

In this resolution, the references to the affected region have been hidden in order to comply with art. 17.2 of Law 32/2010, given that in case of revealing the name of the affected region, the natural persons affected could also be identified.

## File identification

Resolution of the rights protection procedure number PT 5/2021 and accumulated, urged against the County Council (...).

## Background

1. On 08/01/2021 it was submitted to the Catalan Data Protection Authority, by referral from the Commission for the Guarantee of the Right of Access to Public Information (complaints presented to said Commission with numbers (...), (...), (...), (...), (...), (...) and (...)/2020), seven writings by Mrs. (...) (hereinafter, the person making the claim), made a claim for the alleged neglect of the right of access to his personal data, which he had previously exercised before the Regional Council (...) (hereinafter, the CC). Specifically, the claimant requested the CC, on 10/29/2020, for the following documentation:

1.1. Application with registration in the CC no. E2020010329 (procedure of rights protection no. PT 5/2021):

1.1.1. "Copy of the two letters dated March 13 and 22, 2017, sent by the City Council of (...) to (...) (...).

1.1.2. Copy of proof of receipt of these two documents by (...) (...).

1.1.3. Copy of the notification of these two letters to (...), Treballadora Social del (...), assigned to (...) on those dates.

1.1.4. Copy of proof of receipt of these two notifications received for (...).

1.1.5. Copy of file filed by (...) as a result of the notification and awareness of these complaints by the city council of (...).

1.1.6. Copy of the resolution adopted in this file."

1.2. Application with registration in the CC no. E2020010330 (procedure of rights protection no. PT 6/2021):

1.2.1. "Copy of the letter presented by Ms. (...), in the Entry Register of (...) (...), referred to in point 6 of the report dated September 16, 2020 issued by the primary care referents of social services of (...) (...), Mr. (...) and Ms. (...)."

1.3. Application with registration in the CC no. E2020010332 (procedure of rights protection no. PT 7/2021):

- 1.3.1. "Copy of the formal complaint received in the mailbox of the head of the Social Services Area on June 16, 2017, regarding the intervention of Ms. (...), by the social worker of the 3rd Age Residence, (...), (...).
- 1.3.2. Copy of the Entry Register of (...)(...) of the formal complaint referred to in point 7 of the report dated September 16, 2020 issued by the primary care referents of social services of (...)(...), Mr. (...) and Ms. (...)."
- 1.4. Application with registration in the CC no. E2020010333 (procedure of rights protection no. PT 8/2021):
  - 1.4.1. "Copy of the notification by (...) (...) to (...) (Social Worker of (...)()) of the formal complaint regarding the intervention of Ms. . (...), by the social worker of the 3rd Age Residence, (...), (...), received in the mailbox of the head of the Social Services Area on June 16, 2017 .
  - 1.4.2. Copy of proof of receipt of this notification to (...).
  - 1.4.3. Copy of file filed by (...) (...) in Ma (...), as a result of knowledge of this complaint.
  - 1.4.4. Copy of the resolution adopted in this file."
- 1.5. Application with registration in the CC no. E2020010338 (procedure of rights protection no. PT 9/2021):
  - 1.5.1. "Copy of the letter/document that Ms. (...) (Educadora Social) has presented to those in charge of (...)(), where he expresses disagreements with Mrs. (...) during the period that coincided with providing the service to the City Council of (...)", which was referred to in point 8 "of the report dated September 16, 2020 issued by the referents of primary care of social services of (...)(), Mr. (...) and Ms. (...)."
- 1.6. Application with registration in the CC no. E2020010339 (procedure of rights protection no. PT 10/2021):
  - 1.6.1. "Copy of the letter of complaint submitted to the Entry Register of (...) by Mrs. (...).
  - 1.6.2. Identity of the person and position held within the administration of the County Council (...), who attended, received and received the complaint of Mrs. (...).
  - 1.6.3. Copy of the notification by (...) (...) to (...) (Social Worker of (...)()) of the complaint presented by Ms. (...).
  - 1.6.4. Copy of proof of receipt of the notification of the complaint to (...)."
- 1.7. Application with registration in the CC no. E2020010340 (procedure of rights protection no. PT 11/2021):

- 1.7.1. "Copy of the complaint submitted to the Entry Register of (...) (...) by the mayor of (...) (Mrs. (...)) of Mr. (...).
- 1.7.2. Copy of the complaint submitted to the Entry Register of (...) (...) by Mr. (...).
- 1.7.3. Copy of the notification by the (...) (...) to (...) (Social Worker of (...) (...)) of the complaint presented by Mr. (...).
- 1.7.4. Copy of proof of receipt of the notification of the complaint to (...)."

