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## File identification

Resolution of sanctioning procedure no. PS 58/2021, referring to Lleida City Council.

## Background

1. On 05/13/2021, the Catalan Data Protection Authority received a letter from Mrs. (...) for which he filed a complaint against the Lleida City Council, on the grounds of an alleged breach of the regulations on the protection of personal data.

In particular, the complainant stated that she was the ex-wife of the agent of the Guàrdia Urbana de Lleida (hereinafter, GU), with a TIP number (...). In her letter of complaint she reported that in the framework of a family court proceeding, her ex-husband's lawyer referred to events that occurred on 11/18/2020 between the person making the complaint and some agents of the GU, which does not identify. According to her version of events, the officers stopped her and, following an incident she denies, police administrative proceedings were initiated against her. According to his version of the events, subsequently, the inspector of the GU of Lleida, Mr. (...), she provided her ex-husband with the information relating to the police file that had been opened against her and he, in turn, communicated this information to her lawyer, who used it in a trial where custody of (...) in common was discussed.

On the other hand, with the information provided by the person making the complaint, it is proven that in the act of the trial hearing, her ex-husband's lawyer requested from the judge a proof that service would be given to (...) of the GU of Lleida City Council in order to provide the reasoned report on the events of 11/18/2021 to the trial because, as she said, she could not provide it by herself, since from the Intendency informed them that they could only hand it over to a judicial request.

2. The Authority opened a preliminary information phase (no. IP 207/2021), in accordance with the provisions of article 7 of Decree 278/1993, of November 9, on the sanctioning procedure of application to the areas of competence of the Generalitat, and article 55.2 of Law 39/2015, of October 1, on the common administrative procedure of public administrations (henceforth, LPAC), to determine whether the facts were capable of motivating the initiation of a sanctioning procedure.

3. In this information phase, on 07/16/2021 the reported entity was required to:

- Confirm or deny if Mr. (...) would have provided the ex-husband of the person reporting information regarding the incident that occurred on 11/18/2020. In the case of denying it, report how the ex-husband would have been aware of this fact.
- Confirm whether the ex-husband of the person making the complaint, by himself or through his lawyer, accessed the police file opened against the person making the complaint, or to any

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document contained in the aforementioned file. And in the event of such a request, to provide a copy as well as the answer given by the City Council.

4. On 27/07/2021, Lleida City Council responded to the aforementioned request through a report by (...)head of the GU in which he set out the following:

- Denies that Mr. (...) had given information to the ex-husband of the reporting person about the facts that motivated the police file against the person making the complaint.
- That the ex-husband of the complainant found out about the events mentioned by the officers who carried out the police intervention. According to the acting agents, the complainant uttered insults against them and against her ex-husband (it is stated in the report of the police action that the City Council contributes to the procedure). The acting officers state that, since they did not know the person making the complaint and that he was uttering insults against a colleague of his who was not present, and that the person making the complaint referred to this person as her ex-husband, the officers had to ask to his colleague if she really was his ex-wife. (...) assures that in this context it was inevitable that the agents would explain to the ex-husband of the person making the complaint what had happened.
- That the reporting person identified himself as an agent (...) and, for this reason, the facts were brought to the attention of the Corps (...) which, according to him, resulted in a disciplinary file.
- Confirms that the lawyer of the ex-husband of the person making the complaint requested, through an email dated 04/20/2021, the police report relating to the events mentioned in order to provide it to a legal case (provide email). And that the lawyer needed the report urgently to bring it to the hearing of the trial that was held the next day. For this reason, (...) the chief agreed to the delivery of the report to the lawyer, given that the person requesting it was the legal representative of an agent of the GU who had a legitimate interest in the judicial case, the imminence of the trial and that the purpose was to facilitate it to the judicial authority.
- That after thinking it over, (...) he called his secretary to tell her not to send the report to the lawyer, to tell her to ask for it at the courthouse and that they would provide it to the court directly. But the secretary had already sent it. Finally, (...) spoke to the lawyer and warned her that she could not make use of the report at the hearing, that she had to request it through the court.

5. On 30/11/2021, the director of the Catalan Data Protection Authority agreed to initiate a sanctioning procedure against the Lleida City Council for an alleged infringement provided for in article 83.5.a), in relation to article 5.1.f); 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 01/24/2022.

