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File identification

Resolution of the rights protection procedure no. PT 37/2019, referring to the Sant Cugat del Vallés Town Council.

Background

1.- On 07/25/2019, the Catalan Data Protection Authority received a letter written by Mr. (...) (...) (hereinafter the person making the claim), against the City Council de Sant Cugat del Vallés (hereafter, the City Council), for the alleged disregard of his right to rectification in relation to the data relating to his person that were included in a report that the Basic Social Services (hereafter, SSB) of the City Council had issued on date (...).

2.- By means of a letter dated 07/31/2019, the claimant was required to certify that he had exercised his right before the data controller, before the claim was filed.

3.- On 09/02/2019 and 09/20/2019, the claimant provided documentation proving that he had exercised his right before the City Council on 07/30/2019, a request to which the claimed entity would not have given an answer within the period of one month provided for in article 12 of Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27/4, relating to the protection of natural persons with regard to the treatment of personal data and the free circulation of these (hereafter, RGPD).

The documentation that the person claiming here certified to have presented to the City Council on 07/30/2019 was as follows:

- Request for rectification of certain data relating to your person contained in an "EAIA Referral Report", issued by the SSB on (...). The request was written in the following terms: *"In relation to the request report for the reopening of the EAIA file, created by the basic primary social care services of the Sant Cugat City Council of Vallés, dated (...): **According to information collected in the file, Mr. (...) receives a disability pension for chronic illness": confirming that no body can certify a benefit not received, except that this information is not properly verified, (...) is deleted. **It is noted that Mr. (...) has a diagnosis of mental disorder and that he temporarily spends long periods in detoxification centers for toxic substances".*
- Report issued on 07/05/2019 by the Foundation (...). In this report it is explained that the person making the claim here had been a patient of said entity *"during the period between April 2012 and May 2014. The patient made a claim treatment for an alcohol use disorder. He was accompanied by his parents as treatment referents and had previously been admitted to another institution. He was admitted to the Community (...) where he was admitted for 4 months. He subsequently continued with intensive outpatient treatment*

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(...) and residence on the therapeutic floor of the Foundation (...). The patient (...) received the definitive High Therapeutics after two years of treatment and abstinence from alcohol, in the month of May 2014".

- Assistance report issued by the Mútua (...) on 04/15/2019, in relation to the claimant here, which contains the following information: *"He was controlled by the CAS [Center for Attention and Follow-up in the Drug Addictions] St. Cugat and PSQ Foundation (...) (Dr.(...)), by enol dependence. Currently stable".*

4.- In view of the fact that the claim made referred to documentation that the now claimant had submitted as part of the previous investigation 124/2019, *the "Report of derivation to the EAIA"* was incorporated into the proceedings issued by the SSB on date (...) (hereinafter, the report).

This report was drawn up by the SSB in attention to the family situation of two minors - (...) -, the first, the daughter of the claimant here. As can be inferred from the report, the action of the SSB with the family goes back to the year (...) following the situation in which another daughter of the claimant would find herself -(...)-, minor at the time.

In this report, one of the data for which the claimant here requested rectification - the fact that he receives a financial benefit - is included in its section 3.2.1., entitled *"Description of the current situation: housing, socio-labor situation, health, functioning and family dynamics..."*

The data relating to the health of the claimant here, of which he also requested rectification, appear in section 3.2.3 of said report, entitled *"Other aspects to highlight that you consider important to take into account for the study of /s minor/s, indicating which minor(s) the above information refers to".*

5.- On 25/09/2019 the Authority, in accordance with the provisions of article 37.2 of Organic Law 3/2018, of 5 December, on the protection of personal data and guarantee of digital rights (hereinafter , LOPDGDD), forwarded the complaint to the City Council's data protection officer, so that he would respond to the complaint within one month, and that he would communicate this response to the Authority.

