

□ File No.: PS/00379/2021

RESOLUTION OF TERMINATION OF THE PROCEDURE FOR PAYMENT

VOLUNTEER

Of the procedure instructed by the Spanish Agency for Data Protection and based on
to the following

BACKGROUND

FIRST: On December 9, 2021, the Director of the Spanish Agency for
Data Protection agreed to initiate a sanctioning procedure against B.B.B. (hereinafter the
claimed party). Notified of the initial agreement and after analyzing the allegations
presented, on July 22, 2022, the resolution proposal was issued that
is transcribed below:

<<

File No.: PS/00379/2021

PROPOSED RESOLUTION OF PUNISHMENT PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection and with
based on the following:

BACKGROUND

FIRST: A.A.A. (hereinafter, the complaining party), filed on January 5,
2021 a claim before the Spanish Data Protection Agency (AEPD) to
through the Municipal Consumer Information Office (OMIC) of the City Council
of Madrid in which he identified B.B.B. as the alleged perpetrator of the events, with
NIF ***NIF.1 (hereinafter, the claimed party), owner of the Locutorio ***LOCUTORIO.1.
It should be noted that, months before, on October 16, 2019, the complaining party
filed a claim for the same facts in which he identified as alleged
responsible and owner of the Locutorio ***LOCUTORIO.1 to the mercantile UNITED ANIF,

S.L., with NIF B87319364 (hereinafter, the erroneous claim), against whom the AEPD

agreed to open a sanctioning procedure: PS/00462/2020.

Thus, the letter dated January 5, 2021 in which the claimant rectifies the identity of the alleged perpetrator who had initially communicated to the AEDP da

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place to the opening of the sanctioning file that concerns us and, since the allegedly responsible for procedure PS/00462/2020 did not intervene in the conduct object of the claim, determined that the file of the procedure be agreed directed in front of him.

The claim made is based on the unlawful processing of the personal data of the claimant made by the respondent, owner of the Locutorio ***LOCUTORIO.1, which linked them to two money transfers to which the claimant was not involved and which were managed from said establishment. The shipment was made through Money Gram International S.R.L., company of which the Locutorio ***LOCUTORIO.1 He was a licensed agent.

The complaining party states that on September 2, 2019, at 7:04 p.m. and 7:52 p.m. hours, respectively, received at his email address, ***EMAIL.1, both messages from Moneygram Payment Systems, Inc. informing you of two shipments of money allegedly made by her on that date through Money Gram. The message content was as follows:

In the first, with number ***MENSAJE.1, C.C.C. appeared as the recipient; a amount to send of XXX.X €; the date on which the money was collected “(...)” and the

amount to receive “(...)”.

In the second, with number ***MESSAGE.2, D.D.D. appeared as the recipient; the amount of the shipment was €XXX.X; the date the money was collected by the recipient “(...)” and the amount to receive “(...)”.

The claimant states that, a few days earlier, on August 30, 2019, she sent a remittance of money to a family member from the Locutorio ***LOCUTORIO.1 and that the same day, at 8:18 p.m., he received an email from Moneygram at his email address Payment Systems, Inc. confirming the shipment made and receipt of the remittance by the recipient. He explains that the email he received stated -as in those described above, received on September 2 - this information: A number of Shipment ID, XXXXXXXX; the name of the person receiving the shipment, E.E.E.; the amount sent, XXX.X€; the date on which the money was collected “(...)” and the amount to receive “(...)”.

Indicates that, in accordance with the filing, processing and resolution procedure of complaints and claims of Money Gram, unsuccessfully required this entity to cancel and cancel the money transfer operations carried out fraudulently on the 2nd of September 2019. In this regard, he claims to have made claims through telephone -incidence numbers ***INCIDENCIA.1 and ***INCIDENCIA.2- and through a web form at the address ***EMAIL.2 to which the number of incidence ***EMAIL.3.

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Express your disagreement with the answer offered by the customer service

Money Gram client -***EMAIL.4- that qualifies the facts as “an error administrative when the agent entered my email in the wrong way”. Declares that Money Gram replied that “statements sent from an office cannot be visualize”, therefore, in consideration of the response received, it concludes that the responsible for linking your personal data to those two money remittances to which she is an outsider could only have been the owner of the Locutorio ***LOCUTORIO.1, who would have used for this purpose his data that she had provided him a few days before with the purpose of managing a money transfer.

The claimant did not provide the AEPD with her two claim documents -dated 16 October 2019 and January 5, 2021 - no document corroborating their demonstrations, although it did offer information on the facts that was extraordinarily detailed. On October 16, 2019, the OMIC of the Madrid City Council sent to the AEPD "the copy for the Administration" of the official form, duly completed by the claimant, called "Claim Sheet" in consumer matter. The claimant's signature appeared on that form and on the space destined to “Signature and stamp of the claimed” the stamp of the “UNITED ANIF, S.L.” In the aforementioned form, the claimant states that she “does not sent the remittances on 9/2/2019.” Together with the completed form, it was provided to the AEPD on that date a single document that is also signed by the claimant.

The document in question has the structure of a complaint addressed to the Court for the alleged commission of several crimes for which the defendant is held responsible erroneous -UNITED ANIF, S.L.- and MoneyGram International, SRL. Through him it explain in detail the events that occurred and repeatedly allude to the fact that the claimant has at his disposal and provides the Court with supporting documents of the facts that are the subject of the claim.

On January 5, 2021, a letter is received from the OMIC of the Madrid City Council in

the one that communicates to this AEPD that the claimant "requests" them -we must understand them

"facilitates" - through mail dated December 10, 2020 the data of the

establishment, as there has been a change of ownership, in order to remedy

the claim filed with the AEPD. The letter adds that "From this OMIC

We inform that body that at the time of the events, the ownership of the

establishment was: Name/Business name: B.B.B.. Identification document: ***NIF.1.

Address of the establishment: C/ ***DIRIMIENTO.1, Madrid C.P.."

On that date, the OMIC also sends to the AEPD, as attached documents, the copy

of a thread of emails exchanged with the claimant and the letter that

AEPD had notified the claimant informing her of the admission for processing

of the claim he filed on October 16, 2019 in which he identified as

presumed responsible for the facts to the erroneous claimed.

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SECOND: The facts on which the claim presented by the

claimed on January 5, 2021 are the same as those on which the claim was made

formulated on October 16, 2019, which, as has been anticipated, gave rise to the

opening of procedure PS/00462/2020 against the erroneous claim and which ended

with a file resolution for non-existence of responsibility.

It should be noted, regarding these facts, that the AEPD, as a result of the claim of 16

of October 2019, assessed, in accordance with article 65, sections 1 and 2, of the Law

Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of

digital rights (hereinafter, LOPDGDD), the admissibility for processing of that

claim and agreed to admit it for processing on December 4, 2020. In addition, the agreement for admission to processing was notified to the complaining party in accordance with the provisions of Law 39/2015, of October 1, on Administrative Procedure Common Public Administrations (hereinafter, LPACAP).

Likewise, in accordance with article 65.4 of the LOPDGDD, the AEPD notified of the claim to the erroneous claimant and to MONEY GRAM SPAIN, S.A., with NIF A80821523, so that they proceeded to their analysis and inform this Agency in the period of one month of the actions carried out to adapt to the requirements provided for in the data protection regulations.

This last entity responded to the information request on July 27, 2020 and stated that he had no relationship with the claimant and with the entities then claimed -the erroneous claimed and MONEYGRAM INTERNATIONAL SRL- so could not provide any factual information. She added that she is "not a payment institution registered with the Bank of Spain in accordance with R.D. 736/2019, of 20 December, on the legal regime of payment services and payment entities; Therefore, it is not authorized to carry out any money transfer operation to which the claimant refers to in her complaint and be the subject of her claim. Said shipping operations appear to have been carried out by the two indicated companies."

THIRD: On December 9, 2021, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against the claimed party, in accordance with the provisions of articles 63 and 64 of the LPACAP, for the alleged infringement of article 6.1. of the RGPD, typified in article 83.5.a) of the RGPD.

FOURTH: The initiation agreement was electronically notified to the respondent party in date December 10, 2021, producing on that date both the start-up provision of the notice as your acceptance. This is confirmed by the certificate of the

FNMT that works in the file.

The respondent did not make any arguments against the agreement to initiate the procedure
sanctioner at hand.

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FIFTH: On June 21, 2022, the instructor of the procedure agreed to the

opening of a test phase and the practice of the following procedures:

1. Consider reproduced the submitted claim and its attached documentation, as well as
the documents obtained and generated in the information request phase prior to the
admission to processing of the claim.

2. Consider reproduced the documents that make up the sanctioning procedure PS/
462/2020 and the appeal for reconsideration RR/428/2021.