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

7. On 02/08/2022, Lleida City Council made objections to the initiation agreement.

8. On 22/02/2022, the instructor of this procedure formulated a resolution proposal, by which she proposed that the director of the Catalan Data Protection Authority admonish the Lleida City Council as responsible for an infringement provided for in article 83.5.a) in relation to article 6, both of the RGPD. In this proposal, therefore, in view of the documentation relating to the proceedings and the allegations made by the accused entity before the initiation agreement, the offense initially charged consisting of a breach of the confidentiality principle is modified, for a violation of the principle of legality; and this in accordance with article 89.3 of the LPAC.

This resolution proposal was notified on 02/22/2022 and a period of 10 days was granted to formulate allegations.

9. On 03/08/2022, the accused entity submitted a statement of objections to the resolution proposal.

proven facts

On 11/18/2020, officers from the GU de Lleida stopped the complainant for an alleged traffic violation, and informed the ex-husband of the complainant, also an officer of the GU, of these facts. Subsequently, on 20/04/2021, from the City Council and with the authorization of (...) of the GU, a police report was sent to the lawyer of the ex-husband of the person denouncing the events that occurred on 11/18/2020, which the said lawyer had requested by email.

Fundamentals of law

1. The provisions of the LPAC, and article 15 of Decree 278/1993, according to the provisions of DT 2a of Law 32/2010, of October 1, of the Catalan Data Protection Authority. In accordance with articles 5 and 8 of Law 32/2010, the resolution of the sanctioning procedure corresponds to the director of the Catalan Data Protection Authority.

2. The accused entity has made allegations both in the initiation agreement and in the resolution proposal. The first ones were already analyzed in the resolution proposal, but even so

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considers it appropriate to mention them here, given that they are partly reproduced in the second. The set of allegations made by the accused entity are then analysed.

## 2.1 On the insufficiency of the facts that are related in the initial agreement for purposes of constituting reprehensible conduct.

In the 2nd section of its statement of objections to the initiation agreement, the accused entity set out that the facts that are related in the agreement to initiate the present sanctioning procedure are insufficient for the purposes of constituting the reprehensible conduct and that the facts that originated and legitimized the disclosure and subsequent access to the data have not been taken into account personal information of the complainant by her ex-husband and also an agent of the GU.

According to the City Council, "a side of the facts that motivate the initiation of the following procedure, also importance<sup>s</sup> emerges another factual and complementary circumstance that is not to be overlooked that transit is avoided; that he accusations against the eu found her is not inreporting person go ex-husband that that intervention and the phrases that the go say were: "(...)". From here the is they unleashed the "Facts that motivate procedure giving rise to the report for the reporting person" intervening agents to initiation of the the ex-husband of the reporting person. And this party caused the ex-husband and member of the GU, through his lawyer, to request access to the report for his defense to grant him one. he goes a a matrimonial litigation against his ex-wife, access which finally The purpose of the fact that motivated the City Council's decision is the related the previous point, en a

It should be noted that in its statement of objections to the initiation agreement, the City Council did not deny the facts attributed to it, but considered that these should be supplemented with the background and reasons that, in his opinion, they would legitimize the disclosure to the complainant's ex-husband (and also to his lawyer) of the complainant's data that were in the City Council's possession. However, this argument does not change the facts that are imputed to him and that motivated the initiation of the sanctioning procedure. Another thing is that in the complaints procedure, the City Council can adduce, as it has done, the reasons it deems appropriate to justify the disclosure of data.

Contrary to the opinion of the City Council, it is considered that the facts that motivate the initiation of this sanctioning procedure and that constitute the infringing conduct are clear, the disclosure of confidential data of the reporting person to third parties without having any of the conditions established in article 6 of the RGPD so that the treatment is lawful (as will be seen later). Indeed, the facts that constitute the infringing conduct are, on the one hand, the revelation by the colleagues of the GU agent (ex-husband of the person reporting) of the events that occurred on 11/18/2020 and, on the another, the sending by e-mail to the lawyer of the ex-husband of the reporting person of a report on a traffic incident that affected the reporting person.

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2.2 On the legality of the disclosure of the police intervention and subsequent access by the ex-husband of the person reporting to the police report.