6.- On 28/10/2019 the City Council provided the Authority with a copy of the notice addressed to the person claiming that same day, by which he was notified of the Good Government Mayoral Tenure Decree, Transparency, Participation and Neighborhoods of the same date, by which the request for rectification that he had made before the City Council was resolved, in the following terms:

- That *"with regard to the statement "according to information collected in the file, Mr.(...)receives a disability pension due to chronic illness", its deletion proceeds in order to update it, as such so that only the information obtained from the database relating to the 2018 financial year is stated, specifying that, at the moment, Mr. (name of the claimant) is not a beneficiary of any Social Security benefit".*

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- *That "regarding the statement "It is recorded that Mr. (...) he has a diagnosis of a mental disorder and that he temporarily spends long periods in detoxification centers for toxic substances", proceeds his rectification, specifically regarding the inaccuracy of the information that emerges from the second part of the statement: "and that he temporarily spends long stays in detoxification centers for toxic substances". In this sense, it is necessary to specify the information in the literal sense expressed in the certificate issued on 07.05.2019 by the Foundation (...), moving it to the family history or historical section of the social report" .*

7.- By means of a letter dated 02/12/2019, the person making the claim informed the Authority that he did not agree with the response that the City Council had given to his request for rectification, based on the following:

- *"Regarding the statement "according to information collected in the file, Mr.(...)receives a disability pension due to chronic illness", which, for now, since 2015 and not only the 2018, Mr. (...)is not a beneficiary of any benefits (...)"*
- *"Regarding the assertion "It is known that Mr. (...) has a diagnosis of a mental disorder and that he temporarily spends long periods in detoxification centers for toxic substances": that the second part of the statement has been corrected , as for the first, according to the Data Protection Delegate of Mútua (...), the family history contained in the report of 04/02/(...) [medical report relating to his daughter (. ..) which the SSB would have and on which they would have been based to include in their report of (...) the data relating to the diagnosis of the mental disorder of the person here claiming] correspond to the family manifestations, without specify it in this, nor make any mention of the inappropriate diagnostic conjectures of the undersigned doctors, when the actual assessment, in accordance with the last medical report on my person prior to the date of the cited report of (. ..), is Adaptation reaction with mixed emotional characteristics (...)"*

Along with his letter, the person making the claim provided, among other things, the following documentation:

- Certificate from the National Institute of Social Security (INSS) dated 18/10/2019, in which it is certified that the claimant here is not listed as a pension holder of the Social Security system in the period between 2015 and 2018, both inclusive.
- *"Visit report"* to CAP Sant Cugat dated 22/01/(...) which includes the diagnosis *"Adaptation reaction with mixed emotional characteristics"* referred to the claimant here, but without the identification of optional head/va.
- Copy of a report issued by the Mútua (...) on 04/02/(...), referring to (...), daughter of the claimant here and a minor at the time of issuance of the report, in which, in the *"Pathological history"* section, the following information is included:
"Family history: Father with ethanol dependence and mental disorder in psychiatric treatment, probably bipolar or schizoaffective disorder. There is no information on the paternal family. (...)"
- Copy of the letter that on 11/18/2019 the Data Protection Delegate of the Mútua (...) addressed to the claimant here. In this letter, he was informed, among others, of the following:

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"Origin of certain data contained in your daughter's emergency report dated (...), to which you claim to have had access and which you quote verbatim: We inform you that the family history contained in the cited report correspond to the statements made by the patient herself, who was (...) old on that date, or the legal representative who accompanied her to the consultation of the emergency department of the Hospital (...), made it easier for doctors to be related to the reason for the consultation (...)

Regardless of the manifestations mentioned, the consumption of ethanol and the mental disorder are data that are recorded in your medical history from the date before the emergency report that you refer to, due to the fact that you have been treated by the services primary care and psychiatry and psychology doctors of our organization".

8.- On 09/12/2019 this latest letter from the person making the claim was forwarded to the Sant Cugat City Council.

9.- On 08/01/2020 the City Council transferred to the Authority the Decree of the 6th tenure of Mayor of Good Government, Transparency and Participation and Neighborhoods, dated 07/01/2020, which had been notified also here claiming. In this Decree, in relation to the request for rectification of personal data, the following was stated:

"In response to the request submitted, specifically regarding the first of the two points exposed, and in accordance with the documentation recently provided by Mr. (...)(...)-certificate of the Social Security corresponding to the years 2015, 2016, 2017 and 2018 – proceed to partially estimate your allegation, in the sense that it is documented, and consequently, rectify the requested data solely and exclusively with reference to the years 2015, 2016, 2017 and 2018.

