

File identification

Resolution of the rights protection procedure no. PT 90/2022, urged against the Terrassa City Council (Egarvia, SA).

Background

1. On 04/10/2022, the Catalan Data Protection Authority received a letter from Ms. (...) (henceforth, the claimant), for which he made a claim for the alleged neglect of the right of access to his personal data, which he had previously exercised before the Terrassa City Council.

The person claiming stated that on 15/07/2022 he had exercised the right of access before the City Council of Terrassa, which was listed as responsible for the processing of the personal data that the municipal company Egarvia, SA (of henceforth, Egarvia), a public company that manages the towing, removal and vehicle storage service of Terrassa City Council, treated as data controller .

The object of the complaint was the response provided by the City Council in relation to the right of access exercised. In this regard, the claimant explained that on 08/23/2022 he received the response from the City Council, but that " the response received does not answer my petitions nor does it inform in its response how to make a claim before your organism " , and that on the same day he presented a new request " again requesting that they respond to my right of access and the recordings of the video cameras. "

For these purposes, the claimant provided, among other documents, the following:

- Form for the request to exercise the right of access presented to the City Council (15/07/2022), through which access is requested to all the information provided for in article 15 of the Regulation (EU) no. 2016/679 of the European Parliament and of the Council, of April 27, 2016, relating to the protection of natural persons with regard to the processing of personal data and the free circulation of such data (RGPD), and copy of the personal data that are the subject of treatment (Article 15.3 of the RGPD).
- Letter that he attached with the form for the exercise of the right of access dated 07/15/2022, through which he specifies his request for access in the following terms:

- " 1- That facilitate access to any personal data that EGARVÍA, SA has collected from me, including photographs and/or videos.
- 2- That I be provided with any photograph that EGARVÍA, SA uses as evidence to issue sanctioning documents or to remove any vehicle owned by me or as a user, all those photographs in which my data is in the file.
- 3- That you inform me if you proceed to record the calls we make on your telephone (...) and in case of a positive answer, I request that you give me a digital copy of all the recordings you have made.
- 4- That they inform me about the security measures used by EGARVÍA employees in the treatment of personal data, since in the call I made to ask for information

about how to exercise my rights, they did not know anything about of the RGPD and have initially questioned my ARCO rights.”

- Letter of response from the City Council dated 07/26/2022, which was notified to the claimant on 08/23/2022, and which basically stated the following:
 - That "Regarding the request for access to any personal data that Egarvia SA has collected from you, including photographs and videos, we send you the report of the withdrawal of the vehicle from your ownership and the photographs taken by Egarvia's staff in the street (...) of Terrassa on June 10, 2022."
 - What " Egarvia does not initiate or process sanctioning proceedings, but as a municipal public company acts as an instrumental entity and as a medium owned by the Terrassa City Council that manages the Municipal Vehicle Towing Service on behalf of the Terrassa City Council". And he adds that: " The initiation and management of penalty proceedings in situations of removal of vehicles from the public road is carried out directly by the municipal administrator, by the department of tax management and collection of the City Council of Terrassa, in relation to with this withdrawal of a vehicle in which, according to our knowledge, you have requested a pending hearing procedure."
 - That Egarvia “ does not record the calls he receives. "
 - That the security measures used by Egarvia workers "are provided directly from the Terrassa City Council, both in terms of information security, through the use of secure computer tools, limited access to the interior of the facilities, use of technical devices facilitated and controlled by the City Council's technology service of Terrassa, as well as the necessary technical and organizational measures, above all at the level of different information access permits, referral and derivation of information by municipal corporate applications, existing different levels of access to information, as well as the obligations of confidentiality and secrecy required of all public workers provided for in their employment contract and collective agreement, as well as the specific training that is given to them."
- Application for exercise of the right of access presented by the interested person to the City Council on 23/08/2022, in which he stated " Presento segunda instancia para el completo ejercicio de derecho de acceso, pues the initial instance has been partially answered. Specifically, the interested party requested that the City Council:
 - Facilitate the information contained in sections 1 and 2 of article 15 of the RGPD.
 - L and facilitate a copy of your personal data subject to treatment (Article 15.3 of the RGPD).
 - You facilitated the video camera recordings of the day he went to Egarvia (10/06/2022) with an approximate departure time of 12:25 p.m.
 - I would inform you about what actions the municipal company Egarvia has carried out to confirm that it was the owner of the vehicle or a person authorized to remove it, since the response issued by the City Council on 07/26/2022 (notified on

23/08/2022) has " given by fact " that the owner of the vehicle is the person making the claim .