In this allegation, the City Council invokes several legal bases that, in its opinion, would legitimize the disclosure of the complainant's data to her ex-husband (member of the municipality's GU) and the delivery of the police report - regarding the complainant - his lawyer; which will be analyzed separately.

2.2.1 The existence of a legal obligation (art. 6.1.c of the RGPD)

2.2.1.1 Comply with the duty to inform provided for in article 14 of the RGPD

In its statement of objections to the proposed resolution, the City Council states that, to the extent that the City Council collected the data of the ex-husband of the complainant here in the report that the GU drew up as a result of the incident that occurred on 11/18/2020 (according to the report, the complainant here uttered "insults" directed at her ex-husband), had to comply with what is prescribed in article 14 of the RGPD, which imposes on the person responsible for the treatment, when their data has been obtained from a third party, the obligation to inform the interested person of the ends that are included in the aforementioned precept.

In this regard, it is worth saying, first, that article 14 also provides for several exceptions to this duty to inform, provided for in section 5 of this same precept, among which the one provided for in letter c) stands out

("obtaining the communication is expressly established by the o  
Right of Union of the member states that applies to the person in charge of the treatment to establish adequate measures to protect the legitimate interests of the interested party")

, exception that would fully apply to the local police when they collect personal data in the exercise of their duties. And the exception provided for in section d) of the same section 5 of article 14 of the RGPD could also apply in this case. But the fact is that, aside from the eventual concurrence of these exceptions in the case at hand, the truth is that it is not known that the City Council, based precisely on this duty of information that it invokes, has provided the person affected the totality of the information prescribed by the aforementioned article, which would prove that not even the City Council had thought - at least not at that time - that it was complying with the duty of information required by article 14 of the RGPD. In any case, it should be noted that the right to information does not precede the right to provide the affected person with the data of third parties, unless they are the source or recipient

of their data, nor to provide a full copy of the documentation, in this case the police report in question, which is what the City Council did.

2.2.1.2 Comply with the right of access in Article 15 of the RGPD.

Both in its statement of objections to the initiation agreement and in the proposal, the City Council invoked this legal duty as a legitimizer of its action, that is to say, it argues that

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when the City Council gave a copy of the police report to the lawyer of the complainant's ex-husband, it was merely complying with the right of access exercised by that person through his legal representation.

First of all, it must be remembered here that, apart from the complete delivery of the police report to the lawyer of the ex-husband of the complainant, there was a previous disclosure of his data by the acting GU agents directly to the ex-husband (and also a member of the GU), and this revelation, which was not only limited to revealing the name and surname of the complainant here but also what happened, would also have no place in any legal basis of those provided for in article 6 of the RGPD. And it was as a result of this previous illicit revelation as the ex-husband of the complainant here was aware of the facts; and what would have led him to exercise - according to the City Council's defense now - the right of access to his data, and in compliance with which he says he handed over the full report to the ex-husband's lawyer and representative. That being the case, it should be noted that this first disclosure by the acting agents of the GU to her colleague (and ex-husband) could not fit into the legal obligation of the data controller to respond to a request for access, as nor would it protect the delivery of the report to the lawyer for what will be said next.

In accordance with article 15 of the RGPD, "1. The interested party will have the right to obtain del right to be responsible for the treatment, confirmation of whether or not they are being treated, los datos personales that access to such case, right of los datos personales la siguiente already

- a) the purposes of the treatment;
- b) the categories of personal data of which they are treated; recipients, categories of recipients or organizations, indicated they communicated that they think will be in in countries u
- d) if possible, the expected period of conservation of personal data or, possibly, the criteria if not used to determine this period;
- e) the existence of the right to request the personal data or, in the case of deletion of data to the relating to said treatment, deletion of data to the interested party, oh
- oponerse af)
- the right to present a claim before a control authority;
- data available existence of automated I do not know obtained from interested, any information they have decisions, including the right
- of significant processing, the expected consequences of said como and what do you know treatment for the interested party. at least in

(...)  
3. The person responsible for the treatment will provide a copy of the personal data subject to treatment.  
(...).

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4. The right to obtener copy mentioned derechos section 3 in no will affect negatively a the libertades de otros.