The claimant provided various documents. Among this documentation, he provided Decree of the Presidency of the CC no. (...) /2020, of 12/21/2020, by which access to all the requested information was denied, considering that the limit established in article 21.1.d) of Law 19 was applicable /2014, of December 29, on transparency, access to public information and good governance (hereinafter, LTC), under which the right of access to public information may be denied or restricted if knowledge or disclosure of the information entails a detriment to the principle of equality of the parties in judicial processes or to effective judicial protection.

Having said that, and as inferred from said Decree, all the requests were related to a "report issued by the Regional Council (...) at the request of the Court of First Instance no. 1 of (...) within the framework of ordinary procedure no. (...) /2018 processed at the request of Ms. (...), as an acting party, against Mr. (...), Mr. (...), and the (...), who are the defendant in that process."

2. On 01/18/2021, the seven claims were transferred to the CC in order for it to formulate the allegations it deemed relevant.

3. The CC formulated allegations by means of a letter dated 02/16/2021, in which it set out, in summary, the following:

- That the person making the claim did not make the requests regarding the exercise of the right of access provided for by the data protection regulations.

ÿ In relation to the request with entry registration in CC no. E2020010329 (PT 5/2021), set out:

- That the claimant assumes the existence of all the documentation requested in this letter. Any assessment of the access request should be limited to the documentation that actually exists and not to all that the applicant assumes exists.

- That for the purposes of protecting the data of the person who made the complaint, it would also be necessary to count on the latter's consent, because in this writing there may also be data of this person who may legitimately want to exclude from the knowledge of the person making the complaint, who was not the recipient of that letter.

ÿ That the complaints referred to in the claimant's request were presented to the City Council of (...), so it is considered that the request for access should be made before that administration and not before the CC which has only had knowledge of these in a derivative way.

ÿ In relation to the request with entry registration in CC no. E2020010330 (PT 6/2021), set out:

- That the person making the claim assumes that the complaint made by the user is in writing.
- That this circumstance is not apparent from the report of the referents of the Social Services Area of the CC sent to the Court. From the wording of the report, it seems that the record that the signatories would have of the same would be based on the knowledge of those that the user would have transferred to them.

ÿ In relation to the request with entry registration in CC no. E2020010332 (PT 7/2021), set out:

- That the complaint is transcribed in its entirety in the text of the report sent to court
- That it is considered that the issue is not one of access to personal data, since this access has been effectively verified through the transcription made in the report sent to the Court, but that the claim limits its object to the obtaining a copy of the material support, an aspect that is considered not to be included in the right of access to personal data.
- That, as it seems, this is a communication made by a third party via email, the concurrence of the consent of the person sending it is considered necessary in order to make a copy of it, since this writing can also contain data personal data of the person making the complaint, capable of being individualized, who does not want them to be available to the person making the complaint.

ÿ In relation to the request with entry registration in CC no. E2020010333 (PT 8/2021), set out:

- That the claimant presupposes the existence of the documentation he requests, a circumstance that cannot be inferred directly or indirectly from the content of point 7 of the technical report of 09/16/2020 addressed to the Court, so any right of access to the requested documentation must result from its effective existence.

ÿ Which part of the requested documentation (if it exists) would refer to documentation regarding which it would have already been sent to the claimant (through the "copy of the notification by the (...) (...) to (...)"), so we would not be faced with a case of denial of access to personal data since documents are requested that the claimant considers to have been sent to her.

