

Carrer Rosselló, 214, Esc. A, 1r 1a
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RESOLUTION of the rights protection procedure no. PT 2/2020, urged against the City Council of (...).

Background

1.- On 10/01/2020 the Catalan Data Protection Authority received the claim made by Ms. (...) and Mr. (...) - in his own name and on behalf of his minor daughter (Mrs(...)(...))- against the City Council of (...), for the alleged neglect of the right of rectification in relation to your data included in a report issued by the Basic Social Services of the City Council (hereafter SSB) on 01/03/2018. In particular, the complainants complained that the City Council had not responded to their request for rectification within the period provided for in the regulations, and provided the following documentation:

a) Copy of the request that, by electronic means, the people making claims here made to the City Council of (...) on 02/12/2019. In this request, they asked for the rectification of certain information contained in the aforementioned report prepared by the SSB, following the following scheme in their writing: first, they transcribed the verbatim contained in the report (as "incorrect data"); and then indicated the information they considered should be included in place of the previous one (as "correct data"). Thus, the text of this request was as follows:

"Incorrect data 1: referring to the school (...), the Department of Education, the Territorial Services of Education in Vallès Occidental and the General Directorate of Family and Educational Community Care.

1.1- [4.school information(...)(...): The family turns to Territorial Services to report a Bullying situation not attended to by /'escota.

Correct data I.

1.1 '- The family appeals to the Department of Education, the Territorial Services of Education in Vallès Occidental and the City Council of (...) to report a situation of harassment, which is not addressed by the school or any of the aforementioned bodies, despite the complaints to them and the consequent and repeated requests of the Ombudsman of Catalonia and the Ombudsman of (...) to their obligation to resolve, in addition to the indication transferred to the entities premises for the Provincial Council of Barcelona; while yes it is by the Ombudsman of Catalonia, the relevant Court and, although the established time has been exceeded and for indirect motivation, by the General Directorate of Family and Educational Community Care, which does not verify the his heterogeneous response, the content referring to the aggressions towards (...) described in the Tau/í Park medical report, to the rejection of the responsible entities, both to the detailed knowledge of the version of events of (...) and the his parents, as, given the seriousness of the facts, to an objective and exhaustive investigation by the corresponding Inspection service, without any reply to the subsequent allegation in his letter.

(...)

Incorrect data II: referring to HDA Pare Tau/í, UCA Parc Taulí and HDA Mútua Terrassa.

II.1 - [2. Advice-date 20/04/2017(...): recurring income at the UCA(...)

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II.2- [3.1. Antecedents-Family history]: An attempt is made to reinstate (...) to a new institute but it is not feasible due to the difficulties it presents (...).

II.3- [3. 1. Antecedents-Family history]: Faced with a discharge from the UCA, the family does not want a referral to the HdD in Terrassa because they believe that there has been negligence on the part of the professionals in relation to the medication. Given the seriousness of (...)’s condition, it is decided to follow up on Taulí’s HdD until the summer when he is discharged.

II.4- [5. interventions of professionals-Coordinations and intervention of the EAIA-2017]: Income is given to the UCA and in the face of a discharge from the UCA, the family does not want a referral to the HdD of Terrassa because they believe that there there has been negligence on the part of professionals in relation to medication.

II.5- [5.interventions of professionals-Coordination and intervention of the EAIA- 2017]: It is decided to offer follow-up from HdD del Taulí until the summer that he is discharged.

II.6- [3.1. Antecedents-Family history+ 5. Professional interventions-Coordination and intervention of the EAIA-2017]: From September 2017, it is transferred again to HdD in Terrassa, but the family does not accept the referring professionals and it is not possible to follow up.

II.7- [3.2. Current situation]: During the last months (...) she receives follow-up from the CSM/J and the family goes to the UCA when there is a conflict situation where she is admitted for a few days.

According to the family, he continues to receive psychological support in (...).

Correct data II.