3. On June 21, 2022, the respondent is required to provide the
AEPD the following information and documents:

3.1. Since what date is the owner of the business identified with the commercial name
“CALL SHOP *** CALL SHOP.1”. You must provide documentation proving your
response.

3.2. That it states by virtue of which legal title the aforementioned business operates
(purchase, lease, etc) You must provide the documents that prove your
response.

3.3. To send to the AEPD the tax documentation that accredits the answers to the
questions formulated in sections 1 and 2 above.

3.4. To explain what is the protocol of action implemented to comply with the

obligations imposed by the data protection regulations regarding the data information that it collects from customers who request to send money through of MONEY BIG. In particular, it must explain:

- a) What procedure is followed for the management of sending a remittance of money ordered by a natural person in order to accurately identify the sender.
- b) If you ask the client to be a natural person who wants to send money through MONEY GRAM to show you a document that proves that you are the owner of the data you have provided as their own.
- c) If on occasions you have managed money remittances on behalf of a person who does not come to your establishment in person and who acts through a third party intervening on your behalf. If so, you must indicate what documentation requests the person acting on behalf of the owner of the shipment.

3.5. Explain whether the personal data it collects from customers who make a sending money through MONEY GRAM are incorporated directly into the application information technology of that company or if previously collected in another document or support, be it final or a simple draft, either on paper or in any other.

4. By means of a document received by the claimant on June 29, 2022, she was requires you to provide the following documentation and information:

4.1. Copy of your DNI, NIE or, failing that, of another document accrediting your identity.

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4.2. Explain whether you filed a complaint with the Police Station or/and before the Court of Instruction in relation to the facts for which he formulated claim before this Spanish Data Protection Agency. If so, You must send a copy of the corresponding complaint, of all the documents that presented to the Police or the Court and of all the documents that delivered or received as a result of such complaints.

If a judicial procedure was processed, you must provide the information and Documentation proving the status of the judicial proceeding and the jurisdictional body that is hearing the procedure.

4.3. Copy of the two emails that you declared having received at your email address

“***EMAIL.1” on September 2, 2019 from the electronic address

***EMAIL.3. You must also provide the headers of both emails.

4.4. Copies of all documents in your possession relating to the

claims that he made before MONEYGRAM in which he requested “the cancellation of fraudulent remittances, as well as accessing the profile blocked from accessing the web moneygram.com”.

4.5. A copy of the response you received from customer service from

MONEYGRAM from the address ***EMAIL.4.

4.6. Copy of the document that proves that on August 30, 2019 you sent a

remittance of money through the Locutorio *** LOCUTORIO.1 with number of shipping confirmation XXXXXXXX.

5. In writing addressed to Money Gram International, S.R.L., which is recorded as received by that entity on June 27, 2022, you are required to provide the information and following documentation:

5.1. The copy of the contract entered into with the Authorized Agent that operates

with the commercial name of “LOCUTORIO *** LOCUTORIO.1”, identification “XXXX”,

domiciled in Madrid, C.P. (Spain) street ***ADDRESS.1. You will need to provide the copy of the Agency contract that they had signed with the natural or legal person owner of the business "LOCUTORIO ***LOCUTORIO.1" and, if applicable, that of the agreements of subrogation in which the identity data of the successive holders of that business. In any case, you must identify who was the owner of the business "LOCUTORIO ***LOCUTORIO.1" that operated as an Authorized Agent of MONEY GRAM on September 2, 2019.

5.2. Regarding remittances with the references ***MENSAJE.1 and ***MESSAGE.2 executed on September 2, 2019 through your Agent Authorized "LOCUTORIO *** LOCUTORIO.1", must provide the impressions of screen of their computer systems that contain the identity data of the person who is registered as the sender of both shipments. You must provide the least, the following data of the senders: name and surnames, the document of identity - class and number- and the e-mail address.

5.3. That explains the iter that the personal data that is collected for manage money transfers since an Authorized Agent picks them up from the client

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until MONEY GRAM delivers the money remittance to the recipient through another

Agent. In particular, you must report:

- What flow follows the personal data that an Authorized Agent collects and enters in the MONEY GRAM app.
- Once the data has left the Authorized Agent that has collected and

incorporated into the application, can MONEY GRAM in any way modify or rewrite the customer data that the Authorized Agent initially included in the company's computer application?

- Is it necessary for MONEY GRAM to perform a data dump from the screen?

used by the Authorized Agent to another system or application so that the operation of shipping run successfully?

- From a technical point of view, once the Agent has completed the form with the client's data, MONEY GRAM can access that data and modify them?

5.4. What security measures does MONEY GRAM require from its Authorized Agents in order to to guarantee compliance with the RGPD and, in particular, with the principles of legality of the treatment and accuracy of data

5.5. What controls does MONEY GRAM have in place to verify that Agents Authorized comply with the security measures adopted in accordance with the GDPR.

5.6. You must submit the documentation in your possession related to the following claims made on September 2, 2019 before the service of MONEY GRAM customer service: i) By telephone with the numbers of incidence ***INCIDENCE.1 and ***INCIDENCE.2. ii) Through the web form ***EMAIL.2, incident number ***EMAIL.3.

5.7. What is the legal basis for the treatment that MONEY GRAM made on September 2, 2019 of the data related to the electronic address ***EMAIL.1 to which two emails related to remittances were sent identified with the references ***MESSAGE.1 and ***MESSAGE.2.

6. Through diligence dated July 18, 2021, the following are incorporated into the procedure: proof purposes the following documents:

Yo. Identified as “doc4pdf”, a screenshot obtained from ***URL.1

ii. Identified as “capture5pdf”, a screenshot obtained from ***URL.2

from which you can select the language to access the "Privacy Notices of MoneyGram.”

iii. The document identified as “Updated-MoneyGram-Global-Consumer” that includes the "Global Privacy Notice", updated on April 1, 2022, to which access from the address indicated in point 2 (by mistake, the diligence refers to the point 3)

IV. The document identified with the name “Updated-Controller-for-Privacy-Notice”, that includes the "List of data controllers- Addendum to the notice of privacy for global consumers of Money Gram”, which is accessed from the electronic address indicated in point 2 (by mistake, the diligence refers to point 3).

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Result of the tests carried out in the course of the procedure:

1. Before the claimed party:

They are received at the AEPD on June 29, 2022, sent by the party requested, the following documents:

1.1. AEAT model 037 -Simplified Census Declaration of registration, modification and low in the Census of companies, professionals and retainers - completed by the claimed party. The date of census registration and start of activity is recorded as July 11 of 2019.

1.2. The lease contract for business premises located on the street

*** ADDRESS.1 signed on July 1, 2019 of which the part is the tenant

claimed.

1.3. The file with the name "justificante_envios_moneygram.pdf", which includes three documents that correspond to the forms, duly completed, regarding the money transfer that the claimant made on August 30, 2019 and the two shipments dated September 2 to which she is unrelated and to which her personal information.

a) General characteristics of the forms:

. The documents have in their header, on the right, the anagram of Money

Gram and, to the left, the indications "Envío/ Send", "Agent: LOCUTORIO

***LOCUTORIO.1-#L7934" and the respective number of "Delivery note:"

. After a first paragraph dedicated to the "Notice of fraud", the body of the document is structure in these headings: "Shipping settlement document"; "Data from the person making the shipment" and "Pay to".

. It is followed by a space without printed letters and then the "General Conditions".

. On the right side of the document there is a column with this legend: "To fill in

only by the representative. Below is the shipment reference number; the

"Amount to send", specified in euros - dedicating two separate spaces to the "Amount

to send", "Commission", "Discount" and "Total"- and the "Amount to receive" -enabling the

respective boxes for "Currency in which you receive:;", "Change applied:" and "Total to

to receive:"- . Next, in this same right column, there is a box for

complete the "Profession of the payer"; the "Date of birth" and the "Telephone".

Finally, in the same column there are spaces for the "Number of

operator identification"; "Date" and "Signature of Agent".

b) Completed form regarding the transfer of money made on August 30,

13.09.51

2019 at “

”. The delivery note number that identifies it is *** DELIVERY DELIVERY.1 and in the right column contains the reference number XXXXXXXXX.

In the section “Shipping settlement data”, Bogotá (Colombia) is indicated as the destination. and an amount to send of 495.50 euros.

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In the section "Data of the person sending the shipment", the name and two surnames of the claimant; your address, street *** ADDRESS.2, C.P. of Madrid, the mobile number ***TELÉFONO.1, nationality, Spanish and ID number

***NIF.1. In the right column, under the heading "Profession of the payer" there is “HOUSEHOLD EMPLOYEE”, the “Date of birth” “07-15-1979” and the “Telephone” number ***PHONE.1. The heading "Pay to" includes the name and two surnames of the recipient -E.E.E.- and a mobile number, ***PHONE.2.

