2, 2021, where he describes the actions of the College (...) in the face of a case of alleged school bullying.
- DOC. 3. Authenticated copy of the Report of the Education Inspection of Territorial Services in Barcelona Regions of the Department, dated July 19, 2021, in relation to the letter of Mr. (...) in relation to a case of alleged school bullying at the College (...).

This document is delivered together with the letter drawn up by the families of other students at the school about the events reported and the identifying and contact details of the signatory families have been removed.

- DOC. 4. Authenticated copy of the letter from the Head of the Area for School Coordination and Programming of Territorial Services in Barcelona Comarques of the Department, dated December 16, 2021, which responds to the letter of Mr. (...) of July 2, 2021.
- DOC. 5. Copy of a request from the Provincial Prosecutor's Office of Justice of Catalonia – Juvenile Section, dated November 8, 2021, which was entered in the register of the Department's Maresme-Vallès Oriental Territorial Services on November 22, 2021 .

This document is delivered without the prosecutor's handwritten signature.

- DOC. 6. Authenticated copy of the letter from the Secretary of Territorial Services in Barcelona Regions of the Department of December 16, 2021, in response to the request of the Provincial Prosecutor of Justice of Catalonia of November 8, 2021.

This document includes the letter drawn up by the families of other students at the school about the events reported and has been delivered without the identification and contact details of the signatory families.

Annex 2. Documentation of the file relating to the complaint lodged by the applicant before the Ombudsman in relation to the alleged case of school bullying.

- DOC.1. Request of the Ombudsman of June 22, 2021 in relation to the complaint (...) urged by Mr. (...).
- DOC.2. Report of the Education Inspectorate of July 6, 2021 in relation to the request of the Ombudsman of June 22, 2021 (...).
- DOC.3. Response letter addressed to the head of the Institutional Relations Office signed by the director of Territorial Services in Barcelona Regions on September 29, 2021 in relation to the request of the Ombudsman of June 22, 2021.

- DOC.4. Request of the Ombudsman of November 23, 2021 in relation to the complaint (...) urged by Mr. (...).
- DOC.5. Report of the Education Inspectorate dated January 13, 2022 in relation to the Ombudsman's request dated November 23, 2021 (...).
- DOC.6. Response letter addressed to the head of the Office of Institutional Relations signed by the director of Territorial Services in Barcelona Regions on January 17, 2021 in relation to the request of the Ombudsman of November 23, 2021.
- DOC.7. Request of the Ombudsman of February 8, 2022 in relation to the complaint (...) urged by Mr. (...).
- DOC.8. Report of the Education Inspectorate of January 13, 2022 in relation to the request of the Ombudsman of February 8, 2022 (...).

This document is delivered without the chief inspector's ID number.

- DOC.9. Response letter addressed to the head of the Institutional Relations Office signed by the director of Territorial Services in Barcelona Regions on March 14, 2021 in relation to the request of the Ombudsman of February 8, 2021.
- DOC.10. Request of the Ombudsman of April 5, 2022 in relation to the complaint (...) urged by Mr. (...).
- DOC.11. Report of the Education Inspectorate of May 16, 2022 in relation to the request of the Ombudsman of April 5, 2022 (...).

This document is issued without the ID number of the education inspector and the chief inspector.

- DOC.12. Response letter addressed to the head of the Institutional Relations Office signed by the director of Territorial Services in Barcelona Regions on July 1, 2021 in relation to the request of the Ombudsman of April 5, 2021.

3. On July 22, 2022, the applicant filed a complaint with the GAIP against the Department for the denial of access to the entire file relating to the harassment of his daughter.

In the document accompanying the claim, the applicant states, among other issues, that the following information is not included in the documentation provided by the Department:

- The emails exchanged between the mother of the minor daughter and the education inspector.
- The complaints he submitted on 11/6/21, 21/7/22, 26/11/21 and 9/12/21 through the Virtual Office of Procedures of the Generalitat of Catalonia (OVT) and the answers what he got about it.
- The letter that he submitted on 7/21/21 to the register of the Territorial Services of Barcelona Regions regarding the action of the education inspector.

- The requirements of the Ombudsman on dates 23/7/21 and 29/11/21 addressed to the Territorial Services of Barcelona Comarques in relation to the complaint presented to the Ombudsman by the applicant.

He also states that some personal data has been omitted from part of the documentation that the Department has given him, so he requests *"the entire file without redacting dates and names necessary to know who and when participated in the file that we started."*

4. On July 29, 2022, the GAIP sent the claim to the Department, requiring it to issue a report on which to base its positions, as well as the complete file relating to the request for access to public information and the identification of third parties affected by the requested access.