ÿ In relation to requests with entry registration in CC no. E2020010339 and E2020010340 (PT 10/2021 and PT 11/2021, respectively), set out:

- That the requests that are made have an impossible content given that although the report addressed to the Court clearly states that the complaint of Ms. (...) was of a verbal nature - and the same is inferred contextually from the complaints to the Mayor of (...) made by the user's son -, the claimant requested "a copy of the 'written complaint' and the written documentation associated with this verbal complaint, requests that cannot be accommodated for the reason that written access cannot be given to something that has not been produced in this format.

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In relation to the request with entry registration in the CC no. E2020010338 (PT 9/2021), the claimed entity has not submitted allegations.

On the other hand, the CC also makes allegations against the access requests made by the person here claiming with entry registration in the CC no.

E2020010335 and E2020010341 (which were resolved together with the rest of the requests previously identified through Decree of the Presidency of the CC no. (...)/2020 of 21/12/2020). In this regard, it should be noted that the claimant has not submitted any claim for the alleged disregard of the right of access with regard to these two requests, so they are not the subject of this resolution.

#### 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.

Since it is considered that the seven claims that have been mentioned in the background, and that gave rise to the proceedings for the protection of rights with PT numbers 5, 6, 7, 8, 9, 10 and 11/2021, keep a connection derived from the fact that in all cases the interested parties are the same (claimant and claimant) and the object has common elements, it is agreed to accumulate rights protection procedures PT numbers 6, 7, 8, 9, 10 and 11/2021 in the rights protection procedure no. PT 5/2021, in accordance with the provisions of article 57 of Law 39/2015, of October 1, of the common administrative procedure of public administrations (hereinafter, LPAC) and, therefore, resolve together in a single resolution all claims.

2. Article 15 of Regulation (EU) 2016/679 of the European Parliament and of the Council, of April 27, relating to the protection of natural persons with regard to the processing of personal data and the free movement of such data (hereafter, the RGPD), regarding the right of access of the interested person, provides that:

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

- a) the purposes of the treatment;
- b) the categories of personal data in question;
- c) the recipients or the categories of recipients to whom the personal data was communicated or will be communicated, in particular recipients in third parties or international organizations;
- d) if possible, the expected period of personal data conservation or, if not possible, the criteria used to determine this period;

- e) the existence of the right to request from the person in charge the rectification or suppression of personal data or the limitation of the treatment of personal data relating to the interested party, or to oppose said treatment;
  - f) the right to present a claim before a control authority;
  - g) when the personal data has not been obtained from the interested party, any available information about its origin;
  - h) the existence of automated decisions, including profiling, referred to in article 22, sections 1 and 4, and, at least in such cases, significant information about the logic applied, as well as the importance and expected consequences of said treatment for the interested party.
2. When personal data is transferred to a third country or an international organization, the interested party will have the right to be informed of the appropriate guarantees under article 46 relating to the transfer.
3. The person responsible for the treatment will provide a copy of the personal data subject to treatment. The person in charge may charge a reasonable fee based on administrative costs for any other copy requested by the interested party. When the interested party presents the request by electronic means, and unless he requests that it be provided in another way, the information will be provided in a commonly used electronic format.
4. The right to obtain a copy mentioned in section 3 will not negatively affect the rights and freedoms of others."

In relation to the rights contemplated in articles 15 to 22 of the RGPD, paragraphs 3 to 5 of article 12 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 requests. 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.
5. The information provided under articles 13 and 14 as well as any communication and any action carried out under



Articles 15 to 22 and 34 will be free of charge. When the requests are manifestly unfounded or excessive, especially due to their repetitive nature, the person in charge may:

a) charge a reasonable fee based on the administrative costs incurred to facilitate the information or communication or perform the requested action, or

b) refuse to act in respect of the request.

The person responsible for the treatment will bear the burden of demonstrating the manifestly unfounded or excessive nature of the request.

(...)"

For its part, article 13 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 to access:

"1. The affected person's right of access must be exercised in accordance with the provisions of Article 15 of Regulation (EU) 2016/679.

When the person in charge processes a large amount of data relating to the affected person and he exercises his right of access without specifying whether it refers to all or part of the data, the person in charge may request, before providing the information, that the affected person specifies the data or the processing activities to which the request refers.

