In this resolution, the mentions of the affected entity 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 entity, the physical persons affected could also be identified.

File identification

Resolution of the rights protection procedure no. PT 56/2022, urged against the City Council of (...).

Background

1. On 06/02/2022, the Catalan Data Protection Authority received a letter from Ms. (...) (hereinafter, the person making the claim), for which he formulated a claim for the alleged neglect of the right to delete the data relating to him by the company AAA (the corporate name of this company is AAA SL) had dealt on behalf of the City Council of (...).

In his statement of claim, in summary, the claimant stated the following:

- That on 04/02/2022 he exercised his right of deletion before the data controller (AAA company) in the following terms:

  " I want exercise the Right to Delete all my data _ personnel at the disposal of your company, based on art. 17 of the RGPD"

- That this deletion request was accepted by the said company on the same date, without prejudice to the blocking of the data. The person in charge of the treatment informed him that *" we will adopt the measures . " necessary for the purpose of informing those in charge who are dealing sus data personal in order to delete any link , copy or replicate from sus data personal ."*

- That the person in charge of the treatment indicated to him that he referred the request to the City Council, as responsible for the treatment. In this regard, it appears that by means of an email dated 05/02/2022, the person claiming requested the person in charge of the treatment to confirm that the deletion of his data had been communicated to the City Council of (. ..). After several e-mails exchanged, AAA informed him, by e-mail of 02/25/2022, that he had the status of data controller, which is why he was transferring his requests to the City Council of (...) (responsible for the treatment).

- That despite the above, the City Council continued to process his personal data that he had requested to delete. At least three evaluation reports for the mediation of labor conflicts, drawn up by the person in charge of the treatment [in these reports the conflict situation in the Urban Planning Area of the City Council of (...), where the claimant provides services].

- That in these reports, although reference was made to the affected persons as *" Subject 1", " Subject 2", " Subject 3"* , etc., in the reports themselves it is pointed out that " *the correspondence of these codes has provided in an email aparte "* , so its identification was possible. He added that these reports dealt with health data relating to his person and that, from their context, it was deduced that *" Subject 1"* was the person making the claim here.

- That in the contract signed between the City Council of (...) and the company AAA (which it contributed), it was stated that the person in charge must assist the person in charge in responding to the exercise of rights.

- That the said contract did not envisage that the company could process special categories of data, so the person in charge was not authorized to process data relating to their health.

- That the purpose of the order was for the AAA company to carry out mediation and executive coaching services which, according to the claimant, were not carried out.

- That the contract contemplated the duty of confidentiality of the person in charge of the treatment which, in his opinion, would have been violated by providing his data to the City Council. In particular, he emphasized that in these reports an assessment of his person would be made based on clinical psychological criteria, which could not be provided to the City Council.

- That the City Council's data protection officer acknowledged, by email of 03/18/2022, that the person in charge was provided with the *"reports of the conclusions of the Internal Investigation Commission according to procedure PR-PRL-023-E for cases of psychosocial risk that was constituted by his request"* [of the person making the claim].

The claimant provided various documentation, in which he had inserted numerous interspersed comments.

2. On 06/08/2022, the claimant submitted a new letter stating, among others, the following:

- That on 07/06/2022 the City Council had notified him of the resolution rejecting the right of deletion.
- That the right of deletion was exercised in accordance with the circumstances provided for in sections a), b), c) and d) of article 17 of Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 d of April, relating to the protection of natural persons with regard to the processing of personal data and the free movement thereof (hereafter, the RGPD).
- That it was not true, as the City Council claimed, that the treatment linked to the data subject to deletion was based on the fulfillment of a legal obligation, given that there is no rule that requires mediation or coaching .
- That the AAA company's reports were drawn up by a psychologist and a clinical psychologist *"using clinical criteria"* .
- That he was not offered coaching , but *" counseling "* or psychological guidance.
- That some psychologists (AAA company) *"can't go on doing psychological reports, or any personality assessment, without informing the patient, much less without respecting doctor-patient confidentiality afterwards ",* so he considers that there has been unfair treatment of data
- That according to Law 41/2002, the patient has the right to choose a doctor and center.