5. On August 19, 2022, the Department responds to the GAIP's request by sending it the file relating to the access request that is the subject of this claim.

The file contains the report issued by the general secretary, in which, for the purposes of interest, it appears that the requested documentation was transferred to the person requesting, after the removal of the personal identifying data not strictly necessary for achieve the purpose of the access.

Thus, with respect to the letter presented by different families of the school, attached to the education inspector's report (documents 3 and 6 of Annex 1 of the access resolution), the signatures were removed and ID numbers, as well as the authors' first and last names in order to preserve their intimacy and privacy. The email of the person submitting the letter on behalf of the other families was also deleted.

The handwritten signature of the Ministry of Taxation contained in document 5 of Annex 1 of the access resolution was also removed, and the ID numbers of public employees contained in documents 8 and 11 of Annex 2 of the access resolution.

Likewise, it is noted that the e-mails referred to by the applicant in his claim were not provided to him, given that they are not part of the file and because they were already in his possession.

The same consideration is made with respect to the information relating to the various complaints presented by the person now claiming through the OVT and with respect to the information requirements addressed by the Grievance Ombudsman to the Department.

It is also understood that the letter of 21/7/21 presented to Territorial Services was delivered to him together with the resolution of the access request.

6. On August 25, 2022, the GAIP forwards to the person making the claim the report issued by the Department on the present claim in order for him to formulate the allegations he considers relevant.

7. On September 5, 2022, the claimant sends a letter to the GAIP in which he makes allegations in the report issued by the Department on the present claim.

In this letter, and for the purposes of interest, the claimant requests the undelivered documents and also to know the identity of the authors of the letter presented by different families of his daughter's class, for the purposes of undertaking the appropriate legal actions.

8. On September 8, 2022, the GAIP requests this Authority to issue the report provided for in article 42.8 of Law 19/2014, of December 29, on transparency, access to public information and good government, in relation to the claim presented.

Legal Foundations

I

In accordance with article 1 of Law 32/2010, of October 1, of the Catalan Data Protection Authority, the APDCAT is the independent body whose purpose is to guarantee, in the field of the competences of the Generalitat, the rights to the protection of personal data and access to the information linked to it.

Article 42.8 of the LTC, which regulates the complaint against resolutions regarding access to public information, establishes that if the refusal is based on the protection of personal data, the Commission must request a report to the Catalan Data Protection Authority, which must be issued within fifteen days.

For this reason, this report is issued exclusively with regard to the assessment of the incidence that the requested access may have with respect to the personal information of the persons affected, understood as any information about an identified or identifiable natural person, directly or indirectly, in particular through an identifier, such as a name, an identification number, location data, an online identifier or one or more elements of physical, physiological, genetic, psychological, economic, cultural or social security of this person (article 4.1 of Regulation 2016/679, of April 27, 2016, relating to the protection of natural persons with regard to the processing of personal data and the free circulation of such data and by which repeals Directive 95/46/EC (General Data Protection Regulation, hereafter RGPD).

Therefore, any other limit or aspect that does not affect the personal data included in the requested information is outside the scope of this report.

The deadline for issuing this report may lead to an extension of the deadline to resolve the claim, if so agreed by the GAIP and all parties are notified before the deadline to resolve ends.

Consequently, this report is issued based on the aforementioned provisions of Law 32/2010, of October 1, of the Catalan Data Protection Authority and Law 19/2014, of December 29, of transparency, access to public information and good governance.

In accordance with article 17.2 of Law 32/2010, this report will be published on the Authority's website once the interested parties have been notified, with the prior anonymization of personal data.

II

The claim is lodged against the denial of access to all the documentation available to the Department related to an alleged case of school bullying affecting the claimant's minor daughter.

As stated in point 2 of the antecedents of this report, the Department would have estimated the request for information from the person making the claim and, to that effect, would have delivered to him, attached to the resolution, a total of 18 distributed documents in two annexes.

However, part of this documentation would have been delivered, according to the file sent, prior to the deletion of certain personal data. Specifically, the following data would have been removed:

- The handwritten signature of the juvenile prosecutor contained in document 5 of Annex 1, and the ID numbers of public employees contained in documents 8 and 11 of Annex 2.
- The name, surname, e-mail and handwritten signature of the person submitting a letter on behalf of some families in the school, as well as the name, surname and handwritten signature of the people who sign this letter, which is attached to the education inspector's report (documents 3 and 6 of Annex 1).
- The QR and CSV codes of the mentioned documents in order to prevent access to the indicated data.