At the end of the right column is the “Operator identification number”:

“Locutorio *** LOCUTORIO.1 -#L7934”.

Beneath there is a signature that reads “XXXXXXXXXX”. At a glance that signature is identical to the signatures of the claimant that appear in the documentation that work in the file: in the complaint made at the Police Station, in the "Claim sheet" that he filed with the OMIC and in the document attached to that form that was sent to the AEPD on October 16, 2019.

c) Form completed regarding the transfer of money made on September 2

of 2019 at “19.52:40”. The delivery note number that identifies it is "XXXXXXXXX" and

in the right column the reference number is “***MESSAGE.2”.

In the section "Delivery settlement data", it appears as destination Bogotá (Colombia) and an amount to send of 394.50 euros.

In the section "Data of the person sending the shipment", all the data claims of the claimant that appear in the form of your money transfer made on August 30: your name and two surnames, your address (street, number and zip code), mobile number, nationality and ID number.

In the right column, under the heading "Profession of the payer", "Date of birth" and "Telephone", these three data of the claimant that appear in the form related to the transfer of money that you made on August 30.

In the "Pay to" section, the addressee is D.D.D. and mobile number ***PHONE.3.

At the end of the right column is the "Operator identification number":

"Locutorio *** LOCUTORIO.1 -#L7934".

Below is a signature that reads "A.A.A." This signature is, at a glance, totally and absolutely different from that of the claimant, with which she does not present any coincidence. There are several documents in the administrative file with the signature of the claimant.

d) Form completed regarding the transfer of money made on September 2 19.04.14”.

The delivery note number that identifies it is “*** DELIVERY DELIVERY.2” from 2019 at “

and in the right column the reference number is “***MESSAGE.1”.

In the section "Delivery settlement data", it appears as destination Bogotá (Colombia) and an amount to send of 494.50 euros.

In the section "Data of the person sending the shipment", the data

claims of the claimant that appear in the form of your shipment made on 30

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August: your name and two surnames, your address (street, number and postal code), the mobile number, nationality and your ID number.

In the right column, under the heading "Profession of the payer", "Date of birth" and "Telephone", these three data of the claimant that appear also in the money transfer form that you made on August 30.

In the section "Pay to", C.C.C. appears as recipient. and mobile number ***PHONE.4.

At the end of the right column is the "Operator identification number":

"Locutorio *** LOCUTORIO.1 -#L7934".

Below is a signature that reads "A.A.A." The signature is, at a glance, totally and absolutely different from that of the claimant, with which she does not present any coincidence and of which there are several examples in the administrative file.

1.4. A document from the respondent with the following text:

<<In response to your request dated 06/21/2022, we detail the process for money transfers made in my call shop:

1. We ask for the client's document
2. We ask which country they want to send money to
3. If you are a regular customer We ask with which company you want to send, we have several companies
4. If the client has chosen moneygram, we check if his data is on the file

of moneygram are correct.

5. We ask who wants to send the money and in case it is a new

beneficiary We ask full name of beneficiary, phone number

6. If it is payment on account, complete account number of the recipient, name

complete, telephone number, number of documents and name of the bank and the

relationship with the beneficiary.

7. We proceed to make the shipment and send the client's document scanned to the

waiting company that authorizes it and once it is authorized we proceed

make the shipment.>> (The emphasis is ours)

2. Before the complaining party.

They are received at the AEPD on June 30, 2022, sent by the party

claimant, the following documents:

2.1. Copy of the complaint filed at the Police Station on September 17

of 2019 (Attested ***ATESTADO.1). In it, firstly, it identifies the

appearing, the current claimant, through her DNI: it includes her name, surnames,

NIF, address, date of birth and telephone that coincide with those that appear in the

"Claim sheet" that she submitted to the OMIC. The complainant states that

on August 30, 2019 "he sent 500 euros to his brother-in-law F.F.F. cash

through Money Gran, at UNITED ANIF, S.L., located at ***ADDRESS.1,

handing over their personal documentation, which was in the possession of the

workers of this call center and receiving a receipt for said transaction."

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“That on the day indicated above, he received two emails in his email

by Money Gram, being able to observe how two shipments of

money to two people I did not know [...]”

“That the declarant had not made these money transfers, so she contacted

MoneyGram, which replied that it was an error at the time of

enter the email, so the denouncer asked them that as it was

of an error and since she had not made them they were deleted from her account

client.”

“That these money transfers have not been deleted from your customer account, so

you think that some unknown person may have used your account fraudulently,

to make money transfers, not knowing the reasons why you would make

this action.

“That I enclose a receipt for the shipment made by her to her brother-in-law on 08/28/2019,

email with reference number of fraudulent shipments as well as

transaction history of your profile.” (emphasis ours)

2.2. An identical brief to the one filed on October 16, 2019, which has been

described in the First Fact Record – document that is also signed

by the claimant. The document in question has the structure of a complaint

addressed to the Court for the alleged commission of several crimes of which

holds the erroneous claimant -UNITED ANIF, S.L.- and MoneyGram responsible

International, SRL.- with the particularity that with it it provides the following captures

of screen obtained from a mobile terminal:

Yo. One image reads: “Thank you! We will reply to you as soon as possible. number of

attendance tracking ***EMAIL.3”. In the other image, after the anagram of

the company says, it reads: “Money Gram. Closed profile After review

thorough”. The complainant explains that these screenshots refer to a

claim in which you requested to cancel remittances number ***INCIDENCIA.1 and

***INCIDENCE.2.

ii. The profile you have on the Money Gram website with your “Transaction History”.

Four transactions are reflected, in addition to one carried out in 2018, the
that the claimant made on August 30, 2019 and the two made on August 2,
September 2020 that she did not order and on which this procedure deals
sanctioning

23. Copy of the email the claimant received on September 3, 2019

from ***EMAIL.4. identified with the reference “Money Gram Case 9079320”. In the
message tells you that the customer provided an invalid email address or the
agent entered the wrong email address when entering it into the system, which caused
that the claimant received a notice regarding the transaction. (“Dear A.A.A., We regret
to learn that the consumer provided an invalid email address or the agent mistyped the

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email address in the system, which caused you to receive a notification about a
transaction.”)

3. Before MONEY GRAM INTERNATIONAL, SRL.

This entity has not responded to the requested evidence.

SEVENTH: Attached as an Annex is the list of documents that are in the
process.

Of the actions carried out in this procedure and the documentation

in the file, the following have been accredited:

PROVEN FACTS

FIRST: The claimant denounces that the claimed party, owner of the Locutorio

***LOCUTORIO.1, authorized agent of Money Gram International, S.P.R.L., linked

your personal data to two money transfers made through Money Gram, to which

that she is someone else's, which were managed by the aforementioned call center on September 2, 2019.

SECOND: The claimant stated in her claim that she received at her address

email, ***EMAIL.1, on September 2, 2019, at 7:04 p.m. and 7:52 p.m.,

respectively, two emails sent by Moneygram Payment

Systems, Inc. regarding two money transfers that she did not order, addressed to people

that he claims not to know, which contained the following information:

-In one of them, reference number ***MESSAGE.1, appears as the recipient of the

shipping C.C.C.; the amount to be sent is XXX.X €; the date the money was

collected “(...)” and the amount to receive “(...)”.

-In the other, with reference number ***MESSAGE.2, it appears that the addressee is

D.D.D.; the amount of the shipment XXX.X €; the date the money was collected by the

recipient “(...)” and the amount to receive “(...)”.

THIRD: The claimant sent money on August 30, 2019 to

through MoneyGram, managed by the Locutorio ***LOCUTORIO.1, and on the same day,

at 8:18 p.m., he received an email to his email address ***EMAIL.1 from

Moneygram Payment Systems, Inc. confirming the shipment and receipt of the

remittance by the recipient. The reference number was included in the message.

XXXXXXXXX; the name of the person receiving the shipment; the amount sent,

XXX.X€; the date on which the money was collected, “(...)” and the amount to be received, “(...)”.

FOURTH: The respondent has provided, in response to the requested evidence, the

forms documenting the money transfers that the claimant

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made on August 30, 2019 (i) and the two shipments to which your data was linked

personal and that she did not order made on August 2, 2019, (ii) and (iii).

The three documents have in their header, on the right, the anagram of Money

Gram and, to the left, the indications "Envío/ Send", "Agent: LOCUTORIO

***CALL SHOP.1-#L7934" and the respective "Delivery note" number.

(i) Form documenting the remittance of money made by the claiming party

from the Locutorio ***LOCUTORIO.1, through Money Gram, on August 30,

2019 at 13.09.51 bearing the delivery note number ***ALBARAN.1 and the number of

reference XXXXXXXX.