2. The right of access is understood to be granted if the data controller provides the affected person with a remote, direct and secure access system to personal data that guarantees, permanently, access to all of it. For this purpose, the communication of the person in charge to the person affected by the way in which he can access the aforementioned system is sufficient to consider the request to exercise the right.

However, the interested party can request from the person in charge the information referred to the ends provided for in article 15.1 of Regulation (EU) 2016/679 that is not included in the remote access system.

3. For the purposes established in article 12.5 of Regulation (EU) 2016/679, the exercise of the right of access more than once during the period of six months can be considered repetitive, unless there is a legitimate reason for do it

4. When the person affected chooses a means other than the one offered to him that involves a disproportionate cost, the request must be considered excessive, so the said affected person must assume the excess costs that your choice behaves. In this case, the person in charge of the treatment is only required to satisfy the right of access without undue delay."

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. The interested persons who are denied, in part or in full, the exercise of the rights of access, rectification, cancellation

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or of 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 Catalan Data Protection Authority."

3. In advance, it should be noted that article 24.3 of Law 19/2014, of December 29, on transparency, access to public information and good governance (hereafter, LTC) specifies the following:

"3. Requests for access to public information that refer only to the applicant's personal data must be resolved in accordance with the regulation of the right of access established by the legislation on the protection of personal data. "

In the present case, the requested documentation was linked to several complaints regarding the person making the claim in her capacity as an employee of the CC. So, to the extent that this documentation referred to the person making the claim, the regime applicable to access requests is that provided for in article 15 of the RGPD.

4. Once the above has been settled, it is necessary to analyze the substance of the claims, that is to say whether, in accordance with the precepts transcribed in the 2nd legal basis, in this case access to the data in the terms that request of the person making the claim.

As a starting point, it should be borne in mind that article 15 of the RGPD defines the right of access as the right of the affected person to obtain information about their own personal data that is the subject of treatment and, in such case, access said data and information on the purposes of the treatment, the categories of personal data, the recipients to whom the personal data have been communicated or will be communicated, as well as the rest of the information detailed in article 15.1 of the RGPD. In addition, article 15.3 of the RGPD expressly recognizes the right of any person to obtain from the data controller a copy of the document containing the personal data for which access has been requested.

The right of access is a very personal right, and constitutes one of the essential powers that make up the fundamental right to the protection of personal data. As has already been advanced, through the right of access the owner of the data can find out which data about his person are the subject of treatment. In addition, this right could be the basis for the exercise of other rights, such as those of rectification, deletion, limitation, portability or opposition.

This is why the limitations to this right of access must be minimal given that through its exercise the effectiveness of the fundamental right to the protection of personal data is guaranteed. The reasons for denying the right of access are found in article 23 of the RGPD, which must be provided for "through legislative measures" (art. 23.1 GDPR).



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At this point, it should be noted that in the joint resolution of said requests (through Decree of the Presidency of the CC no. (...)/2020, of 21/12/2020) the CC denied access to the requested information by applying the limit provided for in the article 21.1.d) of the LTC, since he considered that the knowledge or disclosure of the requested information could lead to a detriment to the principle of equality of the parties in the judicial process related to the present guardianship procedures (procedure ordinary order no. (...)/2018 of the Court of First Instance no. 1 of (...), or for effective judicial protection.

This limit provided for by the LTC could be assimilated to that contemplated in article 23.1.f) of the RGPD, which provides the following:

"1. The law of the Union or of the Member States that applies to the person responsible for the treatment may limit, through legislative measures, the scope of the obligations and the rights established in articles 12 to 22 and the article 34, as well as in article 5 to the extent that its provisions correspond to the rights and obligations contemplated in articles 12 to 22, when such limitation essentially respects fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard: (...)

f) the protection of judicial independence and judicial procedures; (...)"

Although the CC has not invoked this limit in its letter of allegations, it should be pointed out that it is not considered to be applicable here to the extent that the documentation requested by the person making the claim relates to documentation linked to several complaints submitted before the CC referring to the claimant, and it is not observed that access to the requested documentation could harm judicial independence or the judicial procedure to which reference has been made.