2. On 14/11/2022, the claim was transferred to the City Council so that within 15 days it could formulate the allegations it considered relevant, given that from the information on the Egarvia website it can be inferred that the company acts as data controller for Terrassa City Council, when it provides services related to the management of traffic and transport policy, regulation and monitoring of regulated surface parking and car parks.
3. The City Council of Terrassa formulated allegations by means of a letter dated 18/11/2022, in which it briefly stated the following:
 - That, on 07/15/2022, through the electronic headquarters of the City Council, the interested person submitted a letter in which he exercised his right of access with respect to the information that the municipal company Egarvia placed on her
 - That on 07/26/2022 the City Council drafted the response to the interested person's access request, but the person making the claim was not notified until 08/23/2022.
 - That on the same day 08/23/2022, through a telephone call, the City Council indicated to the person claiming that Egarvia only managed the crane and the municipal vehicle depot, but that it had nothing to do with "the disciplinary procedure resulting from the violation of the mobility ordinance that resulted in the withdrawal of your vehicle and which will be processed by the municipal collection service ." And the claimant also informed that "they only have photographs because from 10/06/2022 when their vehicle was removed and they went to look for it, until 15/07/2022, more than a month and they don't have the recordings from that day of the EGARVIA municipal deposit facilities."
 - That the City Council tried to notify the response to the claimant's request for access to data on two occasions (on 08/18/2022 and 08/22/2022), through the company that has been awarded the management of certified notifications from the City Council ((...)), but both attempts were unsuccessful.
 - That, finally , the City Council notified the response on 23/08/2022, accompanied by the only documentation available to Egarvia regarding the person concerned (the vehicle registration document issued by Egarvia, when it makes a withdrawal , and the 7 photographs he took of the withdrawal of the vehicle).
 - That on the same day 23/08/2022 the applicant submitted a new letter , in which he expressed his disagreement with the answer received, given that he affirmed that:
 - The City Council had not provided him with "a copy of his data, nor the purposes of the treatment, nor recipient, nor information on the guarantees of data transfer to a third country, nor retention period, nor the rights to request rectification , deletion, limitation..., nor of your right to submit a claim to the control authority."
 - I he also considered that the City Council had sent him "[the] report on the removal of the vehicle from his ownership and the photographs from that moment of the removal and he wants to know how Egarvia has assumed that the vehicle was his

and that the 'vehicle removal fees ordinance says that this fee must be paid by the owner or authorized person that must be paid before removing the vehicle, stating that the ordinance says that EGARVIA must ensure that who picks up the vehicle is its owner, when the ordinance does not say this but that the vehicle can be picked up by the owner or person authorized by him, as was his case, being a rental vehicle . "

- On 09/22/2022, by means of a letter dated 09/12/2022, the City Council responded to the person concerned and, in summary, indicated the following:
 - That "at the time of presenting the instance of July 15, 2022, through the electronic headquarters of the Terrassa City Council, the website itself in the procedures section and the actual proof of presentation of your instance of July 15, 2022 By exercising your right of access to the information that EGARVIA has on you, an informative clause is included that includes all of these provisions, in two layers, including a referral to the municipal website where all of the information and the link are found : [http://: terrassa.cat/ cat / protecciodades](http://terrassa.cat/cat/protecciodades) , including the possibility of filing a claim with the competent control authority if you consider that your data protection rights have been violated." And he adds that "(...)in the document of withdrawal of your vehicle is included the reference to the data protection policy of the City Council of Terrassa."
 - That he provided him with all the documentation that Egarvia had (the vehicle withdrawal report and the photographs that Egarvia took at the time of withdrawal).
 - That Egarvia does not record telephone calls.
 - That no recording image of the facilities dated 06/10/2022 is preserved, given that when the person making the claim requested the recording, the maximum retention period of one month had already passed.
 - What "at the moment that any vehicle is removed from the public road, it is registered and the corresponding municipal procedure is initiated according to the case of the possible infraction, including the verification of its ownership in the corresponding public records own and/or of the general traffic management, as the case may be, therefore, at the moment of proceeding to carry out the withdrawal of the vehicle, the identification of the person who appears before the Egarvia offices is requested and this is recorded in the communique of Exit and settlement facilitated by Egarvia when you pick up your vehicle. Therefore, Egarvia, SA has not assumed that the vehicle is its owner, but has made the necessary inquiries in the corresponding records in relation to the registration of the vehicle to know its ownership in exercise of the powers that the municipal administration has legally established."
- That, when a person removes the vehicle from the municipal depot, "the identification of the person who collects it is requested, this is how he is identified, making the necessary checks regarding the ownership or authorization of the person who appears, to the same as asking for a driver's license from anyone who appears to remove a vehicle, but in no case, it means that a copy of these documents is kept (...)