II.1’(...): Previous recurrent attendances at the Emergency Department on (...)(13/11/2016, 16/11/2016, 19/11/2016) and recurrent denials of admission to the UCA Parc Taulí from Urgències Park Taulí (14/11/2016, 27/11/2016), next to Urgències Mútua Terrassa (26/11/2016); recurring income at the UCA Parc Taulí (29/11/2016, 28/02/2017, 11/07/2017, 10/11/2017, 10/01/2018, 28/01/2018); recurring attendances at Urgències Mútua Terrassa (29/11/2016, 10/02/2017, 19/02/2017, 23/02/2017, 27/02/2017, 13/10/2017, 10/11/2017); assistance/recurring income in different Services, Units and Hospitals:

Emergency (...)(17/06/2017), Emergency Park Taulí (05/06/2017, 11/07/2017), HDA Mútua Terrassa (03/01/2017), HDA Parc Taulí (24/03/2017), CAP (...)(07/05/2017), Emergències Sant Joan de Déu (15/10/2017, 05/01/2018), CSMIJ CAP (...)(28/01/2018); recurrent delay of a payment to the UCA SA (...)(13/02/2018); recurring continuity in the ITA therapeutic center; and his recurrent indolences, with the consequent admission to the Child and Youth Psychiatry Emergency at the Hospital Clínic (11/11/2018).

II.2'- An attempt is made to reinstate (...) in a new institute but it is not feasible due to the symptoms of a severe depressive episode that he presents (...), allegedly neglected by certain professionals the HDA Mútua Terrassa, entering the UCA Parc Taulí on 28/02/2017.

II.3'- Faced with a discharge from the UCA, the family does not want referral to HDA Mútua Terrassa because they claim there has been alleged irresponsibility, negligence, passivity, ineffectiveness and continuous lack of respect on the part of professionals . Given the seriousness of the condition of (...), it is decided to follow up from the HDA Parc Taulí until the summer when, despite their assessment that the behavioral intervention cannot be assumed from the resource and that in the medium term it will be necessary a residential resource, and that it is expected that the family will not be able to support the behavioral difficulties of (...) at home, he is discharged.

II.4'- Income is given to the UCA and in the face of a discharge from the UCA, the family does not want a referral to HDA Mútua Terrassa because they claim there have been assumptions

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irresponsibility, negligence, passivity, inefficiency and continuous lack of respect on the part of professionals.

II.5'- It is decided to offer follow-up from HDA Parc Taulí until 26/06/2017 when, despite their assessment that the behavioral intervention cannot be undertaken from the resource and that in the medium term a residential resource will be needed, which is expected that the family will not be able to sustain the behavioral difficulties of (...) at home and that it is decided to discharge HDA and re-enter in September to facilitate adaptation to the academic resource proposed by the educational agents, not only is he discharged, rather, in September they resolve, casually, without prior notice or formal arguments, their referral to Mútua Terrassa's reference HOA, facts that oblige parents to present the relevant claim to the Dept. de Salut on 12/09/2017, not being answered, after repeated requests for their duty to respond through the Complaints Ombudsman of Catalonia, until 31/07/2018!

II.6'- From September 2017, it is transferred again to HDA Mútua Terrassa, but the family does not accept the referring professionals and, after being attended to at the same headquarters for a few weeks by the Head of Child and Youth Psychiatry at /Hospital Universitari Mútua Terrassa -report not yet available by HDA Mútua Terrassa-, tracking is not possible.

II.7'- During the last months, (...) receives follow-up from the CSM/J and, according to the contacts established and the documentation provided, the private psychological treatment center Tot Teràpia. The family goes to the UCA Parc Taulí when there is a destabilizing situation inherent to its pathology, where it is admitted for a few days.

(...)

Incorrect data III: referring to the assumption of the REASON FOR THE DERIVATION of the inability/impossibility to control the behavior of the minor.

III.1- [2. Advice-Intervencions-08/06/2017]: From Hospital de Dia they assess that intervention at a behavioral level cannot be assumed from the resource and that in the medium term it will be necessary a residential resource.

III.2- [2. Advice-intervencions-08/06/2017]: It is expected that the family will not be able support the behavioral difficulties of (...) at home.

III.3- [3. 1. Antecedents-Family history]: During the first months of 2017, many difficulties and conflicts appear when the minor is at home and often and during weekends they have to resort to health services to attend to her.

Correct data III.

III.1' - From HDA they assess that intervention at a behavioral level cannot be assumed from the resource and that in the medium term a residential resource will be needed, but in the continuous income and assistance in the Emergency Department of (...) they give him the discharge.