On the other hand, it should be noted that in accordance with article 15.1.g) of the RGPD, the person making the claim has the right to obtain information about the origin of the data. This would give the complaining person the right to access not only the direct information about them that the CC may have, but also the identity of the people who have provided the information as a result of a complaint against them. In other words, the person making the claim has the right to know what was said about them and who said it.

So, in order to comply with the provisions of article 15.1.g) of the RGPD, it would be sufficient to identify the people who have provided information about the person making the claim.

In this respect, the person who submits a complaint regarding the performance of a public employee, should anticipate that she may know the facts or

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situations that are part of the story that supports the complaint, to the effect that you can refute them and defend yourself.

Having said that, article 15.4 of the RGPD also provides that the right to obtain a copy of the personal data subject to access must not negatively affect the rights and freedoms of third parties.

Therefore, the person making the claim has the right to access the requested documentation that refers to their person, except for those data of the people who made the complaints that are not necessary for their identification. That, except that those people had exercised their right of opposition, a circumstance that is not recorded or accredited, or even invoked, by the CC.

Having established the above, as has been advanced, the CC has formulated specific allegations regarding each of the requests for access, except for the request for access with entry registration in the CC no. E2020010338 (PT 9/2021), which are addressed below separately.

4.1. In relation to the request with entry registration in the CC no. E2020010329 (PT 5/2021):

In its statement of objections, the CC states that the claimant presupposes the existence of all the documentation he requested and that has been described in fact background 1.1 of this resolution.

As the CC indicates, the right of access cannot be satisfied with respect to documentation that does not exist. However, it should be emphasized that the CC does not specify in its statement of objections which documentation does not exist.

Given the above, as will be explained later, in the event that any of the documentation requested by the person making the claim through the request addressed here does not exist, the CC will have to communicate this to the person making the claim. Regarding the documentation that does exist, a copy must be provided to the person making the claim.

Next, the CC indicates that to facilitate access to written complaints, it would be necessary to have the consent of the person who formulated them.

Well, in the present case the consent of the person who submitted the complaint is not required since the treatment (facilitating access) is based on the fulfillment of a legal obligation applicable to the person responsible (the CC), in accordance with articles 6.1.ci 15 of the RGPD, which establishes that the interested person has the right to know the origin of his data and the data subject to treatment.

Therefore, the person making the claim has the right to know the identity of the person making the complaint, the action that led to the complaint and any other aspect relating to him/her that appears in the requested documentation. In addition, it should be noted that the

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the person who formulated the complaints should have the reasonable expectation that the working person to whom these referred, could know the facts or situations that are set out in the complaint, for the purposes that he can refute them and defend himself .

In turn, it is necessary to demonstrate that in the technical report of 09/16/2020 that the CC addressed to the Court of First Instance, to which it is certified that the person making the claim has access, the person who formulated the complaints is already identified and there the content of the two complaints that this person presented on 03/13/2017 and 03/22/2017 is partially transcribed.

Having said that and, although the regulations on data protection do not expressly provide for the transfer of an access request to third parties who may be affected, nothing prevented the CC from doing so in order to allow third parties people can exercise their right of opposition in accordance with article 21 of the RGD.

In the present case, however, there is no evidence that the CC had transferred the request for access to the person who made the complaints, nor that this person had exercised his right of opposition.

Therefore, unless it is proven that the opposition to the access of the affected third party (the person who made the complaints) is based on a particular situation that must prevail, taking into account that the person making the claim already knows the his identity and that the aforementioned report contained a partial transcript of the reasons for the complaints, it must be concluded that the person has the right to access the requested documentation.

However, it should be reiterated that access must not include information relating to third parties other than the claimant, which is not necessary for the identification of the person providing the data (person who made the complaints) and of the action that is the reason for both complaints.

On the other hand, the CC states that the complaints referred to in the claimant's request were presented to the City Council of (...), which is why it considers that the request for access should formulate to that administration and not to the CC that has only had knowledge of these in a derivative way.

Regardless of whether the two complaints addressed here were presented to the City Council of (...), the CC was aware of them. So, we are dealing with information or documentation that is being processed by the CC and, therefore, to which the interested person can access by exercising the right of access regulated in article 15 of the 'RGPD.