In the section "Shipping settlement data", Bogotá (Colombia) is indicated as the destination.

and an amount to be sent of XXX.XX euros.

In the section "Data of the person sending the shipment", the name and two

surnames of the claimant; A.A.A.; your address, street *** ADDRESS.2, C.P. of

Madrid, the mobile number ***TELÉFONO.1, the nationality, Spanish and the number

of DNI ***NIF.1.

In the right column, under the heading "Profession of the payer" it appears "EMPLOYEE

OF HOME", the "Date of birth" "15-07-1979" and the "Telephone" number

***TELEPHONE 1.

The heading "Pay to" includes the name and two surnames of the recipient -E.E.E.-

and a mobile number, ***PHONE.2.

The document is signed by the claimant with the following text: "XXXXXXXXXX". A

At first glance, that signature is identical to the signatures of the claimant that appear on the documentation that is in the file: That is, in the complaint made in the Police Station, in the "Complaint Sheet" that he filed with the OMIC and in the document attached to that form that was sent to the AEPD on October 16, 2019.

(ii) Form that documents the transfer of money made by a third party from the Locutorio ***LOCUTORIO.1, through Money Gram, on September 2, 2019 at the "19.52:40". The delivery note number that identifies it is XXXXXXXX and in the column right of the document contains the reference ***MENSAJE.2.

In the section "Shipping settlement data", Bogotá (Colombia) is indicated as the destination. and an amount to be sent of XXX.XX euros.

In the section "Data of the person sending the shipment", all the data claims of the claimant that were collected in the form of your money transfer made on August 30: your name and two surnames, your address (street, number and zip code), mobile number, nationality and ID number.

In the right column, under the heading "Profession of the payer", "Date of birth" and "Telephone", the three details of the claimant that appear in the form related to the transfer of money that you made on August 30.

In the "Pay to" section, the addressee is D.D.D. and mobile number ***PHONE.3.

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The document bears a signature in which is written "A.A.A." This signature is, simply view, totally and absolutely different from that of the claimant, with which she does not present

no match.

(iii) Form that documents the transfer of money made by a third party from the

Locutorio ***LOCUTORIO.1, through Money Gram, on September 2, 2019 at

the "19.04.14". The delivery note number that identifies it is *** DELIVERY DELIVERY.2 and on the

The right column of the document contains the reference number ***MESSAGE.1.

In the section "Delivery settlement data", it appears as destination Bogotá (Colombia) and

an amount to be sent of XXX.XX euros.

In the section "Data of the person sending the shipment", the data

claims of the claimant that appear in the form of your shipment made on 30

August: your name and two surnames, your address (street, number and postal code), the

mobile number, nationality and your ID number.

In the right column, under the heading "Profession of the payer", "Date of

birth" and "Telephone", these three data of the claimant that appear

also in the money transfer form that you made on August 30.

In the section "Pay to", C.C.C. appears as recipient. and mobile number

***PHONE.4.

Below is a signature that reads "A.A.A." The signature is, at a glance,

totally and absolutely different from that of the claimant, with which she does not present any

coincidence and of which there are several examples in the administrative file.

FIFTH: The file contains a copy of the complaint that the claimant filed on

September 17, 2019 at the Police Station (Attested ***ATESTADO.1) The

two pages of the complaint are signed by the claimant.

The complaint identifies the appearing party through her DNI: it includes her

name, surnames, NIF, address, date of birth and telephone. These data are the

same as those that appear in the "Claim Sheet" that the claimant presented

before the OMIC.

The claimant states in the police report that on August 30, 2019 “she carried out a shipment of 500 euros to his brother-in-law F.F.F. in cash through Money Gran, in premises UNITED ANIF, S.L., located on street *** ADDRESS.1, delivering your personal documentation, which was in the possession of the workers of this booth and receiving a receipt for said transaction.”

“That on the day indicated above [September 2, 2019] he received in his mail email two emails from Money Gran, being able to observe how two money transfers had been made to two people I did not know [...]”

“That the declarant had not made these money transfers, so she contacted MoneyGram, which replied that it was an error at the time of enter the email, so the denouncer asked them that as it was

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of an error and since she had not made them they were deleted from her account client.”

“That these money transfers have not been deleted from your customer account, so you think that some unknown person may have used your account fraudulently, to make money transfers, not knowing the reasons why you would make this action.

“That I enclose a receipt for the shipment made by her to her brother-in-law on 08/28/2019, email with reference number of fraudulent shipments as well as transaction history of your profile.” (emphasis ours)

SIXTH: The claimant filed various claims with Money Gram as a result of

receive emails informing you of two money transfers

allegedly made by her on September 2. To this end, it has provided:

-The copy of the email you received on September 3, 2019 from

***EMAIL.4., identified with the reference "Money Gram Case XXXXXXXX". In the

message tells you that the customer provided an invalid email address or the

agent entered the wrong email address when entering it into the system, which caused

that the claimant received a notice regarding the transaction.

-Two screenshots obtained from a mobile terminal that, as stated, relate to

about the complaints that he directed to Money Gram to request that he cancel the

remittances numbers ***INCIDENCIA.1 and ***INCIDENCIA.2. An image reads:

"Thank you! We will reply to you as soon as possible. Attendance Tracking Number

***EMAIL.3".

In the other image, after the company logo, it reads: "Money Gram. Profile

closed After a thorough review."

SEVENTH: Work in the file, provided by the claimant in the evidence phase, a

screenshot of a mobile terminal with MoneyGram system information

relating to your "Transaction History". The image shows this information:

-In the first place, the indication "2 de sept. 2019", "Complete". Underneath, "Number of

Refer..." "...". And below, "XXX,XX EUR" "Money receipt".

-The second register says: "Sept 2." "Complete". Underneath, "Núm de Refere..."

"C.C.C." Below, "XXX,XX EUR" "Money receipt".

-The third record carries this information: "30 Aug. 2019", "Complete". Underneath, "Number of

Referee..." "F.F.F. ". And below, "XXX,XX EUR" "Money receipt".

-The last record that appears in the provided screenshot can be viewed

this information: "Dec 15. 2018", "Complete". Below, "Núm de Refere..." "...". Y

below, "XXX,XX EUR" "Money receipt".

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EIGHTH: The claimant filed a claim on October 16, 2019 with the OMIC of the Madrid City Council directed against UNITED ANIF, S.L., as owner of the Locutorio *** LOCUTORIO.1 (the erroneous claimed), whom he held responsible of having used your personal data to link them to two money transfers made on August 2, 2019 that she did not order. Works in the file the "Leaf of Claim", which the OMIC sent to the AEPD on October 16, 2019.

It is duly completed and signed by the claimant and in the section intended for "Signature and stamp of the claimed" bears the stamp of UNITED ANIF, SL

On January 5, 2021, the OMIC sends to the AEPD the communication it received of the claimant in December 2020 in which she rectified the identification data of the owner of the Locutorio ***LOCUTORIO.1 on the date on which the facts and reported that on that date the owner was B.B.B. with NIF ***NIF.1.

NINTH: Regarding the business activity of the claimant, works in the file, provided by the respondent, the "Simplified Census Declaration of registration, modification and cancellation in the census of companies, professionals and retainers" (model 037) filed with the State Tax Administration Agency (AEAT), in which it is stated that the census registration date and the date on which the claimant began her activity was on July 11, 2019.

The lease contract to which it is a party is also in the file.

lessee the claimed, signed on July 1, 2019, being the object of the

leasing the business premises located in calle ***DIRIMIENTO.1 of Madrid.

TENTH: The respondent, in her response to the requested evidence, has stated that the process that follows in the management of money transfers made from your booth is as follows:

<<1. We ask for the client's document

2. We ask which country they want to send money to

3. If you are a regular customer We ask with which company you want to send, we have several companies

4. If the client has chosen moneygram, we check if his data is on the file of moneygram are correct.

5. We ask who wants to send the money and in case it is a new beneficiary We ask full name of beneficiary, phone number

6. If it is payment on account, complete account number of the recipient, name complete, telephone number, number of documents and name of the bank and the relationship with the beneficiary.

7. We proceed to make the shipment and send the client's document scanned to the waiting company that authorizes it and once it is authorized we proceed make the shipment.>> (The emphasis is ours)

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ELEVENTH: In the global privacy policy of Money Gram, incorporated into the procedure by diligence of the instructor of July 18, 2022, are collected, among others, these forecasts:

<<[...]

OUR DATA PROTECTION PRINCIPLES

[...].