As can be seen from the statements made by the complaining party, the object of the claim is to access all of this documentation in its entirety, that is to say, including the deleted personal data and, especially, the identity of the authors of the letter attached to the inspector's report (documents 3 and 6 Annex 1).

The claim also aims to obtain that public information that the claimant maintains should be part of the requested file and that has not been delivered to him:

- The emails exchanged between the mother of the minor daughter and the education inspector.
- The complaints he submitted on 11/6/21, 21/7/22, 26/11/21 and 9/12/21 through the Virtual Office of Procedures of the Generalitat of Catalonia (OVT) and the answers what he got about it.
- The letter that he submitted on 7/21/21 to the register of the Territorial Services of Barcelona Regions regarding the action of the education inspector.

- The requirements of the Ombudsman on dates 23/7/21 and 29/11/21 addressed to the Territorial Services of Barcelona Comarques in relation to the complaint presented to the Ombudsman by the applicant.

In the report issued by the Department on this claim it is noted that the letter of 21/7/21 presented by the person now claiming about the action of the education inspector was delivered to him together with the rest of 'public information. There is no allegation regarding the claimant in his letter of September 5, 2022, so his request in this respect must be considered satisfied.

In view of all of this, it can be said that the object of the present claim centers on access to documents 3, 5 and 6 of Annex 1 and documents 8 and 11 of Annex 2 in such a way in full, as well as access to the documents that have not been delivered to you, to which mention has been made before.

This documentation, in the present case and due to the information available, includes personal data relating to the same person who requests access (the father of the minor allegedly harassed), the minor daughter and also the mother (spouse of the applicant), as well as information on the people who have intervened in the file on the basis of their functions, and information on the parents of other minors involved in the events that occurred at the school.

Article 4.2) of the RGPD considers *““ treatment ”: cualquier operation or set of operations performed on data personal or data sets _ personal , yes either by procedures automated or not, such as collection , registration, organization , structuring , conservation , adaptation or modification , extraction , consultation, use , communication by transmission , diffusion or any another form of enabling access , comparison or interconnection , limitation , suppression or destruction . ”*

The RGPD provides that all processing of personal data must be lawful (Article 5.1.a)) and, in this sense, establishes a system of legitimizing data processing based on the need for one of the legal bases to be met established in its article 6.1. Specifically, section c) provides that the treatment will be lawful if *“it is necessary for the fulfillment of a legal obligation applicable to the person responsible for the treatment ”*.

As can be seen from article 6.3 of the RGPD and expressly included in article 8 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (LOPDGDD), the processing of data it can only be considered based on this legal basis of article 6.1.c) of the RGPD when this is established by a rule with the rank of law.

For its part, article 86 of the RGPD provides that *“the data personnel of official documents in possession of some public authority or body public or a private entity to carry out a mission in interest public may be communicated by said authority , organism or entity in accordance with the Law of the Union or of the States members that apply them in order to reconcile public access to official documents with the right to data protection personal under this Regulation . ”*

Law 19/2014, of December 29, on transparency, access to public information and good governance (LTC), aims to regulate and guarantee the transparency of public activity.

Article 18 of the LTC recognizes the right of people to "access public information, referred to in article 2.b, in an individual capacity or in the name and representation of any legally constituted legal person" (section 1).

Article 2.b) of the LTC defines "public information" as "the information prepared by the Administration and that which it has in its power as a result of its activity or the exercise of its functions , including that supplied by the other obliged subjects in accordance with the provisions of this law".

For its part, article 53.1 of Decree 8/2021, of February 9, on transparency and the right of access to public information (RLTC), specifies that it is public information subject to the right of access "all the information, any data or documents that the public administrations have prepared, possess, or can legitimately demand from third parties as a result of their activity or the exercise of their functions."

The information available to the Department linked to the case of alleged school bullying of the minor daughter of the person making the claim is public information for the purposes of article 2.b) of the LTC and, therefore, remains subject to the access regime provided for in this regulation, which establishes, as a general criterion, that the right of access to public information can only be denied or restricted for the reasons expressly established by law (Article 20 et seq. LTC).

Specifically, and with regard to the right to the protection of personal data, it is necessary to take into account what is established in articles 23 and 24 of the LTC, as well as the principles of the personal data protection regulations.