III.2'- It is expected that the family will not be able to sustain the behavioral difficulties of (...) at home, but in his continuous income and assistance in the Emergency Department they will discharge him.

III.3'- From the month of November 2016 to November 2018, many of the symptoms appear and remain that lead to a frequent decompensation of the mechanisms that regulate the state of mind, when the minor is in any place, at any time and on any day of the week, often having to resort to health services to attend to it.

(...)

Incorrect data IV: referring to complaints, request from DGAIA and MAPA (...).

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IV. 1 - [3. 1. Antecedents-Family history]: During the summer of 2017, incidents took place with young people who were reported by (...), accompanied by their mother. According to investigations, a situation of sexual abuse by one of them is reported and in a second report, (...) she lets some young people into her house who intimidate her and steal.

IV.2- [2. Advice-Date 11/23/2017]: (...); incidents that occurred during the summer and complaints, request from DGAIA, lack of attention from HdD due to the family's refusal and difficulties at MAPA.

IV.3- [3. 1. Antecedents-Family history]: At the beginning of the school year and with the addition of (...) to MAPA, there are conflicts again since it coincides with some of the cases I have been reported to and accompanied by her mother, they file the third report in which he states that he is being bullied in the school environment.

IV.4- [3.1. Antecedents-Family history]: (...) stops attending MAPA due to the situation with the young people. It is offered that she can attend MAPA Terrassa but the family does not agree as they consider that their daughter is the victim and the colleagues who are harassing her should leave.

IV.5- [7. Approach that has been made to the family ...]: SBASP has been informed of the requirement of DGAIA following the complaints and of the need for referral to a Specialized Team to deal with the risk situation in which your subsidiary is (..).

Correct data IV.

IV.1' - During June and July 2017, serious incidents took place with young people who were reported by (...), accompanied by their mother. According to proceedings of 06/17/2017, a situation of sexual abuse and theft by three boys is reported, and in a second report, (...) he lets three young people into his house - one of them involved in the first event where she is intimidated, robbed and sexually harassed.

IV.2'- (...); incidents that occurred during June and July and complaints of sexual abuse and theft (17/06/2017), for sexual abuse and theft (24/07/2017), and for harassment - including school harassment and threats (13/10/2017); request from DGAIA towards the victim of the aforementioned events; lack of care by HOA due to family refusal due to their lack of care; and difficulties in MAPA.

IV.3'- One month after the start of the school year and with the addition of (...) to MAPA, there are conflicts again, in addition to coinciding with two of the reported youths, and accompanied by their mother, they file the third complaint in which he states that he is suffering harassment, harassment and threats, also in the school environment.

IV.4'- (...) stops attending MAPA due to the presence of three suspected criminals in addition to the harassment of other young people, and the girl's subsequent hospital care: Psiquiatria Urgències Mútua Terrassa (13/10/2017), Emergency Pediatrics Sant Joan de Déu (15/10/2017), Emergency Psychiatry Mutual Terrassa (10/11/2017), UCA Parc Taulí (10/11/2017), Emergency Psychiatry Sant Joan de God (05/01/2018), UCA Parc Taulí (19/01/2018), Psychiatry Urgències Mútua Terrassa (28/01/2018), UCA Parc Taulí (28/01/2018) and UCA SA (...)CASM (13/02/2018). In the meeting held on 12/10/2017, the second day of the course, between (...), his parents and the coordinators of the Center, it is offered that he can attend MAPA Terrassa, but even though the parents are not there they agree, since they consider that their daughter is the victim and the ones who should leave are the colleagues who assaulted, abused and stole her, the girl decides despite this or to continue at MAPA (...), will that he is respected However, this situation was communicated on 14/10/2017 to the

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management of the Main Foundation, the DGAIA and the Territorial Services of Education in Vallès Occidental, answer for the first two entities.

IV.5'- From SBASP he has been informed of the requirement of DGAIA following the complaints and of the need for referral to a Specialized Team to attend to the situation of risk or helplessness in which the criminals find themselves, and to adopt towards (...) protection actions in cases of application of the legislation regulating the criminal responsibility of minors.

(...)

Incorrect data V: referring to the assumption of the REASON FOR DERIVATION of absenteeism continued schooling/lack of schooling.