3. On 06/14/2022, the claim was transferred to the City Council of (...) so that within 15 days it could formulate the allegations it deemed relevant.

4. On 23/06/2022, the City Council of (...) made allegations by means of a letter in which it set out, in summary, the following:

- That the deletion request was resolved, in a dismissive sense, by the City Council on 05/16/2022.
- That until 03/23/2022, when the person making the claim informed her by email, the data protection officer had no record that she had processed the right to deletion through the data controller.
- That by means of an email dated 03/31/2022, the person making the claim stated that the request to exercise the right of deletion had already been made and he considered that he did not need to make any other request for the purposes that the The City Council proceeded to the deletion of the data.

  Aside from the above, the City Council reproduced in its statement of objections several emails exchanged between the person making the claim and the City Council or AAA company.

- That article 66 of Law 39/2015, of October 1, of the common administrative procedure of public administrations (from now on, LPAC) indicates that the requests that are made must contain, among d 'others, the facts, reasons and the request in which your request is specified, with all clarity. He added that a request to exercise the right to deletion based on the RGPD had not been properly processed directly at the City Council, and that the standardized models established by the City Council for this procedure had not been used (art. 66.6 LPAC), but that the communication and request had been made by email.
- That the person making the claim was informed that it was understood that the request for deletion of data by the person in charge had been complied with, and it was explained to him that the City Council would not proceed with the deletion, given that *"he only has the valuation report drawn up and which was the subject of the contract and only the professionals who have to study it to deal with the file that motivated this hiring, which is in process, have it."*
- That the cause provided for in article 17.1.a) of the RGPD was not applicable because the data contained in the report drawn up by the contracted company are necessary for the processing of the psychosocial risk file, which has not been completed, and for this reason the preparation of this report was contracted.
- That the cause provided for in article 17.1.b) of the RGPD was not applicable because the legality of the processing of personal data does not come from the consent granted by the interested party, but from the fulfillment of a legal obligation, given the employment relationship between the City Council and the interested party, based on art. 30 et seq. of Law 31/1995, 8 November, on the prevention of occupational risks (hereinafter, LPRL).
- That the cause provided for in article 17.1.c) of the RGPD was not applicable because the processing of personal data was not based on article 6.1e) or 6.1.f), but on article 6.1.c) of the RGPD (the processing is necessary for the fulfillment of a legal obligation).
- That the cause provided for in article 17.1.d) of the RGPD was not applicable because the personal data *"have not been treated unlawfully: the City Council has not provided data relating to health to the contracted company, nor vice versa, and only the data relating to the person's identification, which the City Council has due to the existing employment relationship, have been treated in order to be able to draw up the report on psychosocial risks. In relation to the disciplinary file processed before the APDCAT, the unlawfulness of the treatment had been related to providing a report issued in a*

psychosocial risk file to all interested persons (the service colleagues of the claimant) . In this case, the report has only been forwarded by the company hired to the professional technicians to process the psychosocial risk files."