III

The person claiming wants to access document 5 of Annex 1 (requirement from the Prosecutor's Office to the Territorial Services of the Department) and documents 8 and 11 of Annex 2 (reports from the Education Inspectorate of 13/1/22 and of 16/5/22) in full, since certain personal identifying data of the signatories would have been removed.

With respect to the information on the authorities or public workers who have intervened due to the functions assigned to them, following the events reported, and which is contained in the claimed documentation, it is necessary to take into account the provisions of article 24.1 of the LTC, which has the following:

"1. Access to public information must be given if it is information directly related to the organization, operation or public activity of the Administration that contains merely identifying personal data unless, exceptionally, in the specific case it has to prevail over the protection of personal data or other constitutionally protected rights."

This article of the LTC allows access to the merely identifying data of the people who intervene by reason of their functions in the different procedures or public actions carried out by the Administration, unless there are specific circumstances that justify the prevalence of the right to the protection of data of the person or persons affected or other constitutionally protected rights.

Article 70.2 of the RLTC specifies what is meant by merely identifying personal data in the following terms:

"For the purposes of what is provided for in article 24.1 of Law 19/2014, of December 29, personal data consisting of the name and surname, the position or position held, body and scale, the functions performed and the telephone and addresses, postal and electronic, of professional contact, referring to staff in the service of public administrations, senior positions and managerial staff in the public sector of public administrations.

In cases where the publication or access to an administrative document requires the identification of the author, the location data, the number of the national identity document or equivalent document must be removed in particular and the handwritten signature.

If the signature is electronic, the electronically signed document must be published in such a way that the properties of the electronic certificate used for the signature cannot be accessed.

The location data must be deleted in the event that it is not merely identifying data of the author in his position of position or staff in the service of public administrations."

With regard to the transcribed articles, facilitate the claimant's access to the merely identifying data of the persons who, in regard to the responsibilities or functions assigned to them, have participated in the application of the peer bullying protocol in his daughter's school and/or in his control, in the terms indicated, a priori would not be contrary to the right to the protection of personal data. This, unless, exceptionally, in a specific case the protection of personal data or other constitutionally protected rights must prevail, which is not the case in the present case.

As indicated in article 70.2 of the RLTC itself, it is not relevant in these cases to provide other identification data of employees or public officials - such as the ID number or the handwritten signature - that may appear in the documentation subject to access, given that these data, from the point of view of the principle of minimization (article 5.1.c) RGPD), are unnecessary for the intended purpose, that is for the citizen to be able to identify the authorities and staff at the service of the public administrations that attends in its performance before the Public Administration and/or under whose responsibility the procedures are processed.

Therefore, it must be considered appropriate and in line with data protection regulations, the delivery of the documentation requested by the claimant prior to the deletion of the data relating to the ID number and the handwritten signature of the authorities and public employees who they have elaborated it. We refer specifically to document 5 of Annex 1 and documents 8 and 11 of Annex 2.

Consequently, the right to data protection would prevent the claimant from accessing the full content of this documentation. It would be necessary, as has been said, to eliminate the DNI number and the handwritten signature of public authorities and employees. This does not prevent you from having access to the aforementioned documents prior to the deletion of said data, as would have happened in the present case.

IV

The claimant also seeks access to several emails exchanged with the education inspector, to complaints made through the OVT and to certain information requests from the Ombudsman addressed to the Department, which they would not have given him. Likewise, he wants to access in full the letter presented by different families about the facts reported and which is attached to the report of the Education Inspectorate (documents 3 and 6 Annex 1), delivered.

In view of the personal data contained therein, it is necessary to take into account article 24.2 of the LTC which establishes the following:

"2. If it is other information that contains personal data not included in article 23, access to the information can be given, with prior weighting of the public interest in disclosure and the rights of the affected persons. To carry out this weighting, the following circumstances must be taken into account, among others:

- a) The elapsed time.*
 - b) The purpose of the access, especially if it has a historical, statistical or scientific purpose, and the guarantees offered.*
 - c) The fact that it is data relating to minors.*
 - d) The fact that it may affect the safety of people.*
- (...)."*

For the purposes of said weighting, special consideration must be given to the claimed documentation, both that which has not been delivered to the claimant (e-mails, complaints through the OVT and requests from the Ombudsman) and the written the families of the other students involved in the events reported (documents 3 and 6 of Annex 1), contains data that are specific to the person making the claim.