V.1- [4. School information ... (...)]: At the school level, the EAP informs us that an attempt is being made to reinstate (...) in //ES (. ..) where the parents have requested to enroll her, but it is not feasible given the difficulties she presents (...) and from the UCA it is valued that she can join MAPA (...) from academic year 2017-18 (.. ..).

V.2- [2. Assessoraments-Intervencions-08/06/2017]: MAPA is requested as an educational resource for September.

V.3- [3.1. Antecedents-Family history]: From the different services that attend to (...) and the family, it is deemed necessary that it can join MAPA from September as a specialized educational resource (.. ..).

V.4- [5. interventions of professionals-Coordination with Escotes]: Actua/ment is registered at //ES (...) and until recently was referred to MAPA.

V.5- [4. School information ... (...)]: In a coordination with MAPA in October 2017, we are informed that (...) attends from 9-13:30h. Up to this point her attendance is constant, except when she is admitted.

V.6- [4. School information ... (...)]: From MAPA they explain that the UEC is attended by some of the boys involved in the situation of abuse that during the summer he denounces (...) and his mother and that there are many difficulties between (...) and these boys, often caused by (...). MAPA offered that he could attend MAPA Terrassa, but the family refused and stopped attending MAPA as well (...).

V.7- [6. Assessment]: On the other hand, the existing educational resources have been exhausted, since they do not accept MAPA and have given up on making a transfer to MAPA Terrassa.

V.8- [3.1. Antecedents-Family history]: (...) stops attending MAPA due to the situation with the young people. It is offered that she can attend MAPA Terrassa but the family does not agree as they consider that their daughter is the victim and the colleagues who harass her should leave.

V.9- [3.2. Current situation]: During the last months (...) he does not attend MAPA due to the accusations and trials that take place with the young people and colleagues of the UEC.

Correct data V.

V.1' - At the school level, the EAP informs us that an attempt is being made to reinstate (...) to the IES (...) where the parents have requested to enroll her, but it is not feasible given the symptoms of a severe depressive episode that he presents and his admission to UCA Parc Taulí on 28/02/2017, from where it is assessed that he can join MAPA (...) from the course 2017-18, without specifying this relevant information in the registration report or verbally to the parents (...).

V.2'- MAPA is requested as an educational resource for September, without following, by the Territorial Services of Education in Vallès Occidental and the EAP of (...), the procedures

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established in the current regulations regarding the schooling of students with specific educational needs.

V.3'- From the different services that attend to (...) and the family, it is considered necessary that it can join MAPA from September as a specialized educational resource, doing so on 10/10/2017!, after the mother's vain contacts with the Territorial Services inspector and until his presence at the same headquarters asking for explanations in this regard, (...).

V.4'- From 01/10/2017! she is enrolled in the IES (...) and has been referred to MAPA since that date, but her access was not approved by Territorial Services until 10/09/2017, facts that did not they are recorded or not verified by the Management

General of Attention to the Family and Educational Community in its response to the parents' claim.

V.5'- In a coordination with MAPA in October 2017, we are informed that (...) attends from 9-13:30h. Until this moment his attendance has been constant, but the repeated appearances and hospital admissions, until his admission, in the end, to the UCA SA (...), caused by the presence and aggressions of some students and their extreme vulnerability, along with the disinterest of the competent bodies warned, force them to conclude this longed-for educational stage for their protection.

V.6'- From MAPA they explain that the UEC is attended by some of the boys involved in situations of sexual abuse, theft, harassment, harassment and threats that in June, July and October they report (...) and their mother, and that there are, among others, many difficulties between (...) and these and other boys and girls who also harass her in the school environment, often retaliated by her legitimate defense. MAPA offers that he can attend MAPA Terrassa, but not to criminals or harassers, the family rejects it but (...) decides

remain and, after frequent attendances and hospital admissions, also stops attending MAPA (...).

V.7'- On the other hand, it has been allowed to postpone access and attempt against the fragile health of (...) in the existing educational resource, since the parents renounce to make a transfer to MAPA Terrassa and at the same time (...) agree to continue in MAPA (...)

V.8'- (...) stops attending MAPA due to the situation with the young people. It is offered that she can attend MAPA Terrassa but the family does not agree as they consider that their daughter is the victim and the ones who should leave are the incriminated aggressors who sexually abused her, stole her, harassed her, threatened her and besieged and who, alongside others, continue to besiege her.