In relation to the second end alleged by Mr. (...), referring to the statement "It is established that Mr. (...)has a diagnosis of mental disorder [...]", the allegation made is partially upheld by the interested party and it is only necessary to record it in the file (...) of Services social of the documentation provided by Mr. (...), through the contribution of the report of Mútua's Data Protection Delegate (...) issued on 18.11.2019, and specifically point 2, which literally says: "Regardless of the aforementioned manifestations, the ethanol consumption and the mental disorder are data contained in your medical history from a date prior to the emergency report you refer to, due to the fact that you have been treated by Primary Care and psychiatry medical services and psychology of our organization". With regard to the diagnosis "Adaptation reaction with mixed emotional characteristics" contained in the Visit Report to CAP Sant Cugat dated 22.01.(...), it will be recorded in the file once the report signed by the corresponding practitioner".

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.

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2.- The claim that is resolved here was made with respect to a request to exercise the right of rectification that had been presented to the City Council on 07/30/2019, in accordance with the provisions of article 16 of the RGPD, which provides for the following:

"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 is incomplete, including by means of an additional declaration.

Also, regarding the rights contemplated in articles 15 to 22 of the RGPD, article 12, sections 3, 4 and 5 of the RGPD establishes 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 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.
(...)"*

Article 14 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (hereafter, LOPDGDD), on the right to rectification, provides for the following:

"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 incomplete nature of the data subject to treatment"

Finally, article 16 of Law 32/2010, regarding the protection of the rights provided for by the regulations on the protection of personal data, 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

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who may understand that their request has been rejected due to the fact that it has not been resolved within the established period, they can submit a claim to the Catalan Data Protection Authority.

2. The Catalan Data Protection Authority must expressly decide on the merits or inadmissibility of the claim referred to in paragraph 1 within six months, with the prior hearing of the person responsible for the file and also of the interested persons if the result of the first hearing procedure makes it necessary. Once this term has passed, if the Authority has not notified the resolution of the claim, it is understood that it has been rejected.

3. The resolution of total or partial estimation of the protection of a right must establish the term in which it must take effect.

4. If the request to exercise the right before the person responsible for the file is estimated, in part or in full, but the right has not been made effective in the form and the deadlines required in accordance with the applicable regulations, the interested parties can bring it to the attention of the Catalan Data Protection Authority so that the corresponding sanctioning actions are carried out."

3.- Having explained the applicable regulatory framework, it is then necessary to analyze whether the City Council resolved and notified, within the period provided for by the applicable regulations, the right of rectification exercised by the person making the claim, since precisely the reason for the complaint of the person who initiated the present procedure for the protection of rights was the fact of not having obtained a response within the period provided for the purpose.

In this respect, it is certified that on 07/30/2019 he had access to the City Council, through thematic means, a letter from the person here claiming, through which he exercised his right of rectification in relation to certain data relating to him (precedent 3rd).

From the point of view of article 12.3 of the RGPD, the City Council had to resolve and notify the request for rectification within a maximum period of one month from the date of receipt of the request. It is worth saying that this term can be extended by another 2 months (3 in total), taking into account the complexity or number of requests. In relation to the issue of the term, it should be borne in mind that in accordance with article 21.3 b) of Law 39/2015, of October 1, on the common administrative procedure of public administrations (LPAC and article 41.7 of Law 26/(...), of August 3, on the legal regime and procedure of the public administrations of Catalonia (LRJPCat), on the one hand, the calculation of the maximum term in procedures initiated at the instance of part -as is the case- begins from the date on which the request was entered in the register of the competent body for its processing. And on the other hand, that the maximum period is resolve and notify (article 21 of the LPAC), so that before the end of this period the resolution must have been notified, or at least the duly accredited notification attempt must have occurred (art.