We are committed to complying with data protection laws and ensuring

that personal information is: • Used lawfully, fairly and transparently;

• Collected only for valid purposes that we have clearly explained to you and not used

improperly; • Relevant for the purposes we have communicated to you and limited

for those purposes only • Accurate and up-to-date; • Stored only as long as necessary to

the purposes that we have indicated; and • Stored securely.

[...]

PURPOSES OF THE PROCESSING OF PERSONAL DATA [...]

We use personal data that you provide to us or that we collect about you

for the following purposes, as permitted by law:

• For the performance of a contract with you, to send you transactional messages

and other administrative messages when requesting money transfer services; [...]

• To comply with a legal or regulatory obligation, [...]

[...]

OUR INFORMATION SECURITY STANDARDS [...]

We use appropriate organizational, technical and administrative measures to

maintain the security of your personal information and to protect it from

destruction, loss, alteration, unauthorized disclosure or access to information

personnel under our control.

[...]

In addition, we take precautionary measures to restrict access to information

staff only to those who need it, such as our employees, service providers,

services, agents, partners and other third parties/external advisers, as applicable.

All those who have access or are related to the processing of personal information are contractually bound to respect the confidentiality of your personal information, implement appropriate security standards, and comply with applicable data privacy standards and policies.

[...]>> (Underlining is ours)

TWELFTH: The Money Gram forms in which the shipments are documented of cash managed by the Locutorio ***LOCUTORIO.1 that have been described in the Fourth Proven Fact include at the end this legend:

“General Conditions”: “This transaction is subject to the terms and conditions provided in the establishments of the agents and in ***EMAIL.2o/term .

[...] By continuing with this transaction:

- . Acknowledge the fraud warnings listed above
- . Confirm that you are the sole beneficiary of the funds and that you are not sending money in name of a third party

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[...]” (Underlining is ours)

FOUNDATIONS OF LAW

Yo

Competition of the AEPD

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter RGPD), grants each control authority and as established in articles 47 and 48.1 of the Law

Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Data Protection Agency.

Article 63.2 of the LOPDGDD determines that "The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions of the Regulation (EU) 2016/679, in this organic law, by the provisions regulations issued in its development and, as long as they do not contradict them, with a subsidiary, by the general rules on administrative procedures."

II

Responsible for data processing in which the conduct contrary to the GDPR

Article 4 of the RGPD, "Definitions", provides that "For the purposes of this Regulation shall be understood as:

[...]

7) "responsible for the treatment" or "responsible": the natural or legal person, public authority, service or other body which, alone or jointly with others, determines the purposes and means of treatment; whether the law of the Union or of the Member States determines the purposes and means of the treatment, the person in charge of the treatment or the Specific criteria for their appointment may be established by Union Law. or of the Member States;

8) "in charge of the treatment" or "in charge": the natural or legal person, authority public, service or other body that processes personal data on behalf of the data controller;"

Article 28 of the RGPD, "Data Processor", stipulates:

"1. When a treatment is going to be carried out on behalf of a person in charge of the treatment, this will only choose a person in charge who offers sufficient guarantees

to apply appropriate technical and organizational measures, so that the

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treatment is in accordance with the requirements of this Regulation and guarantees the protection of the rights of the interested party.

two.[...]

3. The treatment by the person in charge will be governed by a contract or other legal act with under the law of the Union or of the Member States, binding the person in charge with respect to the person in charge and establish the object, duration, nature and purpose of the treatment, the type of personal data and categories of interested parties, and the obligations and rights of the controller. Said contract or legal act shall stipulate, in particular, that the person in charge:

- a) will process personal data only following documented instructions of the responsible, including with respect to transfers of personal data to a third country or an international organization, unless required to do so under of the Law of the Union or of the Member States that applies to the person in charge; in In such a case, the person in charge will inform the person in charge of that legal requirement prior to the treatment, unless such Law prohibits it for important reasons of interest public; b) will guarantee that the persons authorized to process personal data have undertaken to respect confidentiality or are subject to an obligation confidentiality of a statutory nature;
- c) take all necessary measures in accordance with article 32;
- d) will respect the conditions indicated in sections 2 and 4 to resort to another

treatment manager;

e) will assist the person in charge, taking into account the nature of the treatment, through appropriate technical and organizational measures, whenever possible, so that this

can comply with its obligation to respond to requests that are intended to

the exercise of the rights of the interested parties established in chapter III;

f) will help the person in charge to guarantee the fulfillment of the obligations

established in articles 32 to 36, taking into account the nature of the treatment

and the information available to the person in charge;

g) at the choice of the person in charge, will delete or return all personal data once

Once the provision of treatment services ends, and will delete the copies

existing unless the retention of personal data is required under

of the Law of the Union or of the Member States;

h) will make available to the person in charge all the information necessary to demonstrate

compliance with the obligations established in this article, as well as

to enable and assist in the performance of audits, including inspections, by

part of the person in charge or of another auditor authorized by said person in charge.

In relation to the provisions of letter h) of the first paragraph, the person in charge will inform

immediately to the controller if, in his opinion, an instruction violates this

Regulation or other provisions on data protection of the Union or of

the member states.

4.[...]

5. The treatment manager's adherence to a code of conduct approved by

under article 40 or to an approved certification mechanism under article

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42 may be used as an element to demonstrate the existence of guarantees

enough referred to in sections 1 and 4 of this article.

6. Notwithstanding that the person in charge and the person in charge of the treatment celebrate a

individual contract, the contract or other legal act referred to in sections 3 and 4

of this article may be based, totally or partially, on the clauses

standard contracts referred to in sections 7 and 8 of this article, inclusive

when they form part of a certification granted to the person in charge or in charge of

in accordance with articles 42 and 43.

7. The Commission may set standard contractual clauses for the matters to which it

referred to in sections 3 and 4 of this article, in accordance with the procedure of

examination referred to in article 93, paragraph 2.

8. A supervisory authority may adopt standard contractual clauses for matters

referred to in sections 3 and 4 of this article, in accordance with the

coherence mechanism referred to in article 63.

9. The contract or other legal act referred to in sections 3 and 4 shall be recorded by

written, including in electronic format.

10. Without prejudice to the provisions of articles 82, 83 and 84, if a person in charge of the

treatment infringes this Regulation by determining the purposes and means of the

treatment, will be considered responsible for the treatment with respect to said

treatment."

The Locutorio ***LOCUTORIO.1 was an authorized agent of Money Gram when

the events that are the subject of this claim occurred, an extreme that remains

accredited in light of the documentation in the file. For this purpose they can

cite the forms of the cash shipments managed by the booth on dates

August 30, 2019 and September 2, 2019 bearing the anagram of

MoneyGram and in which the agent is identified as "CALL SHOP

*** CALL ROOM.1-#L7934". Also confirms MoneyGram agent status

of the aforementioned booth that in the "Shipment History" of the claimant that works in the

Money Gram systems, of which there is a screenshot on file

provided by the claimant, reflect the cash shipments managed by the

Locutorio ***LOCUTORIO.1 on August 30 and September 2, 2019. Or that the

remittances managed through the aforementioned booth would have been

effectively delivered to their recipients and had generated the referral, to whom

was recorded as the ordering person of such shipments, of an email sent

by Moneygram Payment Systems, Inc. in which he reported the delivery of the money to

the recipients.

In turn, on the date of September 2, 2019 in which the personal data of the

claimant were linked to two money transfers that she did not order managed

from the aforementioned booth, the owner of the business was the one claimed, B.B.B., with NIF

***NIF.1.

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This circumstance has been accredited in the administrative file whenever

that the respondent, in response to the evidence requested, has provided the Declaration

Simplified Census of registration, modification and cancellation in the Census of companies,

professionals and retainers before the AEAT in which as the date of census registration and start

of activity on July 11, 2019. So that the registration and start of the activity

of the one claimed in the business known as Locutorio *** LOCUTORIO.1 there was a little over a month before the events occurred. Also works in file the lease agreement signed by the respondent on July 1, 2019 as the lessee of the business premises located on the street *** ADDRESS.1, in the which is located the Locutorio *** LOCUTORIO.1.

In attention to the aforementioned documentation, and for more than the Claim Sheet, copy for the Administration, which the claimant presented to the OMIC of Madrid City Council will have in the space for "Signature and stamp of the claimed" the seal of UNITED ANIF, S.L., the truth is that on the date of the events the owner of the call center from which the cash transfers were managed was not that but, as the claimant communicated to the OMIC and that organization informed the AEPD on January 5, 2021, B.B.B..

MoneyGram's Global Privacy Policy, updated as of April 1, 2022, which is accessed from its website, reports that, regarding the data processing carried out within the scope of the European Union in relation to with the personal information that is provided to its agents, the person in charge of the treatment is MoneyGram International SPRL, "a Belgian entity with registered office at Rue Joseph Stevens BE-1000 Brussels, Belgium. In these cases, MoneyGram International SRL will be the "data controller" of your personal information collected in the EU."