and therefore, it cannot be subject of the right of access to information that Egarvia does not have .”

- That Egarvia "does not collect or subsequently process any information of this type, but the check is made to authorize the withdrawal of the vehicle and only the identification data of the person who has withdrawn it, nor copies of ID, nor driving license (...)."
- That on the same day 09/22/2022 the interested person requested that the fee for the removal of the vehicle be returned to him, claiming that he was not the owner, but that it was a rental, and that the City Council had given him "false information" by saying that Egarvia had verified the ownership of the vehicle. Regarding this, the City Council informed her that the allegations on which the request for annulment of the sanctioning procedure is based, as well as the request for the return of the fee, are not part of the exercise of the right of access and, for this reason, he sent them to the municipal collection and fines service, which was the one that managed his disciplinary file.
- That, on 14/10/2022, the interested person submitted a new letter to the City Council. In this letter, he claimed that his right of access to data had not been respected, since in the framework of the sanctioning file that affects him, the collection and fines service of the City Council has sent him a report of 'Egarvia (22/08/2022)', which had not been provided to him when he exercised the right of access.
- That, by means of a letter dated 19/10/2022 - notified on 20/10/2022 -, he was answered that, taking into account that the answer to the right of access was drawn up on 26/07/2022, " He could not have been sent a document that EGARVIA did a month later, on 08/22/2022." Also, that this report is part of the disciplinary file processed by the collection and fines service of the City Council and not of any Egarvia file .
- That the City Council has respected the right of access of the interested person and provided him with all the documentation available to Egarvia.

The City Council provided various documentation, among which was the only documentation available to Egarvia referring to the interested person (the vehicle registration document made by Egarvia when he makes a withdrawal and the 7 photographs he took which withdrew it).

Fundamentals of law

1. The director of the Catalan Data Protection Authority is competent to solve 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 (Law 32/2010) .
2. Article 15 of the RGPD, regarding the right of access of the person concerned, provides that:

" 1. The interested party will have the right to obtain from the person in charge of the treatment confirmation of whether or not personal data that concern them 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 provided for 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 provide the interested party with information related to his 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 number of applications. The person in charge will inform the interested party of any such extension within one month of receipt of the request, indicating the reasons for the delay. When the interested party submits the request by electronic means, the information will be provided by electronic means whenever possible, unless the interested party requests that it be provided in another way.

4. If the person in charge of the treatment does not comply with the request of the interested party, he will inform him without delay, and no later than one month after receiving the request, of the reasons for his non-action and of the

possibility of submitting a claim before a control authority and exercise judicial actions.

5. The information provided under articles 13 and 14 as well as all 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 the LOPDGDD determines the following, also in relation to the right of 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, regarding the protection of the rights provided for by the regulations on the protection of personal data, provides the following:

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

3. Having explained the applicable regulatory framework, it is then necessary to analyze whether the City Council resolved and notified the right of access exercised by the person making the claim within the period provided for by the applicable regulations.

Regarding this, it is certified that, on 07/15/2022, the City Council received a letter from the person making the claim, through which he exercised the right of access to his personal data. Specifically, the object of the right of access requested was his personal data processed by the company Egarvia, which is in charge of the treatment before the City Council, with regard to the data it processes in the framework of the parking regulation and surveillance services provided within the municipality.