V.9'- During the last months (...) he does not attend MAPA due to his repeated visits to the Emergency Department and hospital stays, until his access to the UCA SA (...).

(...)

Incorrect data VI: referring to the risk situation, study possible helplessness of (...) and the risk situation and helplessness of his mother.

VI. 1- {6. Assessment}: From the coordination established with different services, it follows that (...), the fact that at this moment none of the existing resources are accepted at ambulatory level (HdD and MAPA), it is necessary to resort to residential therapeutic resources to attend to the needs of (...).

VI. 2- {6. Assessment}: For all of the above, it is assessed that (...) he may find himself in a situation of serious risk that has not been successful with the intervention of the Social Services and the rest of

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network services. This situation can affect their development and well-being.

Given the family situation and the discomfort it presents (...) and given the competences of the Social Services of the City Council of (...), the file is requested to be reopened at the EAIA so that a study of the family situation is carried out and the most appropriate administrative measure is proposed to ensure the well-being of (...) and the (...)

VI.3- [3.2.Current situation]: The mother makes several financial demands, some of which cannot be assessed because she does not present the required documentation.

VI.4- [3.2.1.Description of the current situation]: In economic matters related to (...), Ms. (...) receives support from paternal grandparents.

Correct data VI.

VI.1'- From the coordination established with the different services it follows that (...), the fact that at this moment the existing resources are not accepted at ambulatory level (HDA Mútua Terrassa and, after the referral unjustified by (...), HDA Parc Taulí; and MAPA, in the face of the continuation of the assistance of students accused of various and assiduous assaults on the victim), made it necessary, long ago, to resort to therapeutic resources residential, corresponding to the health network of the Catalan Health Service, to meet the needs of (...).

VI.2'- [EAIA Vallès Occidental report, date 04/10/2019, page 9, 10]: (...) It presents decompensations at the behavioral level. It should be noted that on different occasions the mother has not agreed with the proposals or professional interventions, making complaints to different resources. Mothers focuses on the genetic component of the problem of (...). Even so, it is appreciated that the family environment could influence the emotional and behavioral state of the adolescent. This is a little autonomous and vulnerable girl who needs a lot of supervision. Even so, it is currently more stable at a clinical level and the

Mrs. (...) is in charge of their care and medical monitoring. He is currently doing home schooling.

VI.2"- [Request for rectification of personal data, date 09/10/2019, page 2]: (...)

It presents affective and defective clinical decompensations. It should be noted that on different occasions the mother and father have warned of negligence and malpractice in the actions of certain professionals, providing the relevant claims and denunciations, both formal and legal, to different resources. The mother, based on the scientific evidence provided by medical specialists, focuses on the unquestionable genetic component of the problem of (...), driven by the stressful environmental factor of /harassment suffered by the girl since the beginning of the 2016-2017 school year in the scale (...). Even so, it is appreciated that the family environment could influence the emotional and behavioral state of the adolescent. She is a sufficiently independent but vulnerable girl who needs supervision. Even so, he is currently more stable at a clinical level and Ms. (...) and Mr. (...) are in charge of their care and medical monitoring. He is currently doing home schooling.

VI.3'- The mother makes several financial claims that may belong to her, none of which can be assessed, some because, as she explains, she does not present, given the refusal of the father of (...) to fill in the required data, the required documentation; and others due to the fact that they are not in the hands of Social Services.

VI.4'- In economic matters related to (...), the (...) and Ms. (...), this receives comprehensive support from the paternal grandparents, since due to their family responsibilities, limitations and setbacks, added to the extinction of the poor

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benefits that corresponded to him, he is today in a situation of extreme precariousness.

(...)"

b) Copy of the " *EAIA Referral Report* " [Child and Adolescent Care Team, dependents of the General Directorate of Children and Adolescence, of the Department of Work, Social Affairs and Families of the Generalitat de Catalunya] issued on 01/03/2018 by the SSB, with the purpose of requesting the *"reopening of the "EAIA file in relation to minors ONA (...) and (...)"*.