All this, without prejudice to the fact that the interested person can also exercise his right of access before the City Council of (...).

4.2. In relation to the request with entry registration in the CC no. E2020010330 (PT 6/2021):

In relation to the request for access with entry registration no. E2020010330, the CC is limited to indicating that the person making the claim assumes that the complaint made by the user is written and that, according to the technical report of 09/16/2020 issued by the CC itself, it is inferred that the people who 'elaborares would be aware of it because the user would have conveyed it to them.

Therefore, the CC does not clarify whether the complaint requested in the request referred to in this section is in writing or not, a circumstance that should be known. On the other hand, the CC does not formulate any allegation against granting access.

Therefore, if the complaint has been submitted in writing, or otherwise (provided and when the CC has collected this information), the claimed entity must deliver a copy of the documentation or information it has. Otherwise, you must specify that this documentation or information does not exist and provide the person making the claim with the information available on the complaint.

4.3. In relation to the request with entry registration in the CC no. E2020010332 (PT 7/2021):

Regarding the application with entry registration no. E2020010332, the CC states in its pleadings that the complaint is transcribed in its entirety in the technical report of 09/16/2020 addressed to the Court and that the way to access said information is not part of the right of access. The CC adds that, in the case of a communication made by a third party via e-mail, the latter's consent would be required.

In relation to the need for the consent of the person who made the complaint, reference should be made to what has already been explained in this regard in section 4.1 of this legal basis.

In this sense, it should also be noted that in the technical report prepared by the CC on 16/09/2020 the person who made the complaint that is the subject of this request was identified and that it was transcribed there (in full, as claimed by the claimed entity).

With regard to the access system, as can be seen from article 15.3 of the RGPD and article 13.4 of the LOPDGDD, the interested person can choose the access system.

Likewise, article 28.1 of Royal Decree 1720/2007, of December 21, which approves the Regulation for the development of Organic Law 15/1999, of December 13, on the protection of personal data - RLOPD - (in force in everything that is not opposed or incompatible with the RGPD and the LOPDGDD), regarding the exercise of the right of access, provides that the affected person can choose the data consultation system.

In any case, as has been reiterated, article 15.3 of the RGPD provides that the person in charge will provide a copy of the personal data subject to treatment, which is why the person claiming has the right to obtain a copy of said email through which the complaint was made.

In turn, the person making the claim also has the right to access the rest of the information they requested through the request addressed here (copy of the CC entry of this complaint). In the event that this documentation does not exist, the CC must communicate this to the person making the claim.

4.4. In relation to the request with entry registration in the CC no. E2020010333 (PT 8/2021):

In relation to the request for access with entry registration no. E2020010333, the CC states in its pleadings that the claimant presupposes the existence of the documentation he requests (described in factual background 1.4 and which is linked to the complaint that has been resolved in 'previous section), a circumstance that cannot be inferred from the content of point 7 of the technical report of 09/16/2020 addressed to the Court.

In this case, the CC also does not specify in its statement of objections what is the documentation that would not exist and with respect to which the right of access could not be satisfied. Therefore, in the event that any of the documentation requested by the person making the claim does not exist in the request addressed in this section, the CC will have to notify the person making the claim. As for the documentation that does exist, the person making the claim has the right to access it.

Next, the CC states in its statement of objections that if the requested documentation existed, it should have already been sent to the person making the claim through the "notification by the (...) (...) to (...) " (documentation also requested by the claimant).

So, after indicating that the claimant cannot assume that the requested documentation exists, the CC states that if it existed it would have already been sent to him, a statement that he does not substantiate and that is formulated in terms of mere supposition.

Given that the CC has not proven to this Authority that it has given the person claiming the documentation described in fact precedent 1.4, nor that in the event that it has done so, that the exercise of the right of access is repetitive in the terms established in articles 12.5 of the RGPD and 13.3 of the LOPDGDD, it should be reiterated that the person making the claim has the right to access the requested documentation. In the event that any of the documentation requested through the request referred to here does not exist, the CC must notify the person making the claim.