In accordance with article 12.3 of the RGPD, the City Council had to resolve and notify the request to exercise the requested right within a maximum period of one month, counting from the date of receipt of the request

In this case, the claimant states that, on 07/15/2022, he submitted a first request for the right of access to his personal data and that, in view of the response given by the City Council on 23/ 08/2022, that same day he presented a second letter in which he showed his dissatisfaction with the answer obtained and requested again to access the information.

In accordance with the above, it is necessary to analyze whether the City Council responded within the deadline to the two letters in which the person claiming exercised the right of access to his personal data.

In this regard, it should be borne in mind that, in accordance with article 21.3 *b* of Law 39/2015, of October 1, on the common administrative procedure of public administrations (LPAC) and article 41.7 of Law 26/2010, of 3 August, on the legal regime and procedure of the public administrations of Catalonia (LRJPCat), on the one hand, the calculation of the maximum term in procedures initiated at the instance of a party (as is the case) starts from the date on which the request enters the register of the body competent to process it. And, on the other hand, that the maximum period is for resolving and notifying (art. 21 LPAC), so that before the end of this period it is necessary to have notified the resolution or, at the very least, to be able to prove the notification attempt (art. 40.4 LPAC).

In relation to the first request for access to personal data submitted on 07/15/2022, it is certified that the City Council prepared the response on 07/26/2022. However, according to the entity, it tried to notify her by post on two occasions, on 08/18/2022 and 08/22/2022, but both attempts were unsuccessful. Thus, the first notification attempt already occurred once the one-month period established in article 12.3 of the RGPD had passed. Finally, the City Council notified the claimant of the response on 08/23/2022.

Therefore, in the case of this first request to exercise the right of access, although the City Council resolved within the established deadline, the notification occurred once the legally provided deadline for notification had passed.

On the other hand, with regard to the second data access request made by the claimant on 08/23/2022, in which he expressed his dissatisfaction with the response received, the

City Council has certified that on 22/09/2022 notified the answer. Therefore, in this case the entity did resolve and notify within the legally provided term.

4. Once the above has been settled, it is necessary to analyze the substance of the claim, that is to say whether, in accordance with the precepts transcribed in the 3rd legal foundation, the City Council facilitated the right of access to the person making the claim in the terms that she requested it.

As a premise, it is necessary to clarify the claim presented by the person concerned before this Authority. As stated in the background, in its statement of objections the City Council, apart from the two requests submitted by the claimant on 07/15/2022 and 08/23/2022, refers to other statements later that the claimant presented, as well as the answers he gave. In this regard, it should be noted that, given that the claim presented to this Authority refers solely to access to the data requested by the claimant on 07/15/2022 and 08/23/2022, the The object of this resolution is the exclusive analysis of the right of access exercised through these two requests.

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 this case, access the aforementioned 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 sections 1 and 2 of article 15 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.

In accordance with this, and notwithstanding that any of the limitations provided for in article 23 of the RGPD may apply, the right of access to personal data recognized in article 15 of the RGPD entails that the the person making the claim would have the right to access, in any case, their personal data processed by the company Egarvia, which acts as data controller for Terrassa City Council (data controller).

Therefore, the person claiming would have the right to obtain information relating to the processing of their data (Article 15.1 and 2 of the RGPD) and also to obtain a copy of their personal data subject to treatment (Article 15.3 of the RGPD).

Therefore, to assess whether the City Council's arguments can be accepted by this Authority, it is necessary to analyze the terms of the access requests made by the person making the claim before the City Council.

- 4.1. In relation to the claimant's first request, presented to the City Council on 07/15/2022

As explained in the background, the claimant requested access to the information provided for in sections 1 and 2 of article 15 of the RGPD and to obtain a copy of his personal data subject to treatment (article 15.3 of the 'RGPD'). With the said request form, he attached a supplementary letter in which he specified the request and requested:

- Access any data collected by Egarvia (including photographs and/or videos).
- Obtain a copy of any photograph that Egarvia used as evidence in disciplinary proceedings or to take away any vehicle owned or as a user, and "*todas those photographs in which my data is in the file.*"
- Be informed whether the entity recorded the calls and, if so, obtain a copy of the call recording.
- Be informed of the security measures adopted by Egarvia to guarantee data protection in the data processing carried out by the organization's employees.