The City Council considers that the ex-husband of the complainant exercised through his lawyer the right of access provided for in article 15 of the RGPD, and that he has the right to access his personal data contained in the disputed report. And in support of its thesis, the City Council cited in its statement of objections to the initiation agreement, the Authority's Opinion CNS 58/2021, specifically, it reproduces the following paragraph:

"it is necessary

consideration that, to have the observations and comments refer to one identified natural person identifiable or consider personal data of the interested party" ; and considered that the comments that the reporting person made about her ex-husband were incorporated into a file and this made the reporting person's ex-husband an interested party under Article 15 of the RGPD and therefore would have right to obtain the report in question. Well, as already evidenced by the instructor in the proposal, the cited opinion is not applicable to the case at hand, since this deals with a very different case, such as the files that are processed by the social services that normally refer to in the family unit. In such cases, the opinion points out, a weighting will need to be done between the right of the interested party to access this information and the right of third parties to the protection of their personal data and that certain information may be subject to access third parties members of the same family unit. What is said in the report is that in relation to information relating to non-emancipated minor children, the parent, as long as he is not deprived of parental authority, to the extent that he exercises the legal representation of his minor children must be able to exercise the rights of informative self-determination in the name and representation of children under fourteen years of age and, consequently, access the files of social services with regard to their information. The instructor in the proposal also pointed out that in the case at hand, the controversial report was linked to the reporting person and in relation to specific facts that only concern that person.

Finally, the instructor indicated that, in accordance with the transcribed rule, the right of access recognized by the data protection regulations is to the data itself and in no case can the exercise of this right negatively affect the rights and freedoms of others.

In its statement of objections to the proposal, the City Council insists that by handing over the police report to the lawyer of the ex-husband of the complainant, what he was doing was complying with the right of 'access that he had exercised through his representative through the email sent on 04/20/2021 ((...)). And related to this, the City Council requested that, in case the Authority doubts that the lawyer was representing the complainant's ex-husband, the test consisting of

accredit said representation.

First of all, it must be said that in this procedure the representation of the lawyer of the complainant's ex-husband has not been questioned, it is taken for granted that the City Council would have acted with due diligence and would have checked this end, as it must be remembered that the right

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of access provided for in article 15 of the RGPD is a very personal right that can only be exercised directly by the interested person or by their legal or voluntary representation duly accredited.

In the hypothesis that, indeed, the City Council had conveyed the lawyer's request as a right of access for its representative regulated in article 15 of the RGPD, which it is clear that it had to facilitate, without more analysis, a full copy of the police report in order to comply with this right. Firstly, and most importantly, because this document not only collected the data of his representative (the complainant's ex-husband), but also of other people (without going any further, the data of the complainant here). Certainly, the identification of third parties can form part of the right of access whenever and wherever they are the origin or recipient of the data; but in this case it is unquestionable that the police report included data that solely and exclusively affected the person reporting here (such as, and without intending to be exhaustive, the action that gave rise to the traffic violation), for the which, for this reason alone, the City Council could not provide a full copy of the report.

And secondly, it should not be forgotten that the right of access, as provided for in article 15.4 of the "will not negatively affect the rights and freedoms of others"; RGPD therefore, in a case like the present one, in which certainly the identity of the complainant here would be part of her ex-husband's right of access (as he was the source of the information about him that was included in the police report) what was required was to give him a hearing so that he could present allegations and to be able to know, and in such case assess, if there were circumstances that could justify the limitation of access to her data by her ex-husband (for this purpose, the opinion of this Authority CNS 13/2021). But it must be insisted that this would be applicable only with regard to the data of the complainant here as the source of the data of her ex-husband that are collected in the police report, information that would indeed fall within the right of access guaranteed by article 15 RGPD; since, as has been said and it should be noted, the data of the complainant here included in the police report that only affected her, would not be part of the right of access that, according to the City Council's defense, would have exercised the ex-husband of the complainant through his lawyer.

#### 2.2.1.3 Comply with the right of access as a person interested in the procedure.

The City Council argues that the complainant's ex-husband was given access to the police report in order to comply with the provisions of article 53.1.a) of the LPAC which recognizes the right of people who have the condition of persons interested in a procedure to obtain a copy of the documents contained in said procedure.