- That the causes provided for in clauses e) and f) of Article 17.1 of the RGPD (not invoked by the claimant), were also not applicable.
- That even if no circumstances were applicable that allowed the right to deletion to be exercised, the deletion could not proceed, given that the personal data held by the City Council are necessary to fulfill a legal obligation that requires the processing of data imposed by law of the Union or of the Member States to which the data controller is subject (art. 30 et seq. of the LPRL).
- That according to what the claimant indicated in his letter of claim, he was specifically referring to the reports drawn up by the company AAA and which had been provided to the City Council of (...).
- That these are properly anonymized reports *"well, the text itself is given that it only contains subject 1, subject 2, etc., and in the communications between the company and the City Council, to preserve the privacy and confidentiality of the content of this report, it is sent on the one hand this and in a separate email, the correspondence of these codes with the referenced persons. Obviously, this relationship must be made available to the technicians who work on this file (not available to anyone else), because the purpose of contracting this report to an external company was precisely this, that an external assess the situation of psychosocial risks in relation to carrying out an executive mediation and coaching , specifically, to analyze "the work environment" for the worker's return to her workplace, and obviously, the claimant knows the equivalence to these codes, so it is the person involved."*
- That *"although it is possible to identify the claimant in this report, based on art. 4.1 RGPD, this identification is motivated by the processing of a psychosocial risk assessment file, this mediation being a measure that was collected in the report of the Commission of Investigation for the alleged case of harassment that the claimant request and being the legal obligation of the City Council, as employer, its management, this procedure being still open and being processed."*
- That these reports were drawn up by *"the company at the request of the City Council of (...), under a service contract and with the corresponding personal data processing annex, in order to mediate labor disputes and executive coaching , in the framework of a psychosocial risk procedure (a fact that is expressly described in the data processing contract) of the claimant for her return to her workplace (root of the previous file in relation to the same case)."*
- That the City Council *"did not provide the company with any sensitive data of the claimant, and for this reason, it was indicated that they were not processed. The data provided by the City Council were the contact details (as indicated in the treatment contract itself and argued in the decree resolving the request for the right to deletion)."*
- That the purpose of the hiring was to mediate the conflict between her, her boss and all the rest of the department, as it was collected in the report of the Commission of Investigation for the alleged case of harassment (psychosocial risk) that she requested.
- That this mediation should have been done at the time of her incorporation of the leave, but due to the complaint that the claimant herself presented to the Labor Inspectorate, the City Council received from this the request to apply it before he rejoined.
- That within the framework of this contracted service, the group and individual actions with the bosses were made. The technician from the AAA company met twice with the claimant to offer her the service and clarify her doubts, but they did not receive a

response from her and she never agreed to do the mediation, but she did not refuse it either on purpose.

- That the City Council must keep the claimant's data processed by the AAA company, given that they are part of a procedure that is being processed and that the City Council is obliged to follow based on the regulations on occupational health and prevention of occupational risks.
- That the reports issued did not contain medical data (except for the reference to the fact that the claimant is on leave from work, a fact that is obviously known to the City Council), and were not medical reports about the claimant, but reports in order to resolve the existing situation in the Department in which the person making the claim worked.

The City Council provided various documentation.

5. On 07/03/2022, the claimant submitted a new letter to indicate that the company hired by the City Council to carry out health surveillance was ASPY Prevención , so he considered that the AAA company was not competent to perform these functions.

The claimant provided various documents.

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 Catalan Data Protection Authority.

2. Article 17 of the RGPD regulates the right to deletion in the following terms:

> *"1. The interested party will have right to obtain yes procrastination Unauthorized deletion of data by the data controller personal that _ concern , which will be forced to delete sin procrastination misuse the data personal when any of the circumstances occur following :*
> *a) the data personal they are no longer necessary in relation to the ends for those who were collected or otherwise treated ; _*
> *b) the interested party withdraw 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 foundation juridical ;*
> *c) the interested party opposes the treatment in accordance with article 21, section 1, and they do not prevail others reasons legitimate for the treatment , or the interested party opposes the treatment in accordance with article 21, section 2;*
> *d) the data personal there are been treaties unlawfully ;*
> *e) the data personal deban be suppressed for the fulfillment of a legal obligation established in the Law of the Union or of the States members that apply to the person in charge of the treatment ;*
> *f) the data personal are there obtained in relation to the offer of information society services mentioned in article 8, section 1.*
> *3. Sections 1 and 2 will not apply when the treatment be necessary :*
> *a) to exercise the right to freedom of expression and information ;*
> *b) for the fulfillment of a legal obligation that requires data processing imposed by the Law of the Union or of the States members that apply to the person*

responsible for the treatment , or for the fulfillment of a mission made in interest public or in the exercise of powers public given to the person in charge;
c) for reasons of interest public in the field of public health in accordance with article 9, section 2, letters h) ei), and section 3;
d) for filing purposes public , scientific or historical research purposes or statistical purposes , in accordance with article 89, section 1, to the extent that the right indicated in section 1 could do impossible to hinder you seriously the achievement of said objectives _ treatment , or
e) for the formulation , exercise or defense of claims .