40.4 LPAC).

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Well, the City Council has not proven to have responded to that request for rectification made by the now claimant, neither within the one month period provided for the purpose, nor within the extendable period of the following 2 months . The City Council would not have given an answer to the person making the claim until 28/10/2019, that is to say, when this Authority had already transferred the claim so that the City Council would respond within a month , in accordance with the provisions of article 37.2 of the LOPDGDD.

Consequently, from a formal point of view, the resolution of the Sant Cugat del Vallés Town Council must be declared extemporaneous, for not having responded to the request for rectification within the period established in the applicable regulations. This notwithstanding what will be said below regarding the substance of the claim.

4.- Once the above has been established, it is appropriate to analyze the substance of the claim, that is to say, whether the response given by the City Council to the request of the now claimant, conformed to the precepts transcribed in the foundation of previous right

Articles 16 of the RGPD and 14 of the LOPDGDD enshrine the right of rectification as a very personal right, constituting one of the essential powers that make up the fundamental right to the protection of personal data. The right of rectification materializes the principle of data accuracy established by article 5.1.d) of the RGPD, according to which the data must remain accurate and, if necessary, updated.

In the case at hand, it is necessary to first analyze whether, in view of the request for rectification that the person making the claim presented to the City Council on 07/30/2019, it can be considered that the latter gave an answer in accordance with the regulations mentioned above.

To this end, it is necessary to focus on the request for rectification - and the attached documentation - that the claimant here presented to the City Council on 07/30/2019, because at that time it was this and no other information from the that the Consistory had to assess whether or not the requested rectification proceeded. So the documentation that the now claimant has subsequently provided to this Authority in the guardianship procedure already started - which has been transferred to the City Council, and which has given rise to a final assessment and action by part of this (previous 9th) which will also be the subject of analysis in this resolution - cannot be taken into account by this Authority at the time to analyze whether the City Council in the Decree of 10/28/2019 gave a correct answer, since, as has been said, this was information that I did not have at the time.

As stated in the background, on 07/30/2019 the person making the claim here formulated the request for rectification of their data, in the following terms: *"In relation to the request report for reopening of the EAIA file, created by the basic primary social care services of Sant Cugat del Vallés City Council, dated (...): **

"According to information collected in the file, Mr. (...)te receives a disability pension due to chronic illness": confirming that no body can certify a benefit not received, except that this information is not properly verified, (...) is deleted.

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"It is noted that Mr. (...) has a diagnosis of mental disorder and that he temporarily spends long periods in detoxification centers for toxic substances".

This request was accompanied by the following documentation:

- Report issued on 07/05/2019 by the Foundation (...). In this report it is explained that the person making the claim here had been a patient of said entity *"during the period between April 2012 and May 2014. The patient made a claim treatment for an alcohol use disorder. He was accompanied by his parents as treatment referents and had previously been admitted to another institution. An admission was agreed in the Communicat (...) where he was admitted for 4 months. He subsequently continued with intensive outpatient treatment (...) and residence on the therapeutic floor of the Foundation (...). The patient (...) received the definitive High Therapeutics after two years of treatment and abstinence from alcohol, in the month of May 2014".*
- Assistance report issued by the Mútua (...) on 04/15/2019, in relation to the claimant here, which contains the following information: *"He was controlled by the CAS [Center for Attention and Follow-up in the Drug Addictions] St Cugat and PSQ Foundation (...) (Dr.(...)), for dependency enol. Currently stable".*

It is appropriate to analyze separately the response that the City Council gave to each of the rectification requests.

4.1.- On the one hand, the claimant requested that the following information be rectified/deleted: *"According to information collected in the file, Mr. (...) receives a disability pension due to a chronic illness",* which he considers does not correspond to reality.

The City Council responded to this request in the following terms: *"its deletion proceeds in order to update it, in such a way that only the information obtained from the database relating to the 2018 financial year, specifying that, at the moment, Mr. (name of the claimant) is not a beneficiary of any Social Security benefit".*

As explained in the 4th antecedent, the information relating to the perception of certain benefits is collected in section 3.2.1. of the report of the SSB, entitled *"Description of the current situation: housing, socio-labor situation, health, functioning and family dynamics..."*, and it must be remembered, because it is relevant data for what is being analyzed here, that this report it was issued in (...)2018.