Well, in this regard it is simply worth saying that the City Council has neither identified which administrative procedure it refers to, nor has it certified that the ex-husband of the person making the complaint here had the status of an interested person. In the documentation relating to the actions, it is only stated that an administrative file could have been initiated regarding the complainant for an alleged traffic violation and for the lack of respect for



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acting agents, procedure in which the complainant's ex-husband would in no case have the status of an interested person.

## 2.2.2 The satisfaction of a legitimate interest of a third party (art. 6.1.f of the RGPD)

In its statement of objections to the initiation agreement, the City Council invoked the legitimate interest of the complainant's ex-husband as a legitimizing basis for the disclosure of data by the agents of the GU on the actions of his ex-wife and the subsequent access to the police report relating to the complainant (in which insults and accusations are given to her). It exposed the imputed entity that it is necessary to carry out a weighting between the rights at stake in its triple aspect (the so-called proportionality test also consolidated by the Constitutional Court, e.g., see STC of May 10, 2021, no. 99/2021): suitability, necessity and proportionality in the strict sense. And he considered that in this case the right to effective judicial protection (art. 24.1 CE) of the ex-husband of the person making the complaint prevails over the right to data protection of the person making the complaint. In short, the legitimate interest invoked seems to refer, in essence, to the fundamental right to effective judicial protection (art. 24 CE) to the extent that the facts related in the police report (in which, as he said, the insults that the complainant here had uttered against her ex-husband were collected), in his opinion, they could be relevant in a family court process that confronted the complainant here and her ex-husband.

In its statement of objections to the proposed resolution, the City Council reiterates the concurrence of the legitimate interest referred to and complains that in the proposal, the instructor did not give a detailed reason why she did not accept this interest as a qualifying basis of the treatment.

First of all, and before going into analyzing the eventual concurrence in the present case of the legitimate interest of a third party, it must be said that, contrary to what the City Council claims, the instructor gave detailed explanations as to why she consider that in the present case the interest of a third party (the complainant's ex-husband) could not prevail over the complainant's right to data protection.

Having said that, it is necessary to analyze whether in the present case the legitimate interest of a third party can be applied as a legitimate basis for the treatment.

In accordance with article 6.1 of the RGPD, "1. The treatment will only be lawful if \_\_\_\_\_ meets at least one of the following conditions::

(...)

f) the treatment is \_\_\_\_\_ necessary for the satisfaction of legitimate interests pursued by the processing interests responsible for prevailing the rights of \_\_\_\_\_ one thirdly, provided that on said fundamental freed interests no requiring the protection of \_\_\_\_\_ of the interested party that particularly \_\_\_\_\_ is \_\_\_\_\_ in \_\_\_\_\_ the letter f) of the first paragraph en \_\_\_\_\_ will apply to the treatment carried out no \_\_\_\_\_ in the exercise of their functions.

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3. The basis of the treatment indicated in section 1, letters c) e), must be established in y fear: a) the Law of the Union, or) the Law of the Member States that applies to responsible for the treatment.

And recital (47) of the RGPD establishes : "The legitimate interest of responsible for the can treatment, including that of one of responsible to which it is communicate personal data, the treatment, or one a third party, can constitute a legal basis to prevail on the siempre que no interests and rights of the interested party, having in its part the the Sufoire han pgi, when interests could appropriate relevant relationship and the interested party that is the existence of a the person concerned is the person in charge, as he in situations in customer enters and is at the service of the person in charge, as he in situations in customer require a meticulous evaluation, including in reasonable, would interested one of the moment context in and one legitimate interest may provided for the personal data which may be processed for this In particular, the interests of the interested party rights are over the interests of the person in charge of the treatment when it proceeds to the treatment of personal data if yes circumstances the interested in in that no I reasonably expect the legislator further treatment Given that it corresponds to the to establish by law that of the public legal basis for the treatment of personal data, it must be applied to authentic public authorities no the exercise of their functions

In view of the regulations transcribed, to determine whether the application of this legal basis proceeds, it is necessary to consider, it is necessary to assess, whether in the specific case there is a legitimate interest of the third party to whom the data is communicated (the ex-husband of the complainant) that should prevail over the right to data protection of the person whose data has been the subject of communication (the complainant here).