We reproduce below a fragment of the aforementioned Privacy Policy Money Gram Global, of which a copy is included in the file incorporated by due diligence during the testing phase:

<<MoneyGram is a leading global financial technology company that offers innovative money transfer and payment services to millions of consumers around the world. We are committed to safeguarding the

privacy of your personal information. This Privacy Notice describes our data privacy practices and policies when it relates to us, including how we collect, use and share your personal information in accordance with laws and standards of ethical conduct applicable. If our practices and policies change, we will update this Notice.

Of privacy.

ABOUT US? A "data controller" determines how and why a organization will use personal data.

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This Privacy Notice applies to MoneyGram Payment Systems, Inc., a wholly owned subsidiary of MoneyGram International, Inc. and its affiliates and subsidiaries worldwide (collectively, "MoneyGram", "MoneyGram Group", "us", "our", "we"). Most of our money transfer services and commercial activities are carried out under MoneyGram Payment Systems, Inc., a US entity located in 1550 Utica Avenue South, Suite #100, Minneapolis, MN 55416, USA ("MPSI"). Generally, MPSI will be the "data controller" in relation to any personal information provided to us in any part of the world, either in person at our agent locations, or by mail email, phone, or through our website or mobile app, unless that we have another local entity licensed by MoneyGram. This means that MPSI is responsible for deciding how it will retain and use the information

staff about you. However, depending on your location and how interact with us, an entity other than MoneyGram may be the "data controller". For example, if you use our transfer services of money in the European Union ("EU"), you will be interacting with MoneyGram International SRL, a Belgian entity with registered office at Rue Joseph Stevens BE-1000 Brussels, Belgium. In these cases, MoneyGram International SRL will be the "data controller" of your personal information collected in the EU.

[...]

SCOPE OF THIS PRIVACY NOTICE [...]. This Privacy Notice is applies when you interact with MoneyGram anywhere in the world. By For example, this Privacy Notice applies when you:

- You use any of MoneyGram's services, either directly or through through our agents, mobile applications or websites;

[...]

OUR DATA PROTECTION PRINCIPLES

[...].

We are committed to complying with data protection laws and ensure that personal information is:

- Used lawfully, fairly and transparent;

- Collected only for valid purposes that we have clearly explained to you and not misused;
- Relevant for the purposes we have communicated to you and limited to those purposes only
- Accurate and up-to-date;
- Saved only while it is necessary for the purposes that we have indicated; and
- Saved as safe.

[...]

HOW WE COLLECT PERSONAL INFORMATION [...]

We may collect personal information in a variety of ways, including:

- Directly from you: [...].
- Indirectly from you: [...]

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- Other sources: for example, [...] information from our partners or agents,

depending on our relationship with them for the purposes listed in this

Privacy Notice and at all times in accordance with the laws.

[...]

PURPOSES OF THE PROCESSING OF PERSONAL DATA [...]

We use personal data that you provide to us or that we collect about

you for the following purposes, as permitted by law:

- For the performance of a contract with you, to send you messages of transactions and other administrative messages when requesting services from sending of money; [...]

- To comply with a legal or regulatory obligation, [...]

- To market our services, such as to send you marketing communications. marketing in connection with our services, [...]

- To pursue our legitimate interest in accordance with the laws,

[...]

OUR INFORMATION SECURITY STANDARDS [...]

We use appropriate organizational, technical and administrative measures to

maintain the security of your personal information and to protect it from destruction, loss, alteration, unauthorized disclosure or access to the personal information under our control.

We employ the appropriate techniques and security measures to protect our systems and services. For example, when you provide your information sensitive personal information, such as bank account information or a phone number Social Security, the information is encrypted and protected in our systems.

Also,

we take preventive measures to restrict access to personal information only to those who need it, such as our employees, service providers, agents, partners and other third parties/advisors external, as appropriate. All who have access or are related with the processing of personal information are contractually bound to respect the confidentiality of your personal information, implement the appropriate security standards and comply with security standards and policies. applicable data privacy. Although our security standards of the information conform to industry standards and requirements data security and privacy, we make no warranty claims on about security or impenetrability of MoneyGram's systems in circumstances extraordinary/exceptional or future sophisticated attacks.

(The

underlining is ours)

[...]>>

With regard to the facts that are the subject of the sanctioning file that concerns us, under article 28.10 of the RGPD, it is estimated that the claimed, holder of the

Locutorio ***LOCUTORIO.1, authorized agent of Money Gram, is responsible for the

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treatment of the personal data of the claimant having managed, from the establishment of which he is the owner, the sending of two cash remittances linked to the personal data of the claimant on August 2, 2019, shipments that the claimant did not contract. The aforementioned precept provides that “if a person in charge of treatment”, a condition that in principle the defendant would have, “infringes the this Regulation when determining the purposes and means of the treatment, it will be considered responsible for the treatment with respect to such treatment.”

III

Violation of the principle of legality

1. The RGPD deals in its article 5 with the principles that govern the treatment of personal data, provision that provides:

"1. The personal data will be:

a) treated lawfully, loyally and transparently with the interested party (<<lawfulness, loyalty and transparency>>)".

Article 6 of the RGPD under the heading "Legality of the treatment" specifies in its section

1 the cases in which the processing of personal data is considered lawful:

"1. The treatment will only be lawful if it meets at least one of the following conditions:

a) the interested party gave their consent for the processing of their personal data for one or more specific purposes;

b) the treatment is necessary for the execution of a contract in which the interested party is part of or for the application at the request of the latter of pre-contractual measures;

c) the treatment is necessary for the fulfillment of a legal obligation applicable to the data controller;

d) the treatment is necessary to protect the vital interests of the interested party or another Physical person.

e) the treatment is necessary for the fulfillment of a mission carried out in the interest public or in the exercise of public powers vested in the data controller;

f) the treatment is necessary for the satisfaction of legitimate interests pursued by the person in charge of the treatment or by a third party, provided that on said interests do not override the interests or fundamental rights and freedoms of the interested party that require the protection of personal data, in particular when the interested is a child.

The provisions of letter f) of the first paragraph shall not apply to the processing carried out by public authorities in the exercise of their functions.”

The RGPD requires that the processing of personal data be lawful (article 5.1.a), to which must be based on one of the legal bases that it relates in its article 6.1. In light of the claimant's statements, it is evident that the www.aepd.es

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treatment of your personal data carried out by the claimed party cannot be protected in none of the reasons for legality detailed in article 6.1. GDPR.

Recital 39 of the RGPD says regarding the principle of legality that "All

Processing of personal data must be lawful and fair. For individuals, you must be absolutely clear that they are being collected, used, consulted or processed otherwise personal data concerning them, as well as the extent to which said data is or will be processed. [...]"

2. In the case of fact examined, the treatment that the respondent made of the data of the claimant could only be protected in the circumstance of the article 6.1.b) RGPD – contracting the provision of a mailing service cash to a third country through the company Money Gram - which would require that the claimant would have been a party to both cash transfer contracts.

In relation to the legal basis of article 6.1.b) RGPD, recital 44 specifies that "The treatment must be lawful when it is necessary in the context of a contract or of the intention to conclude a contract."

The documentation included in the file proves that the respondent processed the data claims of the claimant linking them to two cash transfers managed from his booth on August 2, 2019. They are in the file, provided by the claimed in the test phase, the forms in which both shipments are documented, identified with delivery note and reference numbers, respectively, XXXXXXXXX and ***MESSAGE.2, the delivery managed at 19:04:14, for an amount of XXX.XX € addressed to C.C.C., and with the numbers ***ALBARÁN.2 and ***MESSAGE.1 the shipment managed at 7:52:40 p.m., for an amount of XXX.XX € addressed to D.D.D.

In both documents, a person appears as the originator of the shipments. identified with the name, two surnames, NIF, address (street, number and ZIP code), nationality and mobile number of the complaining party. Also, in both forms is collected as profession, date of birth and telephone number of the person who sends the data of the claimant.

Now, these forms relating to shipments dated September 2, 2019

include the signature of the person who actually ordered the operation, even though

had provided the personal data of the claimant as their own. that signature is

totally and absolutely different from the signature of the claimant, in such a way that a simple

view and without any effort or specialized knowledge its total

disparity since it is not possible to find any similarity between the two.

Without prejudice to returning to this issue, and apart from the absolute disparity of the

calligraphy of the signature of the person who ordered the money transfers on September 2 and that of the

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signature of the claimant, it is now worth highlighting the following characteristics of the

appears on the forms documenting the two August 2 money transfers

2019: Typed text reads "A.A.A."; the name and surname are not written in

the same line, but the last name appears below the first name. In addition, the rubric

it encompasses both forming a kind of circle.