Article 15 of the RGPD recognizes the right of access to one's personal information in the following terms:

"1. The interested party will have the right to obtain from the controller confirmation of whether or not personal data concerning him or her are being processed and, in such case, the right to access personal data and the following information:

- a) the purposes of the treatment;*
- b) the categories of personal data in question;*
- c) the recipients or the categories of recipients to whom the personal data was communicated or will be communicated, in particular recipients in third parties or international organizations;*
- d) if possible, the expected period of personal data conservation or, if not possible, the criteria used to determine this period;*
- e) the existence of the right to request from the person in charge the rectification or suppression of personal data or the limitation of the treatment of personal data relating to the interested party, or to oppose said treatment;*
- f) the right to present a claim before a control authority;*

- g) when the personal data has not been obtained from the interested party, any available information about its origin;*
- h) the existence of automated decisions, including profiling, referred to in article 22, sections 1 and 4, and, at least in such cases, significant information about the logic applied, as well as the importance and expected consequences of said treatment for the interested party.*
2. (...)
3. *The person responsible for the treatment will provide a copy of the personal data subject to treatment. The person in charge may charge a reasonable fee based on administrative costs for any other copy requested by the interested party. When the interested party presents the request by electronic means, and unless he requests that it be provided in another way, the information will be provided in a commonly used electronic format.*
4. *The right to obtain a copy mentioned in section 3 will not negatively affect the rights and freedoms of others.”*

As this Authority has done on previous occasions (among others, in reports IAI 9/2021, IAI 21/2021, IAI 51/2021 or IAI 3/2022, which can be consulted on the Authority's website), in based on article 15 of the RGPD, the claimant has the right to know the direct information about him that is being treated by the Department and that is part of a file or that is included in the documentation or information that he requests . And this includes (article 15.1.g) RGPD) the identification of the source of the information.

It is also necessary to remember article 12.6 of the LOPDGDD, which provides that *"the holders of parental authority may exercise, in number and representation of children under the age of fourteen, the rights of access, rectification, cancellation, opposition or any other correspond them in the context of this organic law "*. Thus, the person making the claim has the right to know the information that the Department is processing about their minor daughter following their complaint and consequent application of the school bullying protocol between peers, which is part of said documentation, to the extent that, according to the information available, he is the holder of parental authority.

And it can also be said that he has the right to know the information about his wife and mother of the minor that the Department is dealing with in relation to this complaint, to the extent that this information is considered that in this specific case it also belongs to the information that is his/her own (the person claiming is also part of the communications exchanged with the education inspector and/or he himself provides the information about the other parent). Therefore, a priori, there is no reason to limit their access.

The existence of this right, recognized by data protection regulations, makes a difference necessarily the weighting referred to in article 24.2 of the LTC in favor of access to the data itself contained in the requested documentation.

In view of this, there would be no inconvenience in handing over to the claimant the e-mails exchanged between the mother and the education inspector, the complaints that the claimant herself submitted through the OVT and the response obtained, and the requirements of the Sindic to which your claim refers.

This documentation will also contain data from the education inspector and the public workers involved in the exercise of their functions, to which we have already referred in the

previous legal basis. In addition, it cannot be overlooked that in any case this is information that would already be in the possession of the person making the claim, so its disclosure does not have a special impact on the privacy of the people affected.

For this same reason, the person making the claim also has the right to access their information (and that of the minor daughter) that may be contained in the letter drawn up by the parents of the other students in their daughter's class and which is attached in the report of the Education Inspectorate (documents 3 and 6 Annex 1).

It is stated in the file that this letter would have been delivered to him, albeit after removing the identification data of the people who sign it, and also the identification and contact data of the person who presents it on behalf of the rest of the families .

With regard to the identity of the signatories of the document drawn up by several parents, at the outset, it must be taken into account that the right of access to one's own information includes, among other aspects, the right to know the 'origin of this information (Article 15.g) RGPD). Taking into account that in this case the information originates from the statements made by the parents of the other students in her daughter's class, from the perspective of article 24.2 of the LTC, and in relation to the Article 15.4 of the RGPD, it is necessary to weigh whether the person making the claim would have the right to know the identity of these people who have made certain statements about him and his minor daughter, and about the facts he denounced.

To this end, although article 18.2 of the LTC provides that the exercise of the right of access to public information *"is not conditioned on the concurrence of a personal interest, it is not subject to motivation and does not require the invocation of any rule"*, knowing the motivation of the request can be a relevant element to take into account.