For its part, article 15 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 deletion:

"1. The right of deletion will be exercised in accordance with the provisions of Article 17 of Regulation (EU) 2016/679 .
2. When the deletion deriving from the exercise of the right of opposition pursuant to article 21.2 of Regulation (EU) 2016/679, the person in charge may retain the data identifiers of the affected necessary in order to prevent treatments futures for direct marketing purposes."

On the other hand, article 32 of the LOPDGDD regulates the duty to block deleted data in the following terms:

"1. The person responsible for the treatment is obliged to block the data when carrying out the rectification or deletion.
2. The blocking of data consists of the identification and reservation of these, with the adoption of technical and organizational measures, to prevent their treatment, including display, except for making the data available to judges and courts, the Public Prosecutor's Office or the competent public administrations, in particular the data protection authorities, for the requirement of possible responsibilities derived from the treatment and only for the limitation period thereof.
After this period, the data must be destroyed.
3. Blocked data cannot be processed for any purpose other than that indicated in the previous section. (...)"

In relation to the rights contemplated in articles 15 to 22 of the RGPD, paragraphs 3 to 5 of article 12 of the RGPD, establish the following:

"3. The person responsible for the treatment will facilitate the interested party information related to sus 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 . Dicho plazo podra extend another two months if necessary , taking into account the complexity and the number of applications . The person in charge will inform the interested party of any of these extensions within one month of receipt of the request , indicating the reasons for the delay . When the interested party present the request by media electronic , the information

will be provided by media electronic when be possible , unless the interested party request that it be provided in another way.
4. If the data controller does not comply with the request of the interested party , the will inform yes delay , no later than one month has passed since the receipt of the request , the reasons for its non - action and the possibility of presenting a claim before a control authority and take legal action .
5. The information provided under articles 13 and 14 as well as all communication and anyone performance carried out under articles 15 to 22 and 34 will be entitled free _ When the requests they are manifestly groundless or excessive , especially due to him character repetitive , the person in charge may :
a) charge a fee reasonable based on administrative costs faced to facilitate information or communication or perform the action requested , or
b) refuse to act in respect of the request .
The person responsible for the treatment will bear the burden of proving character manifestly groundless or excessive request . _
(…)"

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 of (...) resolved and notified, within the period provided for by the applicable regulations, the right of deletion exercised by the person making the claim, since precisely the reason for his complaint, which initiated the present rights protection procedure, was the fact of not having obtained a response within the period provided for the purpose.

In this regard, it is certified that on 04/02/2022, the person claiming addressed the person in charge of the processing of the City Council of (...) (the company AAA) to exercise their right of deletion in the following terms:

" I want exercise the Right to Delete all my data _ personnel at the disposal of your company, based on art. 17 of the RGPD"

It is worth saying that on the same date the person in charge of the treatment resolved this deletion request. At this point, it should be made clear that it was not the responsibility of the person in charge of the treatment to resolve said access request, but that this should be forwarded to the person in charge of the treatment (the City Council of (...)) in order to to resolve it, even though the deletion of the data held by said company is requested. In effect, as indicated in the contract of data processor signed between both entities, the AAA company had to send the request to the City Council within two working days of receipt (clause 6 of the data controller contract), term that the data controller failed to meet.