It is also proven in the file that the claimant, three days before

that the money transfers linked to your data were made, on August 30,

2019, ordered a money transfer by Money Gram through the Locutorio

***CALL SHOP.1. Shipment that was addressed to E.E.E., for an amount of 495.50 euros and,

as well as the shipments that were made with her data and to which she is unrelated,

directed to Bogota (Colombia).

The form of that cash shipment is in the file, which is signed

by the claimant. The form includes the following personal data of the

claimant: In the section called "Data of the person who makes the shipment", his name and two surnames appear – A.A.A.-; your address in street *** ADDRESS.2, C.P. from Madrid; the mobile number ***PHONE.1; Spanish nationality and DNI number ***NIF.1. In the right column of the form, under the rubric "Profession of the payer" includes "HOUSEHOLD EMPLOYEE", the "Date of birth" "15-07-1979" and the "Telephone" number ***TELEPHONE.1.

Beneath there is a signature that reads "XXXXXXXXXX". This signature is identical to other signatures of the claimant that appear in various documents that are part of the administrative file. In particular, they are signed by the claimant the complaint filed at the Police Station (one signature on each page), the "Hoja of claim" that he presented before the OMIC and the document attached to the Claim, documents that the OMIC sent to the AEPD on October 16, 2019.

As has been anticipated, there is a total and absolute discrepancy between the firms that appear on the forms of shipments made on behalf of the claimant in date September 2, 2019 and the one included in the delivery form that the claimant did make on August 30, 2019. Signature, the latter, which, as has warned, it is at first glance the same that is incorporated into other documents that the claimant signed of which there are examples in the administrative file.

One look at both signatures - the one from the claimant and the one from the submission forms. made on August 2, 2019- to perceive these differentiating characteristics:

The graphics between one and the other is radically different; the text is too claimant always writes XXXXXXXXXXXX as long as the person who made the shipments dated September 2, 2019 writes "A.A.A.". Note that "A.A.A." is he second last name of the claimant and that in none of the signatures of the claimant of The one we have examples in the file does not include a last name. In addition to this, the person who ordered the money transfers on August 2, 2019 wrote the name

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and the last name at different heights so that the last name appears below the first name.

The signature is also radically different between both firms: while the

claimed is elliptical in shape that of the third party who ordered the shipments on August 2,

2019 is a circle that includes the name and surname written one above the

other.

The claimant has repeatedly denied that she was involved in any of the

the operations of sending cash remittances that the respondent managed

linked to your personal data on September 2, 2019, exactly the

same data that she had provided three days earlier, on August 30, when

contracted the money transfer service. In this regard, it is recalled that the

claimant went to Money Gram International, SRL and filed a claim,

at the latest, the day following receipt of electronic messages from

MoneyGram Payment Systems, Inc., since the response to your complaint was sent on

August 3, 2019. This is an email sent from ***EMAIL.4

regarding the matter identified with the reference "Money Gram Case 9079320" (Made

Tested sixth)

The claimant continued to take steps with Money Gram to unlink

her personal data from money transfers that she did not make. To this end, it has

sent to the AEPD a screenshot obtained from the Money Gram systems

with your "Transaction History" in which they appear as shipments made by

she, in addition to the one she did order, dated August 30, the two shipments to which she is

outside, dated September 2 (Seventh Proven Fact). He has also provided two screenshots of Money Gram's response telling you that,

After a thorough review, your profile has been closed. answer that,

as stated by the claimant, it refers to the claim that she filed requesting to cancel remittances number ***INCIDENCIA.1 and ***INCIDENCIA.2.

In addition, the claimant filed a complaint with the Police for these events on March 17, September 2019, the content of which is detailed in the fifth Proven Fact.

3. The Money Gram forms on which the shipments were documented managed by the Locutorio ***LOCUTORIO.1 include this legend: "Conditions General": "This transaction is subject to the general terms and conditions provided at agent locations and at ***EMAIL.2o/term . [...]" (Done tested twelfth)

Although it is true that there is no agreement to order treatment that Money Gram should have signed with the defendant, owner of the Locutorio *** LOCUTORIO.1 who is an authorized agent of that entity, Money Gram's Global Policy published on its web page -of which a fragment is transcribed in Legal Foundation II and of which a copy has been incorporated into the procedure (Eleventh Proven Fact)-

In addition to specifying that the information it deals with is collected, among other sources, "from www.aepd.es

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our partners or agents, depending on our relationship with them for the purposes listed in this Privacy Notice and at all times in accordance with the laws" and mention among the "Purposes of personal data processing" "[...]

the performance of a contract with you, to send you transactional messages and other administrative messages when requesting money transfer services; [...]", stipulates under the heading "Our information security standards":

"All those who have access to or are related to the processing of personal information are contractually bound to respect the confidentiality of your personal information, implement appropriate security standards, and comply with applicable data privacy standards and policies. Although our information security standards conform to industry standards and data security and privacy requirements, we make no claims of warranty as to the security or impenetrability of MoneyGram's systems in extraordinary/exceptional circumstances or future sophisticated attacks. [...]" (The underlining is ours)

Regarding the "general terms and conditions provided in the establishments of the agents", the respondent responded to the request that was made in the trial phase to explain the procedure it had in place for managing shipments of money you make from your booth:

- "1. We ask for the client's document
2. We ask which country they want to send money to
3. If you are a regular customer We ask with which company you want to send, we have several companies
4. If the client has chosen moneygram, we check if his data is on the file of moneygram are correct.
5. We ask who wants to send the money and in case it is a new beneficiary We ask full name of beneficiary, phone number
6. If it is payment on account, complete account number of the recipient, name complete, telephone number, number of documents and name of the bank and the

relationship with the beneficiary.

7. We proceed to make the shipment and send the client's document scanned to the waiting company that authorizes it and once it is authorized we proceed make the shipment .” (emphasis ours)

Despite the measures that the respondent claims to have adopted on the occasion of the contracting of money transfers - such as the request for documentation to the client-, which It is true that this request does not seem to have been fulfilled with respect to shipments made on August 2.

The documentation in the file offers clear evidence that the person who ordered the disputed shipments was not the claimant. That's how it shows www.aepd.es

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the signature and rubric that appears in the forms of these shipments of August 2, totally different at a glance from the signature of the claimant that appears in the document relating to the shipment made by her on August 30, or with other documents signed by the claimant that are in the file. Be added, also, that it is striking that the facts object of the claim had

occurred three days after the claimant contracted through the Locutorio

*** LOCUTORIO.1 the delivery service through Money Gram. It is equally

striking from the point of view of the obligation incumbent on the claimed

“implement appropriate security standards and comply with the standards and

applicable data privacy policies” than in the protocol that follows for the

management of cash transfers include a scan of the client's form

which, subsequently, the claimed party sends to the company.

In short, the respondent managed two cash shipments on August 2,

2019 associated with the data of the claimant, who did not order or intervene in that

operation, so the processing of your personal data cannot be based on the

reason for legality of section b) of article 6.1 of the RGPD. They don't attend either

no other legal basis for the treatment of those contemplated in said precept.

As has been proven according to the disparity of the signatures of the person who hired

shipments managed on September 2 and the signature of the claimant, on the occasion of

those two shipments, the respondent did not observe any diligence to guarantee respect

of the legality principle, compliance with which requires verifying the identity of the person

Provides certain personal data as your own.

IV

sanctioning type

The conduct for which the defendant is held responsible, specified in having treated

the personal data of the claimant associating them with two contracts for sending

cash remittances in which she did not intervene and, as a consequence, communicating

your details to Moneygram Payment Systems, Inc., at least your email address,

constitutes an infringement of the principle of legality of the treatment.

The treatment of the personal data of the claimant carried out by the claimed party does not

can rely on any of the legal bases provided for in article 6.1 of the

RGPD, thereby violating this provision that is typified in article

83.5.a) RGPD, provision that establishes:

"General conditions for the imposition of administrative fines",

"[...]"

"5. Violations of the following provisions will be sanctioned, in accordance with the

section 2, with administrative fines of a maximum of 20,000,000 Eur or, in the case of
of a company, of an amount equivalent to a maximum of 4% of the volume of

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Total annual global business of the previous financial year, opting for the one with the highest
amount:

a) The basic principles for the treatment, including the conditions for the
consent under articles 5,6,7 and 9.”