The information regarding which the rectification was requested is included in the following sections of the report: *"2. Advice (add a table for each advice)"* -

section consisting of the following subsections *"Date 16/01/2017", "Date 20/04/2017", "Date 23/11/2017", "3. Socio-familial situation", "3.1. Antecedents-Family history", "3.2.*

Current situation", "3.2.1. Description of the current situation: housing, socio-employment situation, health, functioning and family dynamics...", *"4. School information of each minor subject to intervention(...)(...)"*, *"5. Professional interventions"* - section consisting of the following subsections: *"EAIA coordination and intervention", "Coordination with Schools", "Coordination and interventions with Mental Health (CSMIJ, UCA and HdD)"*-, *"6.*

Evaluation. Diagnostic hypothesis/prognosis", "7. Approach that has been made to the family from the SSAP regarding referral to the EAIA".

c) Various and numerous documentation - medical and other - which, according to the claimants, would prove the inaccuracy of the information collected in the report.

2.- In accordance with article 5.b) of Law 32/2010, of October 1, of the Catalan Data Protection Authority, and article 117 of Royal Decree 1720/2007, of December 21, approving the Regulation implementing Organic Law 15/1999, of December 13, on the protection of personal data (hereafter, RLOPD),

on 01/23/2020 the claim was transferred to the City Council of (...) del Vallés, so that within 15 days it could formulate the allegations it considered relevant.

This deadline has been exceeded and no objections have been made.

Fundamentals of Law

1.- The Director of the Catalan Data Protection Authority is competent to resolve this procedure, in accordance with articles 5.b) and 8.2.b) of Law 32/2010, of October 1, of the Catalan Data Protection Authority.

2.- The claim that is resolved here is formulated with respect to a request to exercise the right of rectification that had been presented to the City Council of (...) on 02/12/2019.

Article 16 of Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 of April, regarding the protection of natural persons with regard to data processing

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personal data and the free circulation of these (hereinafter, the RGPD), regulates the right of rectification in the following terms:

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

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

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

Also, regarding the rights contemplated in articles 15 to 22 of the RGPD, article 12.4 of the RGPD establishes the following:

"4. If the data controller does not proceed with the request, it will inform you without delay, no later than one month after receiving the request, of the reasons for its non-action and of the possibility of filing a complaint with a control authority and to take legal action"

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

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

3.- Having explained the applicable regulatory framework, it is then necessary to analyze whether the City Council resolved and notified, within the period provided for by the applicable regulations, the right of rectification exercised by the complainants, since precisely the reason for their complaint that 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.

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In this regard, it is certified that on 02/12/2019 he had entry to the City Council, through thematic media, a letter from the people making claims here through which they exercised the right to rectify their personal data.

In accordance with article 12.3 of the RGPD, the City Council had to resolve and notify the request to exercise the requested right within a maximum period of one month from the date of receipt of the request legality. 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 question of the deadline, it should be taken into account that in accordance with article 21.3 b) of the LPAC and article 41.7 of Law 26/2010, of August 3, on the legal regime and procedure of the public administrations of Catalonia (hereinafter, LRJPCat), on the one hand, the calculation of the term maximum in proceedings initiated at the instance of a party – as is the case – it starts 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 term is for resolve and notify (article 21 of the LPAC), so that before the end of this term the resolution must have been notified, or at least the duly accredited notification attempt must have occurred (art. 40.4 LPAC).

Well, the City Council has not proven to have responded to the request for rectification made by the now claimants, neither within the one month period (extendable for two more months) provided for that purpose, nor subsequently.

Consequently, the estimate of the claim proceeds, which was based on the lack of response to the request to exercise the right of rectification, since the City Council has not proven to have resolved and notified the said application submitted by the affected persons. This notwithstanding what will be said below regarding the substance of the claim.

4.- Once the above has been settled, it is necessary to analyze the substance of the claim, that is to say whether, in accordance with the precepts transcribed in the 2nd legal basis, in this case the rectification of the data requested in the City Council in the terms requested by the claimants, specifically the rectification of certain information that the City Council's SSBs had collected in a report dated 01/03/2019 (letter a/ of the 1st antecedent).

In this regard, however, a first consideration must be made. As indicated, article 16 of the RGPD obliges the data controller to proceed with the rectification of personal data when these are inaccurate or incomplete. However, it should be noted that article 14 of LOPDGDD requires that the request for rectification clearly indicate which data it refers to and the correction that must be made, which must be accompanied by supporting documentation of the inaccuracy or incompleteness of the data being processed. In short, to be able to demand the rectification of a piece of data, the error committed or its incomplete nature must be proven.

