

Carrer Rosselló, 214, Esc. A, 1r 1a  
08008 Barcelona

## File identification

Resolution of the rights protection procedure no. PT 22/2020, petition against the Federation Catalan Tennis.

## Background

1.- On 08/06/2020 the Catalan Data Protection Authority received a letter from Mr (...) (hereinafter, the person making the claim) represented by the commercial entity (...) against the Catalan Tennis Federation, for which he made a claim for the alleged disregard of the right of deletion, which he had previously exercised on 09/08/2019 in front of the Catalan Tennis Federation (hereafter, FCT).

The claimant provided various documentation relating to the exercise of this right.

2.- On 06/16/2020, the claimant submitted a new letter through which he provided an email sent by the FCT on 06/09/2020.

3.- On 06/29/2020, the Authority forwarded said documentation to the data protection delegate of the FCT, in order for him to respond to the claim within one month, and to forward this response to the Authority, in accordance with the provisions of article 37.2 of Organic Law 3/2018, of December 5, on Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD).

4.- On 21/07/2020, the FCT responded to this Authority by providing a copy of the letter it sent to the claimant on that same date. In that letter, the FCT informed the claimant, among others, of the following:

- That *"your email was removed from the federated database on February 11, 2020 by the people responsible for the Federation's database platform (...)"*.
- That by continuing to *"receive emails and after analyzing what happened, they were able to verify, from the company that manages the database platform of this Federation, that the address to which the emails were sent was duplicated by another federation that it turns out he's his son and he registered as federated with the same mail"*.
- That it is for this reason that *"after deregistering your email from the Federation in the database by the company in charge and with notice to the Federation, you will continue to receive newsletters"*.
- That once this extreme was detected *"it proceeded to block and deregister both emails of both federated"*.

The FCT provided various documentation.

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## 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 was formulated with respect to a request to exercise the right of deletion that had been presented to the claimed entity on 09/08/2019, in accordance with the provisions of Article 17 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 processing of personal data and the free movement thereof (hereinafter, the RGPD), section 1 of which provides for the following:

*"1. The interested party will have the right to obtain without undue delay the deletion of the personal data concerning them from the controller, who will be obliged to delete the personal data without undue delay when any of the following circumstances occur:*

- a) personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;*
- b) the interested party withdraws the consent on which the treatment is based in accordance with article 6, section 1, letter a), or article 9, section 2, letter a), and this is not based on another legal basis;*
- c) the interested party objects to the treatment in accordance with article 21, section 1, and other legitimate reasons for the treatment do not prevail, or the interested party objects to the treatment in accordance with article 21, section 2;*
- e) personal data must be deleted for the fulfillment of a legal obligation established in the Law of the Union or of the Member States that applies to the person responsible for the treatment;*
- f) the personal data have been obtained in relation to the offer of information society services mentioned in article 8, section 1. (...)."*

Also, regarding the rights regulated in articles 15 to 22, article 12.3 of the same RGPD determines that the data controller must provide the interested party with all the information related to their actions derived from the exercise request of the right, within one month from the receipt of said request. For its part, article 12.4 of the RGPD establishes that in the event that the person in charge does not proceed with the request, within the same period of one month he must inform the requesting person of the reasons for which has not resolved the request and of the possibility of presenting a claim before the Authority and of taking legal action, communication that the claimed entity also did not carry out.

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 the 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 period, they can submit a claim to the Authority Catalan Data Protection Authority."*

For its part, article 37.2 of the LOPDGDD enables the control authorities to forward claims received to the delegated person for data protection of the person in charge of the treatment to which the claim refers, in the following terms:

*"2. When the person concerned submits a claim to the Spanish Data Protection Agency or, where appropriate, to the autonomous data protection authorities, they may refer the claim to the data protection delegate so that he responds in the term of one month. If after this period the data protection delegate has not communicated to the competent data protection authority the response given to the claim, this authority must continue the procedure in accordance with the provisions of Title VIII of this Law organic and its rules of deployment".*

3.- Next it is necessary to analyze whether the FCT has resolved and notified, within the period provided for by the applicable regulations, the response to the request made by the person making the claim, on 09/08/2019, since the reason for the complaint the claimant who initiated the present legal guardianship procedure failed to obtain a response within the period provided for the purpose.

In this regard, it is certified that the person claiming exercised the right to delete their data before the FCT on 09/08/2019. In turn, it is also considered proven that the FCT did not resolve said request within the period provided for the purpose, given that as stated by the FCT itself in the letter of response sent to this Authority, dated 21/ 07/2020, he sent an email to the claimant on 07/10/2020, indicating that "(...) *at the same time that you asked us not to receive more communications, we proceeded to carry out the appropriate procedures, although apparently, it has been carried out (...)*".

In view of what has been presented here, it is clear that the FCT's response to the data deletion request that is the subject of this claim was clearly untimely, since it should have been dealt with within the deadline of the month established in article 12.3 of the RGPD, that is to say, at the latest on 08/10/2019.

4.- In relation to the substance of the claim, it is necessary to analyze whether the information provided by the FCT to the claimant conforms to the regulations mentioned in the 2nd legal basis.

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As evidenced in the procedure, the claimant exercised his right of deletion before the FCT, in relation to all his data on 09/08/2019, given that he specifically indicated "(...)sol· request to exercise the right of deletion (...)".

However, according to the letter of response from the FCT received by this Authority on 21/07/2020, it seems that the FCT has only satisfied the right to delete the data of the person making the claim regarding only your email data, but not with regard to the rest of your data, given that it states:

*"(...)When you continued to receive mail and after analyzing what happened, they were able to verify, from the company that manages the database platform of this Federation, that the address to which the mail was sent was duplicated por otro federado that turns out to be his son and he registered as federado with the same address, that is to say, Mr. (...) with registered mail (...) is the same as the federal Mr. (...), (license number (...)) so that you, after deregistering your mail from the Federation in the database by the company in charge and with notice to the Federation, would continue to receive informative mails Once this was detected, they proceeded to block and delete both emails of both federated (...)".*

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 controller must be required so that in the period of 10 days makes the exercise of the right effective.

For the reasons indicated in the 4th legal basis, it is necessary to require the FCT so that, within 10 counting days from the day after the notification of this resolution, it communicates to the person claiming the effective deletion of their personal data . Once this communication has been made, the FCT will have to accredit before the Authority, the receipt of the notification of the resolution to the person claiming, within 10 days, counters from the day after the notification of this resolution.

For all that has been exposed,

RESOLVED

First.- Estimate the guardianship claim made by Mr. (...) against the Federation Catalan Tennis Association (FCT).

Second.- To require the FCT so that within 10 days, counting from the day after the notification of this resolution, it makes effective the right of deletion exercised by the person making the claim, in the manner indicated in the basis of right 5th Once the aforementioned right has become effective, within the same period of 10 days the FCT must give an account of it to the Authority, according to the terms provided for in the aforementioned legal basis.

Third.- Notify this resolution to the Catalan Tennis Federation (FCT) and the person making the claim.

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,