4.5. In relation to requests with entry registration in CC no. E2020010339 and E2020010340 (PT 10/2021 and PT 11/2021, respectively):

Regarding the two requests with entry registration no. E2020010339 and E2020010340, the CC states in its statement of allegations that both have an impossible content given that the report addressed to the Court clearly states that the complaint of Mrs. (...) was of a verbal nature, which is also inferred in the report regarding the complaints to the Mayor of (...) made by the son of this user.

Well, certainly in said technical report it is indicated that the complaint of the lady (...) (object of the application with entry registration no. E2020010339, as indicated in point 1.6.1 of the factual background 1) was verbal, but this circumstance is not specified with respect to the complaints made by the son of this person (object of the application with entry registration no. E2020010440, as indicated in points 1.7.1 and 1.7.2 of factual background 1r).

That being the case, if indeed all the complaints subject to both requests were verbal and this information was not collected in any form, the CC will have to communicate this to the person making the claim.

However, in the event that any information is available regarding these complaints (for example, for having left a written record or in an information system), it will be necessary to provide a copy of the data that is the subject of treatment regardless of the support in which they are collected.

Having established the above, and although the CC has not made any allegation in this regard, it is appropriate to address the request of the person here claiming in order to be provided with the "Identity of the person and position he holds within the administration of County Council (...), which attended, received and received the complaint of Ms. (...)" (point 1.6.2 of the factual background 1).

In this respect, it should be noted that article 15 of the RGPD does not include the obligation, for the person in charge, to communicate the identity of specific people who, as staff of the entity responsible for the treatment, have been able to process the data of the person concerned.

Therefore, the claimant does not have the right to access this information by virtue of the right of access regulated by the regulations on data protection.

Having said that, with regard to the rest of the documentation also requested by the claimant (described in points 1.6.3, 1.6.4, 1.7.3 and 1.7.4 of factual background 1 of this resolution), the CC must provide a copy to the person making the claim, unless this documentation does not exist, in which case it must specify it to the person making the claim.

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 protection of rights, the manager of the file must be required so that within the term of 10 days make effective the exercise of



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right In accordance with this, it is necessary to require the claimed entity so that, within 10 counting days from the day after the notification of this resolution, it makes effective the exercise of the claimant's right of access in the following terms:

- 5.1. The CC must provide the claimant with a copy of the documentation or information described in points 1.1 to 1.7 of factual background 1 of this resolution, except for that described in point 1.6.2 ("Identity of the person and position he holds within the administration of the County Council (...), which he served, reception and receive the complaint from Ms. (...)").

Access must not include information relating to third parties other than the claimant, which is not necessary for the identification of the person who provided the data (person who made the complaint), to know the action that led to the complaint and any other aspect relating to your person that appears in the requested documentation; as well as that information regarding which the CC proves to have estimated the right of opposition exercised by a third party affected and which has been based on a particular situation that must prevail.

- 5.2. In the event that any of the documentation subject to access does not exist and this information was not collected in any medium, the CC must inform the claimant of this circumstance (while specifying the documentation or information that does not exist) .

In the specific case of complaints, the CC must indicate to the person making the claim whether it has any information on the matter, and if so, provide a copy of the data that is the subject of treatment regardless of the medium in which are collected

Once the right of access has been made effective in the terms set out and the person making the claim has been notified, within the same period of 10 days the claimed entity must give an account to the Authority.

For all this, I resolve:

1. Estimate the guardianship claims made by Mrs. (...) against the Regional Council (...), except for that relating to access to the information described in point 1.6.2 of the factual background 1st
2. Request the CC so that, within 10 counting days from the day after the notification of this resolution, the right of access exercised by the person making the claim is effective, in the terms indicated in the 5th legal basis . Once the right of access has taken effect, within the same period of 10 days the claimed entity must report to the Authority.
3. Notify this resolution to the CC and the person making the claim.

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

Against this resolution, which puts an end to the administrative process in accordance with articles 26.2 of Law 32/2010, of October 1, of the Catalan Data Protection Authority and 14.3 of Decree 48/2003, of 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 the LPAC or to directly file an administrative contentious appeal before the administrative contentious courts of Barcelona, in the period of 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,