Opinion 06/14 of Group 29 (Working Group on Data Protection, replaced from the entry into force of the RGPD by the European Data Protection Committee), on legitimate interest, includes several elements that can be taken into consideration in order to make the aforementioned weighting. One of the elements to take into account is the compatibility of the treatment, that is to say, if the purpose for which the data were collected and the purpose of the communication are compatible; which was already the subject of analysis in the proposed resolution.

The purpose of the initial processing, as explained by the City Council, consists in the processing of the data of the reporting person in relation to an intervention for a traffic violation and for lack of respect and consideration for the authority's agents. This data processing is justified in article 6.1.e) of the RGPD. The treatment is necessary for the fulfillment of a mission carried out in the public interest or in the exercise of public powers conferred on the person responsible for the treatment. Specifically, it is legitimized in the sanctioning power in transit matters attributed to the GU.

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Next, it is necessary to determine whether the subsequent processing of the reporting person's data is compatible with the initial processing. In accordance with article 6.4 of the RGPD, when the treatment for a purpose other than that for which the data were collected is not based on the consent of the interested party nor on a rule, the responsible of the treatment will have to determine if the treatment for another purpose is compatible with the initial purpose for which the data were collected. In this case, compatible purposes cannot be considered, given that there is no relationship between the purposes (initial and subsequent), nor the context in which the data were collected and the relationship between the interested party and the data controller, could provide the reporting person that their personal data in relation to a police intervention arising from a traffic violation, could be disclosed to her ex-husband and, even less, that the report would be provided to her ex-husband's lawyer in order to bring it to the family court where it was to be discussed the guardian of his youngest daughter.

A second parameter that must be considered are the additional guarantees that the person in charge can take into account to limit the undue impact on the affected person, such as the minimization of the data subject to communication. This means that communication should be limited to the minimum necessary and essential. Well, this requirement is not met in the present case either, since, as already said, the entirety of the police report was provided, which included not only the "insults" that the complainant here had uttered against her ex-husband, but also the conduct constituting an alleged traffic violation and which gave rise to the intervention of the GU.

In the present case, it is also necessary to take into account when weighing up the interest of the third party and the affected person, that this report could have been obtained by another means, specifically, in a court of law, that is to say, in the context of the trial that had to be held between the complainant and her ex-husband, the judicial body could have required the City Council to contribute said report to the case. Well, not only is there no requirement from the court in this regard, but the judicial body considered it irrelevant this report.

To finish with the elements that can be taken into consideration in this weighting, the City Council points out that the attitude of the complainant in the framework of the aforementioned police action, in which he uttered insults at his ex-husband who was not present, caused her right to the protection of personal data not to prevail over the rights of her ex-husband. Well, as the instructor pointed out, the conclusion reached by the City Council is not correct, because the right to the protection of personal data is not modulated by the attitude of the person holding the data subject to treatment. The City Council must always respect the principles applicable to the processing of data it carries out, and in this particular case it had to respect the principle of confidentiality of the data of the reporting person.

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Therefore, by virtue of what has been explained, the concurrence of the legitimate interest of a third party (that of the ex-husband in contributing to a family trial the controversial report) cannot be admitted, so it must be considered the analyzed data communication illegal

Finally, it is necessary to mention here another legitimate interest invoked by the City Council to facilitate the police report, a legitimate interest that the ex-husband of the complainant would also have, but in this case, not to provide it in a trial, but because this same case raise judicial actions that it considers appropriate, particularly in the criminal field" in defense of his honor; and appointment expressly article 217.2 of Law 1/2000, on Civil Procedure, which "establish as general rule the burden of proof a the actor (plaintiff)".

Well, in this respect it is necessary to reproduce here the arguments made for the non-admission of the legitimate interest that have been set out and which are perfectly applicable to this other legitimate interest assumption invoked. It should be added to the above that the right to use or provide evidence does not prevent obtaining it in contravention of the legal system, in this case the data protection regulations.

### 2.3 On the non-existence of culpability on the part of the City Council.

The City Council declares that, even in the event that it is considered that the treatment was not legitimate from the point of view of Article 6.1 of the RGPD, "has been shown to have performed the necessary weighting between certain rights a weighting exhaustively motivated, by data protection regulations of these that, in reason for which he concludes that there is no negligence or lack of necessary diligence that would allow the City Council to be held responsible for the commission of the offence.