It is certified that on 23/08/2022 the City Council responded to this first request of the claimant, through a letter in which it was informed that "the report of the withdrawal of the vehicle from its ownership" was transferred and the photographs taken by Egarvia staff in the street (...) on June 10, 2022."

Regarding the rest of the information requested, the City Council informs that Egarvia manages the removal service of municipal vehicles on behalf of the City Council, but "does not initiate or process sanctioning proceedings." Therefore, there are no files opened by Egarvia or other photographs than those taken by the company at the time of removing the vehicle from the public road and of which a copy is transferred. Also, through the letter of response, it is also informed that the entity does not record telephone calls, which is why a copy of the recording cannot be provided. Finally, it informs about the security measures adopted by Egarvia for the processing of personal data.

In this sense, it is considered that with its response the City Council correctly informed each of the points that the applicant had specifically indicated in the letter attached to the application dated 07/15/ 2022, and who provided a copy of the personal data that had been processed by Egarvia . The City Council also provided additional information on the security measures implemented by Egarvia in the processing of personal data, although this point is not included in the items on which article 15 of the RGPD establishes that the responsible for the treatment must inform, so that it can be considered that a complete response has been given to a request to exercise the right of access.

Despite the above, it cannot be considered that the City Council has fully respected the right of access exercised by the person making the claim, since it did not provide him with the rest of the information provided for in sections 1 and 2 of the article 15 of the RGPD, which he had also expressly requested through the application form.

This lack of response was what prompted the claimant's second letter dated 08/23/2022, which will be the subject of analysis below.

4.2. In relation to the second request of the person claiming, presented to the City Council on 08/23/2022

As has already been said, the person making the claim made a new request for access on 23/08/2022, in which he complained that the City Council had not fully responded to his first request of 15/ 07/2022.

In this second request, the person making the claim reiterated the request to access the information provided for in sections 1 and 2 of article 15 of the RGPD and to obtain a copy of their personal data subject to treatment (article 15.3 of RGPD).

Likewise, with this second request, he requested that he be provided with a copy of the video camera recordings of 06/10/2022 , as well as that he be informed "of what data of mine have they collected to ensure that I am the owner or person authorized (...) and how Egarvia, SA associates the data delivered to the owner of the vehicle."

Regarding this, during the hearing procedure the City Council has certified that on 09/22/2022 it responded to the claimant's request of 08/23/2022. However, the entity's response cannot be considered in accordance with the law, in accordance with the provisions of article 15 of the RGPD. This is so because, in its written response, the entity considers that the information referred to in Article 15 of the RGPD was already given to the interested party, since the entity fulfills the duty of 'inform provided for in articles 13 and 14 of the RGPD through " the website itself in the procedures section and the proof of presentation of your request of July 15, 2022 exercising your right of access to the information that EGARVIA has of ud , an informative forecast is collected that includes all of these forecasts (...). Similarly, in the document of withdrawal of your vehicle, the reference to the data protection policy of the City Council of Terrassa is included."

Along these same lines, in the hearing procedure of this procedure, the entity indicated that the interested person had confused the right to information (articles 13 and 14 of the RGPD) with the right of access (article 15 of the RGPD), and that the information that the person assured that the City Council had not provided him was available to him through the different channels referenced.

In relation to what was stated by the City Council, it should be specified that the information referred to in article 13 of the RGPD (which is applicable when the entity obtains the data of the same interested party, for example when filling out a request for the right of access) is configured as a right of the interested party and reinforces the information that the person in charge must provide, to increase transparency on how they want to treat their personal data. In other words, it is a right that the data controller must provide to the interested person before starting the processing of their data, while the right contained in article 15 of the RGPD is the right what the interested person has that the person in charge of the treatment confirms to him whether or not his data is being processed and, if so, provides him with information on: the purposes of the treatment; the categories of data being processed; the recipients or categories of recipients to whom the data was or will be communicated (and if they are recipients in third countries or international organizations); the data retention period or the criteria for determining it; the existence of the right to request the person responsible for rectification, deletion, limitation of treatment or opposition; the right to submit a claim to a control authority, when the data has not been obtained from the interested party; any available information about its origin; and whether automated decisions exist (including profiling).

That is why, from the answer given by the City Council, it can be inferred that it interpreted, wrongly, that the claimant's request for access would be resolved at the same time when the duty to inform is fulfilled and, in this sense, it refers to the information presented in the informative clauses included in forms, registration receipts or published on its website.