Having said that, once the person in charge agreed to the deletion of the data, it appears that by means of an email dated 05/02/2022, the person claiming requested confirmation that the company had communicated the deletion of their data to the City Council of (...). Well, in the present case, the provision of article 19 of the RGPD was not applicable, which provides that the rectification or deletion of personal data or the limitation of treatment must be communicated to each of the recipients of the data , which the claimant requested. And this, because this precept establishes that this obligation rests with the person in charge (not the person in charge) and because the person in charge of the treatment is not considered the recipient of the data. For the same reason, it cannot be considered that the City Council of (...) is a recipient of the data, when these are provided to it by a processor acting on its behalf.

In short, to assess whether the City Council resolved and notified the deletion request within the one-month period provided for the purpose, it is necessary to assess when this request for deletion was received by the City Council from (.. .), who was competent to solve it.

In this sense, the City Council argued that until 03/23/2022, the data protection officer had no record that the person making the claim here had processed the right of deletion through the data controller.

However, from the documentation provided by the City together with its statement of objections, there is an email dated 02/23/2022 (1 month before) sent by a person employed by the company AAA to a person employee of the City Council, where a document was attached (which the City Council did not provide) where, according to the text of the email, it was reported that the company had received a request relating to the exercise of rights over its personal data, formulated by an employee of the City Council of (...) (the person making the claim).

Therefore, it is necessary to place on this date the starting day of the calculation of the term to resolve and notify the deletion request.

So, taking into account that it is certified that the City Council of (...) notified the resolution of the exercise of the right on 07/06/2022 (the same date on which the notification was made available by electronic media), it must be concluded that the City Council resolved extemporaneously, having exceeded the one-month period provided for the purpose.

It is worth saying that the same conclusion would be reached, even if it were accepted that the deletion request had been received on 03/23/2022 (1 month later), as stated in the resolution of the City Council dated 06/07/2022 , and in its statement of objections that it has presented in this claim procedure.

Having said that, it should not be left out to add that the terms in which the claimant formulated his deletion request, who addressed his request solely to the person in charge of the treatment and in which he only asked that he delete his personal data , even though its will was that the City Council also carried out the requested deletion, could have influenced the fact that the resolution of the request by the City Council of (...) was not 'have dictated before.

On the other hand, mention should be made of the fact that the claimant did not use the specific forms to present the requests which, in accordance with article 66.6 of the LPAC, are mandatory, and that the City Council alleges to justify the delay in solving.

In this regard, it is necessary to point out that this provision does not apply to the case based on article 12.2 of the LOPDGDD, which in relation to the exercise of the rights of articles 15 to 22 of the RGPD establishes that *" The exercise of the right cannot be denied for the sole reason that the person affected opts for another means."*

The City also added that the request did not contain all the requirements established by article 66.1 of the LPAC. Well, if that were the case, what would have been necessary was for the City Council to request the amendment from the person making the claim as established in article 68 of the LPAC, which it did not do.

4. Once the above has been established, it is necessary to analyze the merits of the claim, that is to say, if in accordance with the precepts transcribed in the 2nd legal basis, the deletion of the data in the terms requested by the claimant person Specifically, the claimant requested the deletion of the data processed by the AAA company and, in particular, of the three evaluation reports for the mediation of labor disputes that it prepared.

As a starting point, it should be borne in mind that article 17 of the RGPD regulates the right to deletion as the right of the affected person to obtain from the data controller the deletion of the personal data affecting him if any of the circumstances provided for in article 17.1 of the RGPD.

The right to deletion is a very personal right, and constitutes one of the essential powers that make up the fundamental right to the protection of personal data.

In accordance with article 17.1 of the RGPD, the exercise of the right of deletion must be based on one of the circumstances provided for there. The claimant invoked, in his letter of 08/06/2022, the circumstances described in sections a), b), c) and d) of article 17.1 of the RGPD.

First, the circumstance provided for in Article 17.1.a) of the RGPD refers to the fact that the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed.

In this regard, the complainant considered that no mediation or coaching was carried out with her, but one *" counseling "* or psychological guidance, so it was not necessary to treat them.