This weighting that the City Council claims to have carried out is completely contradicted by the account of the events contained in the antecedents, specifically when it was stated that (...) at first it considered that it had to send the report and he gave instructions to the secretary in this regard, and after thinking it over he wanted to stop this shipment (4th precedent); which suggests a certain improvisation and haste in the actions of the City Council, rather than a calm analysis of what was appropriate and could be done. However, what is seen here is not negligence on the part of the City Council, that is to say, behavior aimed at contravening data protection regulations, but a lack of diligence required of the person responsible for the treatment in their actions. In this regard, it is necessary to mention the Judgment of the National Court issued on 02/05/2014 in matters of data protection, which maintains that the status of person responsible for processing personal data imposes one special duty of care a the on the fulfillment of these obligations, especially in relation to the rights of third parties,

establishes to guarantee physical persons, especially y honor and yes

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is enhanced by the relevance of the legal assets protected by those rules"

In view of the above, the allegations made by Lleida City Council in this procedure cannot succeed.

3. In relation to the facts described in the proven facts section, relating to the principle of legality, it is necessary to refer to article 6 of the RGPD, which provides for the following:

- "1. The treatment will only be lawful if the following conditions are met:
- a) the interested party gives personal details for the execution of the contract one in which this request of measures
  - b) the interested party consents for the treatment of your data for various specific purposes;
  - c) the treatment is necessary for the fulfillment of a legal obligation applicable to the controller;
  - d) the treatment is of necessary to protect vital interests of the interested party or another natural person;
  - e) the treatment is necessary for the fulfillment of a mission carried out in the exercise of public interest or in public powers conferred on the controller; treatment necessary for the protection of the said interests shall prevail over the interests and fundamental rights and freedoms of the data subject, siempre que los intereses y los derechos de los interesados no prevalezcan sobre los intereses y los derechos de los interesados.
- Personals, in the exercise of the functions of the controller, no will apply to the exercise of the functions of the controller. The Disposed in the exercise of the functions of the controller, no will apply to the exercise of the functions of the controller. Realized by Functions".

During the processing of this procedure, the fact described in the section on proven facts has been duly proven, which is constitutive of the violation provided for in article 83.5.a) of the RGPD, which typifies the violation of

"a) the basic principles for the treatment, including the conditions for the consent of articles 5, 6, 7 and 9 a), among which the principle of legality prevails.

The conduct addressed here has been included as a very serious infringement in article 72.1.b) of Organic Law 3/2018, of December 5, on the protection of personal data and the guarantee of digital rights (hereinafter, LOPDGDD), in the following form:

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"b) That of personal data established by the Organic Law of Regulation (E.U.) 2016/679 of legality of the

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 establish the measures to be adopted to correct the effects of the conduct ceases or is committed.  
The resolution must be notified to the person in charge of the treatment, the body to which it is directly dependent, if applicable, and to those affected who have the status

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

"2. In the case of infringements committed in relation to public Catalan Data, the Director of the Agency must issue a resolution declaring the infringement and establishing the measures appropriate by disciplinary legislation in the case of persons in the service of public administrations. This resolution is subject to the infringement, if applicable, the body of which they depend and the affected persons, if any".

a a

As the instructor already indicated in the resolution proposal, in the present case it is not necessary to require corrective measures to correct the effects of the infringement, because the disclosure of the data was a one-off event.

For all this, I resolve:

1. Admonish the Lleida City Council as responsible for an infringement provided for in article 83.5.a) in relation to article 6, both of the RGPD.

It is not necessary to require corrective measures to correct the effects of the infringement, in accordance with what has been set out in the 4th legal basis.

2. Notify this resolution to Lleida City Council.

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

4. Order that this resolution be published on the Authority's website (apdcat.gencat.cat), in accordance with article 17 of Law 32/2010, of October 1.

Against this resolution, which puts an end to the administrative process in accordance with articles 26.2 of Law 32/2010, of October 1, of the Catalan Data Protection Authority, and 14.3 of Decree 48/2003, of February 20, by which the Statute of the Catalan Data Protection Agency is approved, the imputed entity can file, with discretion, an appeal for reinstatement before the director of the Catalan Data Protection Authority Data, within one month from the day after its notification, in accordance with 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,