On the other hand, it must be said that the City Council does respond to the request to obtain a copy of the video camera recordings of 06/10/2022, informing the interested person that on 07/15/2022 - when the interested person submitted the first request for access to data - the images captured on 06/10/2022 had already been deleted, given that the maximum period of one month provided for by law to keep them had passed. Consequently, the City Council cannot provide information that it no longer has and, for this reason, since the City Council has informed it of the non-existence of the requested images, it is considered that the claimant's request has been duly attended to in relation to this point.

Finally, regarding what personal data of yours did Egarvia collect to ensure that you were the owner or person authorized to withdraw the vehicle from the deposit, and how the entity associates the data provided by the person who comes to withdraw the vehicle to those of the owner, it must be considered that this information would have a place within the information on the origin of the personal data (article 15.1. g RGPD).

Regarding this, it is considered that the City Council, in the letter sent to the interested person on 22/09/2022, informed on this point indicating that at the time of removal of a vehicle from the public road " it register the same and initiate the corresponding municipal procedure, as the case may be for the possible infraction, including the verification of its ownership in the corresponding public records and/or the traffic address, as the case may be, therefore , at the moment of proceeding to carry out the withdrawal of the vehicle, the identification of the person who appears in front of the Egarvia offices is requested and this is recorded in the statement of departure and liquidation provided by Egarvia when you withdraw your vehicle. Therefore, Egarvia, SA has not assumed that the vehicle is its ownership, but has made the necessary inquiries in the corresponding records in relation to the registration of the vehicle to know its ownership in exercise of the powers that the municipal administration has legally established."

At this point, it is necessary to make a point about the statement of the City Council that denies that this type of consultation on the personal data contained in the Administration's records supposes that "Egarvia keeps or processes any personal data of the claimant, and therefore cannot be subject to the right of access." Regarding the indirect verification of the claimant's data carried out by Egarvia through any database, either its own or external, such as the same act of asking "on the spot" for the person's identification, when presented at the deposit to withdraw a vehicle, involves the processing of personal data, in accordance with article 4.2 of the RGPD. Therefore, this information about the origin of the data also falls within the right of access to personal data in Article 15 of the RGPD, since personal data is being processed.

For all this, it must be concluded that in this second request the City Council does not comply with the right of access exercised by the person making the claim, given that in its response, although it provides information relating to some of the points only requested (source of data, video camera footage), leaves most of the items provided for in article 15

of the RGPD without a clear answer. The City Council's response cannot be considered valid, since -erroneously- it limited itself to indicating that this information can be found in the informative clauses contained in the documents that have been delivered to the applicant in the various moments in which you have been related to the entity, or on its website.

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 person in charge of the file must be required to give effect within 10 days the exercise of the right. In accordance with this, the claimed entity should be required so that within 10 days, counting from the day after the notification of this resolution, it makes effective the exercise of the right of access to the claimant by providing him with the information provided for in sections 1 and 2 of article 15 of the RGPD.

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

resolution

For all this, I resolve:

1. Estimate the guardianship claim made by Ms. (...) against the Terrassa City Council.
2. Request the City Council of Terrassa so that within 10 days, counting from the day after the notification of this resolution, make effective the right of access exercised by the person making the claim, in the manner indicated in foundation of law 5th. Once the right of access has taken effect, the claimed entity must report to the Authority within the following 10 days.
3. Notify this resolution to the City Council and the person making the claim.
4. Order the publication of the resolution on the Authority's website (<https://apdcat.gencat.cat/ca/inici>) , 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 and 14.3 of Decree 48/2003, of February 20, which approves the Statute of the Agency Catalan Data Protection Authority, the interested parties can file an appeal before the director of the Catalan Data Protection Authority, within one month from the day after notification , in accordance with the provisions of article 123 et seq. of the LPAC. You can also directly file an administrative contentious appeal before the administrative contentious courts of Barcelona, within two months from the day after your notification, in accordance with articles 8, 14 and 46 of Law 29 /1998, of July 13, governing the contentious administrative jurisdiction.

Likewise, the interested parties may file any other appeal they deem appropriate to defend their interests.

The director

Machine Translation