It is worth noting that, as indicated by the City Council, in the data controller contract it is stated that mediation or *executive* coaching is to *" improve the skills for managing interpersonal relationships in the work environment as a measure proposed as a result of risk procedure _ psychosocial , which will involve the access and treatment of data personal character collected and controlled by the RESPONSIBLE FOR THE TREATMENT"* (point III of the statement).

Therefore, the data are considered necessary for the purposes collected, which in this case, is the resolution of the labor dispute (personnel management). Likewise, this treatment is necessary to satisfy a public interest or the exercise of public powers by the City Council in

accordance with article 6.1.e) of the RGPD; and to comply with a legal obligation arising from the requirement of the Labor Inspectorate (art. 6.1.c RGPD).

In any case, the person claiming also did not justify the reason why the data would not be necessary, but argued that the mediation or coaching that was the object of the assignment was not carried out, so he considered that the treatment would be unlawful.

Having said that, it should be noted that the reports drawn up by the AAA company aim to assess whether it is appropriate to carry out mediation to resolve the existing labor conflict, which is why, in the opinion of this Authority, the reports were in line with the purpose of the order

Secondly, the circumstance provided for in Article 17.1.b) of the RGPD focuses on the withdrawal of consent by the person concerned, which the person claiming does not prove to have carried out (beyond requesting the deletion of your data). In fact, the claimant denies having explicitly consented to the data processing carried out by the AAA company.

Thirdly, the circumstance provided for in article 17.1.c) of the RGPD is applicable when the interested person has objected to the treatment in accordance with article 21 of the RGPD, an end that is also not accredited the person claiming

Therefore, it is necessary to resolve whether the last cause invoked, which is contained in article 17.1.d) of the RGPD, applies. This circumstance gives rise to the deletion when the personal data has been processed unlawfully.

The claimant invokes several circumstances that would lead to the processing of data carried out by the AAA company being unlawful, such as the fact that the data processor contract did not contemplate the processing of special categories of data; that the purpose of the assignment (mediation or coaching) was not carried out; that the data relating to health were processed without your explicit consent; or that a psychological assessment would have been carried out regarding his person without his consent, and bases this on the fact that in the reports it is pointed out that the interviews held with the people involved -among them, the person making the claim-, are contrasted what they expose with clinical psychological criteria.

For its part, the City Council of (...) invokes for this purpose, that the treatment is necessary to comply with a legal obligation (art. 6.1.c RGPD), in accordance with articles 30 et seq. of the LPRL.

The City Council, however, does not specify which precept specifically imposes an obligation that determines the need to prepare said evaluation reports for conflict mediation. On the contrary, he makes a generic invocation to articles 30 et seq. of the LPRL which, in his opinion, contains a broad legal authorization and which *"protects any preventive activity for the protection of the health of workers (and therefore, protects to be able to do mediations, coaching or any other prevention activity)".*

Therefore, it is inferred that the City Council invokes the provisions contained in Chapter IV of the LPRL (arts. 30 to 32 bis), referring to prevention services. Of this set of precepts, it is appropriate to go to article 31.3 of the LRPL, to the extent that the City Council links medication to the psychosocial risk procedure. This precept provides the following:

"3. Prevention services _ _ they must be in a position to provide the company with the advice and support it needs depending on the types of risk existing in it and in relation to:
a) The design , implementation and application of a risk prevention plan labor laws that allow the integration of prevention in the company.
b) The evaluation of risk factors that may affect the safety and health of workers in the terms provided for in article 16 of this Law .
c) The planning of the preventive activity and the determination of the priorities in the adoption of the measures preventive measures and their surveillance effectiveness _
d) The information and training of workers , in the terms provided for in articles 18 and 19 of this Law .
e) The provision of the former aid and emergency plans .
f) Monitoring the health of workers in relation to risks derived from work .
If the company does not carry out the activities preventive measures with own resources , the assumption of functions regarding the matters described in this section only will be able become a prevention service _ stranger _ The above will be understood yes to the detriment of anyone another legal or regulatory attribution of competence to others entities or organizations regarding the matters indicated ."