As will be seen later, it should be emphasized that in relation to most of the rectifications requested by the people here claiming, it is not specified which data

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they would be inaccurate or should be completed - and, consequently, the allegedly erroneous or incomplete nature of the data is also not proven -; rather, it is requested that certain paragraphs contained in the report be replaced by others written by the complainants themselves.

Having said that and starting from this previous consideration, it is necessary to analyze the rectifications interested in by the claimants, in the terms transcribed in section a) of precedent 1. For systematic reasons, the requested rectifications that have been considered to have similar features have been grouped into different sections.

4.1.- On the rectification of the information collected in the following sections of the application, in which the inclusion of additional information in the report would be requested: I.1, II.1, II.2, II.3, II.4, II.5, II.6, II.7, III.1, III.2, IV.1, IV.2, IV.3, IV.4, V.1, V.3, V.4, V.8, VI.3,

First of all, it must be said that in some of the sections of the report for which rectification is requested, the information that the claimants here intend to incorporate is already collected in a summarized form (information collected in sections II.3', II.4', II.6', II.7', IV.3', V.8', VI.3' of the request).

On the other hand, it is also worth noting that the claimants want it to be added in the report information that cannot be ruled out even if it was available to the SSB at the time of issuing it, such as some of the data referred to in sections I.1', II.1', II.2', II.5', IV.1', IV.2', IV.4', V.1', V.3', V.4' of the request.

And, to finish, evidence that in other cases (sections II.1, III.1 and III.2 of the request) the people claiming here intend to add to the report facts that took place on a date subsequent to the one that led to a certain intervention by the SSB included in said report (thus, in the section of the report indicated in point II.1 of the request, referring to the intervention provided by the SSB on 20/04/2017, it is intended to incorporate various psychiatric care and incomes of the minor that took place after that date; or, in relation to the sections of the report cited in points III.1 and III.2 of the sole request, referring to the intervention of the SSB dated 08/06/2017, it is intended to incorporate the date of a medical discharge which, according to the documentation provided by the claimants, took place subsequently).

In relation to all the information detailed so far, it must be said that the documentation provided by the claimants does not show that the data included in the report are incorrect. What's more, as has been said, in many of the cases what the claimants ask to be included as *"correct data"* is collected in a summarized and complete form.

On the other hand, it must be said that due to the fact that the report does not include absolutely all the information relating to the people making claims here (regardless of whether at the time of the issuance of the report the SSB had it or not) -especially in a case like this, in which it is very voluminous-, and only part of the information available to the professionals is included, it cannot be inferred that the information contained in the report is necessarily incomplete if this is sufficient for the purposes for which it has been collected. In this respect, article 16 of the RPGD is very clear when it states that the

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interested person will have the right to have their data completed, as long as this addition is appropriate to the purposes of the treatment, which in this case was the issuance of a report in order to derive the case - which affects two minors of age- to the EAIA for its assessment.

It should also be added that the fact that SSB professionals only include in the report that information they consider relevant for the purposes for which it is issued, would result in an action in accordance with the principle of data minimization, enshrined in the Article 5.1.c) of the RGPD. Thus, in order to comply with this principle, the report must not incorporate all the information that the SSBs would have, nor that which the claimants here would like to include, but only that which the SSBs consider proportionate in relation to the purpose for which the report was issued. Having said that, there would be no problem in the City Council, if it deems it appropriate, to include the information cited above in the file (not in the report) of the SSBs linked to the people making claims here.

4.2.- On the rectification of the information gathered in the following sections of the application, in which the incorporation of valuations, opinions and appreciations into the report would be requested: I.1, II.2, II.5, III. 3, V.1, V.2, V.3, V.4, V.7, VI.1, VI.2, VI.4.

As already stated, the SSB's report was issued on the occasion of the referral of the case to the EAIA, and the data included therein are those which the SSB considered appropriate in relation to this purpose. For this reason, it cannot be considered that the report is not accurate or complete for not having incorporated into it what are still appreciations, opinions and evaluations of the people here claiming about the state of the minor or about the performance of certain bodies or institutions.