According to the statements made by the claimant, both in his claim and in the subsequent statement of allegations, the purpose of the intended access is to defend the interests of his minor daughter and initiate the legal actions they deem appropriate. The person claiming maintains that they were not notified of the inclusion in the file of this letter with a contradictory version of the reported facts, denying them the right to contradiction. He adds that his content is defamatory towards his daughter.

Given the final result of the events reported in the case at hand (they are not considered school bullying between peers), being able to know what actions have been taken by both the school and the education inspectorate, and what documentation or specific information 'has arranged for that purpose may be relevant to the purpose intended by the person claiming, regarding the defense of the rights and legitimate interests of his minor daughter, and also to evaluate the management carried out in this respect.

In this sense, having collected the testimony of certain people who may be key to finding out and proving the facts reported, or to distort them, is a clearly relevant element to be able to evaluate the performance of the school and the education inspectorate in the specific case.

At the same time, knowing the origin of the information that affects the claimant and his daughter may also be relevant to be able to refute certain facts or situations described by these third parties, insofar as they may have influenced the school's decision on the

existence or not of signs of school bullying of the minor. Knowing the identity of the people who sign the document can make it possible to assess the solidity or credibility of the information provided and the need to have taken into account, or not, other witnesses.

The claimant also alludes to the defamatory content of the statements made by the parents of the other students both towards their daughter and towards themselves in the controversial letter and expressly asks the administration to *"identify who they have been the authors of this document to take the legal actions we think appropriate"*.

It should be borne in mind that in accordance with the provisions of article 24 of the Spanish Constitution, all people have the right to obtain the effective protection of judges and courts in the exercise of their rights, as well as, among others, have the right to use the evidentiary elements that are relevant for his defense.

In this context, for the purposes of guaranteeing the proper exercise of the right to effective judicial protection (Article 24 EC), it cannot be ruled out that the person making the claim must be able to access that information that is necessary for the defense of their rights and interests, or those of your minor daughter, including personal information. In this case, find out which people attribute to the claimant's minor daughter and also to herself facts and/or actions that would harm their interests.

In addition, it cannot be ruled out, given the context in which the reported events occur, that the identity of these people (or some of them) may be known by the person making the claim.

From the point of view of the affected persons, disclosing information about the identity of these third parties who have been able to provide information about the claimant and her daughter may affect them to the extent that they are persons with whom, both they and their children shared the school environment. The revelation of what they may have said or not said about the person making the claim, the daughter and the events reported could end up negatively affecting the relationships these people may still maintain.

For this reason, this Authority has noted the special relevance that it has in these cases to comply with the hearing procedure provided for in article 31 of the LTC, and to know if there are personal circumstances or reasons that would justify preserving their identity .

In the case we are dealing with, there is no evidence that this procedure has been carried out, the result of which could be justified, provided that the existence of personal circumstances or reasons to preserve the identity of any of the people can be proven affected, the denial of access to this information. From the information available, it seems that the Department decided ex officio to exclude the data.

As this Authority has previously highlighted, for the purposes of limiting access, it is necessary to prove specific circumstances that allow a clear prejudice to be appreciated due to the fact that the person making the claim can access the identity or other personal data of these people. Thus, for example, the mere manifestation of the affected person's refusal to access their data would not be sufficient for this purpose.

In view of the concurrent circumstances in the present case in view of the information available, and without prejudice to what may result from the mentioned hearing procedure,

a priori it is possible to identify with the first and last names the third persons who have provided information about the claimant and his daughter, which are contained in the letter submitted by the families (documents 3 and 6 Annex 2).

However, it would be necessary to eliminate other identifying data of these people (ID numbers, signature) and contact data, in accordance with the principle of data minimization (Article 5.1.c) RGPD), to be irrelevant for the intended purpose of access.

In view of this, although the claimant's right to access the identity (name and surname) of the people who sign the document can be recognized, access to said document in its entirety as requested would not be justified .

Conclusions

According to the information available, the person making the claim has the right to access the e-mails, complaints and requests to which his claim refers that are in the possession of the Department and are related to precedent 3 of this report, and also to the identity of the parents of the students who have provided information about themselves and their daughter (doc. 3 and 6 annex 1), unless the hearing procedure results in some element that prevents this.

With regard to documents 3, 5 and 6 of annex 1 and documents 8 and 11 of annex 2, data protection regulations prevent the person making the claim from accessing the entire document, given that it contains certain data of third parties (DNI numbers, handwritten signatures and/or contact details) irrelevant for the intended purpose of access.

Barcelona, September 30, 2022