This Authority understands that the rectification made by the City Council, proceeding, on the one hand, to delete the information that appeared in the report on the perception of benefits by the herein claimant; and, on the other hand, by incorporating the information relating to the year 2018 in the terms indicated above (that the claimant here had not received any Social Security benefits in 2018), it complies with the regulations. In this sense, it is necessary to demonstrate, as has been said, that the section of the report in which the controversial information is included is that of

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"description of the current situation", so it is entirely congruent that the information referred to the year in which the report is made (2018) is included here.

In addition, it should be noted that the claimant did not provide any documents at that time - as he did later - attesting to the inaccuracy of the information regarding the non-receipt of pensions in the previous years, even though this data , could be irrelevant given the section of the SSB report in which it was included (*"Description of the current situation"*). According to the proceedings, the City Council proceeded to consult the database and collected in the report the information to which it had access referring only to the year 2018 (that the claimant here had not received any pension), which was what was finally included in the report.

4.2.- On the other hand, the person making the claim requested from the City Council the rectification of certain health data, in the following terms: *"It is noted that Mr. (...) has a diagnosis of mental disorder and who temporarily spends long stays in detoxification centers for toxic substances"*; without making any other assessment or clarification regarding your request.

The person claiming, in order to prove the inaccuracy of the data, provided the City Council with two reports, one drawn up by the Foundation (...) on 05/07/2019 and another by the Mutual (...) dated 04/15/2019, both referring to the dependence/recovery of the person here claiming the consumption of certain substances (3rd background). In the report of the Foundation (...) it is stated that the claimant here received therapeutic discharge in May 2014. On the other hand, from the content of the report of the Mutual (...), it appears that on the date of its issue (15/04/2019), the claimant here, who had been treated by CAS St Cugat and PSQ Fundació (...), remained stable.

The City Council responded to the request for rectification in the following terms: *"regarding the statement "It is stated that Mr. (...) has a diagnosis of mental disorder and that he temporarily spends long periods of time in detoxification centers for toxic substances", proceeds its rectification, specifically with regard to the inaccuracy of the information that follows from the second part of the statement: "and that temporarily spends long stays in substance detoxification centers toxic". In this sense, it is necessary to specify the information in the literal sense expressed in the certificate issued on 07.05.2019 by the Foundation (...), moving it to the family history or historical section of the social report"* .

Article 14 of the LOPDGDD determines that when exercising the right of rectification, the affected person *"must indicate in his request which data he refers to and which correction must be made"*, attaching *"when if necessary, the documentation justifying the inaccuracy or incomplete nature of the data subject to treatment"*.

In this regard, it is necessary to demonstrate, first of all, that the request for rectification presented by the claimant here before the City Council, not only did not indicate in what terms he considered the data should be rectified, but that the supporting documentation that contributed referred solely and exclusively to his data linked to the dependency a

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alcohol and subsequent treatments. In accordance with this, it is logical and completely understandable that the City Council understood that the requested rectification referred to this specific circumstance. That being the case, it must be said that it cannot be considered that the City Council disregarded the claimant's right to rectification by not having analyzed in its response the information relating to the claimant's diagnosis of mental illness.

Having established the above, it is then necessary to analyze whether the response given by the City Council to the herein claimant, regarding the request for rectification of the data referring to stays in detoxification centers ("*temporarily [here claimant] has long stays in centers for detoxification of toxic substances*"), conforms to the regulations.

Although the person did not make it clear in his request, it could be inferred that the claimant here requested the rectification of the data in question, because it was inaccurate, because of its literal ("*It is noted that Mr. ... has a diagnosis of mental disorder and that he temporarily spends long periods in detoxification centers for toxic substances*") it could be inferred that, on the date of the issuance of the report ((...)) , he was still doing these long stays.

It must be specified in this respect that, of the two documents that the claimant provided to the City Council on 07/30/2019, only the one from the Foundation (...) attested to the fact that since 2014 he had no longer entered in any of the centers of this entity, since the Mútua's certificate (...) would simply certify that on the date of its issuance (04/15/2019) the claimant here remained "*stable*".