In fact, it is surprising that the people making claims here even want to include in the section "*Valuation. Diagnostic hypothesis/prognosis*" of the report - in which, as the name suggests, the assessments of SSB professionals are collected -, their own assessments and opinions (sections V.7', VI.1' of the request); or, those carried out by professionals from other administrations (the EAIA) on dates subsequent to the issuance of the report (section VI.2' of the application).

4.3.- On the rectification of the information collected in the following sections of the application, referring to SSB coordination and meetings: IV.5, V.5, V.6.

With regard to the detailed information in sections V.5 and V.6 of the application - referred to in the "*School information (...)(...)*" section of the report - it must be said that from its literal ("*in coordination with MAPA ... they inform us*", "*From MAPA they explain...*") it is clear that this does nothing more than collect the information about the people here claimants was discussed in those meetings/coordination between professionals.

Therefore, in any case, it would be the people who attended these meetings who would know the topics that were discussed there and in what terms and, consequently, those who they could hypothetically question whether or not the data collected in the report reflects the

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content of said meetings. And it is in this sense that, to the extent that the report would be limited to collecting what was discussed in the meetings held between different professionals, the requested rectification does not proceed. The people here claimants they may not agree with the information that was discussed about them in those meetings, but this is an issue that would be outside the right of rectification that is analyzed here with regard to the processing of information by the SSBs.

On the other hand, with regard to the detailed information in section IV.5 of the application - referred to in section "7. Approach that has been made to the family from the SSAP regarding the derivation to the EAIA" of the report - it must be said that the people making claims here have not proven the inaccurate or incomplete nature of the information collected there. In this regard, it must be said that this section, as its name indicates, must reflect the approach/guidance that the SSBs gave to the family, and not what the family (the claimants here) would have liked the SSBs to have proposed to them.

4.4.- Regarding the information collected in section V.9 of the application.

In the SSB report, in section "3.2. Current situation", the following text is included: *"During the last months (...) he does not attend MAPA due to the complaints and trials that take place with the young people and colleagues of the UEC"*.

The people making claims here request the replacement of this paragraph with the following: *"During the last months (...) he does not attend MAPA due to his repeated visits to the Emergency Department and hospital stays, until his access to the UCA SA (...). (...)"*.

As can be seen, the discrepancy lies essentially in the reason for the minor's absence from MAPA. Well, according to the extensive documentation provided by the claimants here, during this period (*"the last months"*), the minor was admitted several times to different institutions; and the judicial procedure in which the minor appeared as the complainant was also being processed. Based on the above, the information collected by the SSBs in the report at this point cannot be said to be incorrect or inaccurate, but it would be capable of being completed. Therefore, the information contained in the referred section of the report will have to be supplemented in the sense that the minor's lack of attendance at the MAPA would also be caused by her *"repeated visits to the Emergency Department and hospital stays"*.

In view of all that has been said regarding the merits of the claim, from a legal perspective of rectification regulated in the RGPD and the rest of the applicable personal data protection regulations, the present claim for the protection of the right of rectification should be considered in part, in the terms explained in section 4.4 of this legal basis.

5.- In accordance with what is established in articles 16.3 of Law 32/2010 and 119 of the RLOPD, in cases of estimation of the claim for the protection of rights, the manager of the file must be required so that in the period of 10 days makes effective the exercise of the right of rectification of the person claiming. In accordance with this, it is necessary to require the entity

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claimed so that within 10 counting days from the day after the notification of this resolution, in order to add to the section "3.2. *Current situation*" of the controversial report, an annotation that reflects that the minor's lack of attendance at the MAPA would also be due to "*repeated attention in the Emergency Department and hospital stays*". Once this entry has been made and the claimants are notified, within the same period of 10 days, the claimed entity must report to the Authority.

For all that has been exposed,

RESOLVED

- 1.- Estimate in part the guardianship claim made by Ms. (...) and Mr. (...), in his own name and his minor daughter, against the City Council of (...) del Vallés, in accordance with the explicitness in the 3rd grounds and in section 4.4 of the 4th Ground of this resolution, and to dismiss it in the rest.
- 2.- Request the City Council of (...) del Vallés to carry out the aforementioned action to the 5th legal basis, in the form and term provided for there, and accredit before this Authority the actions carried out to comply with it.
- 3.- Notify this resolution to the City Council of (...) del Vallés, and to the people claimants
- 4.- 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, the interested parties may file any other appeal they deem appropriate for the defense of their interests.

The director,