In any case, at the discretion of this Authority, the data processing carried out by the AAA company on behalf of the City Council of (...) was not part of the health surveillance functions in the terms provided for in the LPRL, but in personnel management in order to resolve the existing labor conflict.

Therefore, this data processing, which included certain data relating to the health of the person making the claim, is not based on the explicit consent of the affected person (arts. 6.1.ai 9.2.a RGPD). Indeed, as explained, the treatment in question is based on the fact that it is necessary to satisfy an essential public interest (arts. 6.1. and 9.2. g RGPD). In addition, it should be borne in mind that the actions aimed at resolving the conflict have also been required by the Labor Inspectorate, so that the legal basis provided for in article 6.1.c) also applies to the processing of special categories of data. of the RGPD (the fulfillment of a legal obligation) and the circumstance provided for in article 9.2.f) of the RGPD, which allows this type of personal data to be processed when the treatment is necessary to formulate, exercise or defend claims or when the courts act in the exercise of their judicial function.

Therefore, the controversial treatment, which is not based on consent, is lawful.

Having said that, the fact that the contract of the person in charge of the treatment did not contemplate that the AAA company could treat special categories of data (such as data relating to health), does not in itself determine that the treatment is illegal lawful In any case, the treatment of this category of personal data would derive from the instructions of the person in charge of the treatment, who has provided data relating to the health of the person making the claim to the person in charge of the treatment, such as information regarding the leave of the claimant.

In short, and in accordance with the above, none of the causes that allow the deletion to be agreed upon in accordance with article 17.1 of the RGPD are present.

Although, as it has been concluded, none of the causes provided for in article 17.1 of the RGPD that allow the deletion of the data occur, it is also necessary to refer to the circumstances alleged by the City Council that could motivate the denial of the right to deletion (art. 17.3 RGPD).

In this respect, the City Council invokes the circumstance described in article 17.3.b) of the RGPD, on the understanding that it considers that the processing of the data requested to be deleted is necessary to fulfill a legal obligation imposed on the City Council in accordance with articles 30 et seq. of the LPRL. In this sense, as has already been explained, the treatment entrusted to the AAA company was not based on the fulfillment of the health surveillance obligations determined by the LPRL, but on the fulfillment of a mission in the interest public or the exercise of public powers (art. 6.1.e RGPD).

Likewise, the City Council indicated that the Labor Inspectorate had made a request to the City Council to carry out this mediation, following the complaint presented there by the person making the claim.

This circumstance must lead to the denial of the deletion of the data, given that the requirement of the Labor Inspection derives from the fulfillment of a legal obligation established in articles 18 and 22 of Law 23/2015, of July 21, Computer of the Labor and Social Security Inspection System (art. 17.3.b RGPD), and due to the fact that the data requested to be deleted are necessary for the City Council to defend itself against claims (art. 17.3. e RGPD) presented by the person making the claim.

Therefore, even in the unlikely event that any of the circumstances provided for in article 17.1 of the RGPD to agree to the deletion of the data occur, it would not be necessary to delete them when the conditions described in clauses b) are met. ie) of article 17.3 of the RGPD.

In accordance with everything that has been set out, the present claim for the protection of the right to deletion, with respect to the data of the claimant who dealt with the company AAA in the framework of the assignment made to the City Council, should be considered to provide mediation and executive coaching services.

For all this, I resolve:

1. Declare extemporaneous the resolution of the City Council of (...), by which it rejected the deletion request made by Ms. (...), for not having responded within the period established in the applicable regulations, in accordance with what has been indicated in the 3rd legal basis.

2. Dismiss the guardianship claim made by Ms. (...)against the City Council of (...), in accordance with what has been indicated in the 4th legal basis.

3. Notify this resolution to the City Council of (...) and to 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,