As has been said, the City Council responded to the request indicating that it would proceed to "*specify*" - not to delete the information in the terms of the report issued by the Foundation (...). It is therefore necessary to elucidate whether with this action the City Council would have complied with the data protection regulations when responding to the request for rectification.

In this case, just as it happened in the previous section (4.1 of this basis of law), in order to determine whether or not the rectification proceeds and, eventually, the scope of the same, the section of the SSB report in which the disputed information is included. In this case, this information is included in section "3.2.1

Other aspects to highlight that you consider important to take into account for the study of the minor(s), indicating which minor(s) the above information refers to". In this section, therefore, should be included all that information that the SSB staff that treats the family and makes the report considers relevant for the purposes of adequately attending to the minors and family environment. Well, it is a certain fact - because the Foundation (...) certifies it this way - that the claimant here, at least during the period from 2012 to 2014, had problems with alcohol consumption, that for 4 months he was admitted to the Therapeutic Community and who was then monitored in a therapeutic apartment. That the SSB decide to keep this information in the report is not at all disproportionate in view of the purpose of the report, which is none other than to refer the case - which affects two minors, one of them daughter of the claimant here- to the EAIA for its assessment.

What the City Council is doing is, as has been said, "*precise*" this information, in other words, it complements this information with that provided by the claimant here. And the

complements the form explained in the Decree of 28/10/2019: *"in the literal sense expressed in the certificate issued on 07.05.2019 by the Foundation (...), while transferring it to the section of family or historical background of the social report"* (certificate transcribed in background 3).

Article 16 of the RGPD, referring to the right to rectification, states that *"the interested party has the right to have incomplete personal data completed, even through an additional declaration"*. In accordance with the above, in those cases in which the information provided by the interested person is adapted to the purposes of the treatment and complements the data already processed by the person in charge, the latter must admit it and include it in the your file. And this is precisely what, as has been said, the City Council did: complete the information it already had with that provided by the person making the claim on 07/30/2019.

In view of everything set out in this legal basis, it is appropriate to reject the guardianship claim made by the claimant here.

5.- Without prejudice to what was stated in the previous legal basis, in view of the manifestations made by the person claiming before the Authority in the framework of the present guardianship procedure, it is considered appropriate, based on the principle of effectiveness and efficiency that must govern the administrative action, make a pronouncement on whether the response that the City Council has given to the herein claimant in the Decree of 01/07/2020 conforms to the regulations in view of the new information provided.

As stated in the antecedents, in his letter of 04/12/2019 the person making the claim presented to the Authority the reasons why he did not agree with the response that the City Council had given to his right of rectification through Decree of 28/10/2019 (response that has been analyzed in the previous legal basis).

- *"Regarding the statement "according to information collected in the file, Mr.(...)receives a disability pension due to chronic illness", which, for now, since 2015 and not only the 2018, Mr. (...)is not a beneficiary of any benefits (...)"*
- *"Regarding the assertion "It is known that Mr. (...) has a diagnosis of a mental disorder and that he temporarily spends long periods in detoxification centers for toxic substances": that the second part of the statement has been corrected , as for the first, according to the Data Protection Delegate of Mútua (...), the family antecedents contained in the report of 04/02/ (...) correspond to family manifestations, without specifying in this, nor make any mention of the inappropriate diagnostic conjectures of the signing doctors, when the actual assessment, in accordance with the last medical report on my person prior to the date of the cited report of (...) , is Reaction of adaptation with mixed emotional characteristics (...)"*.

In order to prove the inaccuracy of the data, the person making the claim provided documentation that, as has already been said and it must be insisted, he had not provided to the City Council at first.

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- Certificate from the National Institute of Social Security (INSS) dated 18/10/2019, in which it is certified that the claimant here is not listed as a pension holder of the Social Security system in the period between 2015 and 2018, both inclusive.
- "Visit report" to the CAP Sant Cugat dated 22/01/(...) in which the diagnosis "Adaptation reaction with mixed emotional characteristics" is included, but without the identification of any practitioner.
- Copy of a report issued by the Mútua (...) on 04/02/(...), regarding the minor (...), in which, in the "Patological history" section, the following information:
"Family history: Father with ethanol dependence and mental disorder in psychiatric treatment, probably bipolar or schizoaffective disorder. There is no information on the paternal family. (...)"
- Copy of the letter that on 11/18/2019 the Data Protection Delegate of the Mútua (...) addressed to the claimant here. In this letter, you were informed, among others, of the following: *"Origin of certain data contained in your daughter's emergency report dated (...), to which you claim to have had access and which he quotes verbatim: We inform you that the family antecedents contained in the cited report correspond to the statements made by the patient herself, of (...) age on that date, or the legal representative who accompanied her in the consultation of the emergency service of the Hospital (...), they made it easier for the doctors to be related to the reason for the consultation carried out (...)"*

Regardless of the manifestations mentioned, the consumption of ethanol and the mental disorder are data that are recorded in your medical history from the date before the emergency report that you refer to, due to the fact that you have been treated by the services primary care and psychiatry and psychology doctors of our organization".

On 12/09/2019, the Authority forwarded this letter - and attached documentation - to the City Council and based on this new information, the City Council issued the Decree of 07/01/2020 thus giving a new answer to the claimant here, in the following terms:

"In response to the request submitted, specifically regarding the first of the two points exposed, and in accordance with the documentation recently provided by Mr. (...) (...) - certificate of the Social Security corresponding to the years 2015, 2016, 2017 and 2018 – proceed to partially estimate your allegation, in the sense that it is documented, and consequently, rectify the requested data solely and exclusively with reference to the years 2015, 2016, 2017 and 2018.

In relation to the second end alleged by Mr. (...), referring to the statement "It is established that Mr. (...) has a diagnosis of mental disorder [...]", the allegation made is partially upheld by the interested party and it is only necessary to record it in the file (...) of Services social of the documentation provided by Mr. (...), through the contribution of the report of Mútua's Data Protection Delegate (...) issued on 18.11.2019, and specifically point 2, which literally says: "Regardless of the aforementioned manifestations, the ethanol consumption and the mental disorder are data contained in your medical history from a date prior to the emergency report you refer to, on the grounds that you were

served by the Primary Care and psychiatry and psychology medical services of our organization". With regard to the diagnosis "Adaptation reaction with mixed emotional characteristics" contained in the Visit Report to CAP Sant Cugat dated 22.01.(...), it will be recorded in the file once the report signed by the corresponding practitioner".

Next, the City Council's response will be analyzed separately in relation to each of the information whose rectification was requested.

5.1.- The claimant requested to be included in the SSB report that from 2015 to 2018 he had not received any benefit from the Social Security, and to prove this circumstance he provided a certificate issued on 18/10 /2019 by the INSS.

The City Council, as explained in the Decree of 01/07/2020, proceeded to incorporate this data into the report, so the right of rectification requested in relation to this must be granted information

5.2.- In relation to the data *"it is known that Mr. (...) has a diagnosis of a mental disorder"*, the City Council informs that it is proceeding to supplement the information with what is contained in Mútua's report (...), in the terms transcribed above.

In relation to this paragraph, this Authority considers that the City Council has proceeded appropriately, maintaining the information that was already there and completing it with the information provided by the claimant here in the terms transcribed; and this based on the same arguments presented in section 4.2 of the 4th legal basis, which are reproduced here.

At this point it is not superfluous to remind the City Council that, as responsible, it has the obligation to notify the rectification or deletion carried out to those recipients to whom the personal data have been communicated (art. 19 of the RGPD)

resolution

Therefore, I resolve:

1. Declare extemporaneous the resolution of the Sant Cugat del Vallés Town Council, for not having responded within the period established in the regulations applicable to the request for data rectification of Mr. (...) (...), and reject the said claim in substance for the reasons explained in the 4th ground.
2. Notify this resolution to Sant Cugat del Vallés City Council and the person making the claim.

3. Order the publication of the Resolution on the Authority's website (www.apd.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 Law 39/2015 or directly file an administrative contentious appeal before the administrative contentious courts of Barcelona, 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 administrative contentious jurisdiction.

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

The director,