The LOPDGDD, in order to determine the limitation period of the infraction,
qualifies this violation of the RGPD in its article 72 of very serious infraction. The
precept provides:

"1. Based on the provisions of article 83.5 of Regulation (EU) 2016/679,
considered very serious and will prescribe after three years the infractions that suppose
a substantial violation of the articles mentioned therein and, in particular, the
following:

a) [...]

b) The processing of personal data without the concurrence of any of the conditions of
legality of the treatment established in article 6 of Regulation (EU) 2016/679.”

Sanction of administrative fine: criteria for determining its amount

v

Article 58 of the RGPD, "Powers", provides in its section 2 that each authority of
control will have the corrective powers detailed in sections a) to j). Among
them, section i) contemplates the imposition of an “administrative fine in accordance with

to article 83, in addition to or instead of the measures mentioned in this

section, according to the circumstances of each particular case;

In the case examined, it is deemed appropriate that, in accordance with article 58.2 of the RGD, the imposition of the corrective fine measure is proposed to the claimed party administrative.

In order to determine the amount of the fine with which it is proposed to sanction the claimed as responsible for an infringement of article 6.1. of the RGD, they must apply the provisions of articles 83.1 and 83.2 of the RGD.

Article 83 of the RGD, in section 1, requires the control authorities to administrative fines imposed for offenses classified in sections 4.5 and 6 of the precept, be, "in each individual case", "effective, proportionate and dissuasive."

For its part, article 83.2 RGD provides:

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"Administrative fines will be imposed, depending on the circumstances of each individual case, in addition to or as a substitute for the measures contemplated in the Article 58, paragraph 2, letters a) to h) and j). When deciding to impose a fine administration and its amount in each individual case will be duly taken into account:

a) the nature, seriousness and duration of the offence, taking into account the nature, scope or purpose of the processing operation in question, as well such as the number of interested parties affected and the level of damages that have suffered;

- b) intentionality or negligence in the infringement;
- c) any measure taken by the controller or processor to alleviate the damages suffered by the interested parties;
- d) the degree of responsibility of the person in charge or of the person in charge of the treatment, taking into account the technical or organizational measures that they have applied under of articles 25 and 32;
- e) any previous infringement committed by the person in charge or the person in charge of the treatment;
- f) the degree of cooperation with the supervisory authority in order to remedy the infringement and mitigate the possible adverse effects of the infringement;
- g) the categories of personal data affected by the infringement;
- h) the way in which the supervisory authority became aware of the infringement, in particular whether the person in charge or the person in charge notified the infringement and, if so, in what measure;
- i) when the measures indicated in article 58, section 2, have been ordered previously against the person in charge or the person in charge in question in relation to the same matter, compliance with said measures;
- j) adherence to codes of conduct under article 40 or mechanisms of certification approved in accordance with article 42, and
- k) any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits obtained or losses avoided, directly or indirectly, through the infringement.”

Regarding section k) of article 83.2 of the RGPD, the LOPDGDD, article 76,

“Sanctions and corrective measures”, provides:

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"two. In accordance with the provisions of article 83.2.k) of Regulation (EU) 2016/679

may also be taken into account:

- a) The continuing nature of the offence.
- b) The link between the activity of the offender and the performance of treatment of personal information.
- c) The profits obtained as a result of committing the offence.
- d) The possibility that the conduct of the affected party could have induced the commission of the offence.
- e) The existence of a merger by absorption process subsequent to the commission of the infringement, which cannot be attributed to the absorbing entity.
- f) Affectation of the rights of minors.
- g) Have, when not mandatory, a data protection delegate.
- h) Submission by the person in charge or person in charge, on a voluntary basis, to alternative conflict resolution mechanisms, in those cases in which there are controversies between them and any interested party."

In accordance with the transcribed precepts, it is appreciated with respect to the offending conduct that the concurrence of the following factors that involve an aggravation of the responsibility of the offending subject:

- Article 83.2.a) RGPD: "the nature, seriousness and duration of the infringement, taking taking into account the nature, scope or purpose of the processing operation to be carried out. concerned, as well as the number of interested parties affected and the level of damages who have suffered."

In the case examined there are various elements that show the seriousness of the that conduct taking into account its "scope": (i) There have been two operations of

remittance of cash in which the claimed party processed the personal data of the claimant without legitimation. Operations carried out on September 2, 2019 and identified with the references ***MESSAGE.1 and ***MESSAGE.2. (ii) The illicit treatment of the claimant's personal data did not consist solely of linking the data claims of the claimant to the two shipments mentioned, but as

Consequently, the claimant's data was communicated to a third party, Moneygram Payment Systems, Inc.; at least your email address, otherwise the

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claimant would not have received the messages from that company informing him of shipments made.

Regarding “the level of damages” suffered by the claimant, there are no available information about the concrete consequences derived from the illicit treatment, although the stipulations included in the General Conditions of the Money forms

Gram in which shipments were documented hint at potential harm

for those who make a cash transfer that is not part of their assets or that

send money transfers on behalf of a third party. We refer to the Proven Fact

twelfth in which the stipulation of the referred conditioned is transcribed that says

that by continuing with the transaction the sender confirms that he is the sole beneficiary of the funds and that you are not sending money on behalf of a third party.

-The intention or negligence in the infringement, a circumstance included in the article 83.2.b) GDPR.

In the development of her business activity, the respondent was obliged to adopt

the necessary measures to guarantee respect for the principle of legality, which obliged to verify that whoever, on the occasion of a request to send money provided as its own certain personal data was effectively its owner. In this case, in light of the documentation in the file, clearly evidences that the defendant absolutely omitted the slightest diligence to verify the identity of the person who ordered the cash shipments from date August 2, 2019, essential to comply with the principle of legality of the treatment provided for in article 5.1.a) of the RGPD and regulated in article 6 of the GDPR.

- "The categories of personal data affected by the infringement;" article 82.g) RGPD. There are numerous personal data of the claimant that have been processed by the claimed party without any legal basis. Besides of NIF, which unequivocally identifies the person, their name and two surnames, the date of birth, domicile, nationality, and especially significant insofar as it is not customary to include them in identity documents, your mobile phone number and his profession.

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- "The link between the activity of the offender and the performance of treatment of personal data", circumstance provided for in article 76.2.b) LOPDGDD in connection with article 83.2.k) RGPD.

The business activity of the respondent related to the management of remittances from money presupposes necessarily dealing with personal data, both of those who request

the service as well as the recipients of the shipments. This characteristic of its activity business has repercussions on the diligence that must be displayed in complying with the principles governing the processing of personal data.

As a circumstance that mitigates the demandable responsibility, it is taken into consideration that provided for in article 83.2.k) RGPD: “any other mitigating factor (...) applicable to the circumstances of the case”.

Despite the fact that the respondent in the evidence phase was asked to provide the statement income tax for the year 2019 in order to know the volume of income reported by your activity, did not provide that document or any other information.

The economic situation of the natural person responsible for the violation of the RGPD that we examine must be suitably valued to make reality the requirement of the Regulation that the administrative fines be, not only effective and dissuasive, but also proportionate.

Given the lack of information on this matter, the only available reference: the business activity carried out by the claimed party, activity carried out in the establishment of which he is the owner -Locutorio

*** CALL ROOM.1- which allows us to presume that it did not have a high volume of business.

It is assessed, among other factors, that the events occurred when the a little over a month from the start of their business activity.

Thus, in light of the foregoing considerations, given the circumstances concurrent, both adverse -article 83.2.a; 83.2.b); 83.2.g) and 83.2.k) in relation to article 76.2.b) LOPDGDD- as favorable to the claimed -article 83.2.k) RGPD-, intends to impose on the party claimed for the infringement of article 6.1 of the RGPD of which is responsible, an administrative fine amounting to €2,000 (two thousand euros).

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In view of the foregoing, the following is issued

MOTION FOR A RESOLUTION

That the Director of the Spanish Data Protection Agency sanction

B.B.B., with NIF ***NIF.1, for an infraction of article 6.1. of the RGPD, typified in the

article 83.5.a) of the RGPD, with an administrative fine of €2,000 (two thousand euros)

Likewise, in accordance with the provisions of article 85.2 of the LPACAP,

informs that you may, at any time prior to the resolution of this

procedure, carry out the voluntary payment of the proposed sanction, which

will mean a reduction of 20% of its amount. With the application of this

reduction, the sanction would be established at €1,600 (one thousand six hundred euros) and its payment

will imply the termination of the procedure. The effectiveness of this reduction will be

conditioned to the abandonment or renunciation of any action or resource in via

administrative against the sanction.

In case you chose to proceed with the voluntary payment of the amount specified

above, in accordance with the provisions of article 85.2 cited, must do so

effective by depositing it in restricted account number ES00 0000 0000 0000 0000

0000 opened in the name of the Spanish Agency for Data Protection in the entity

banking CAIXABANK, S.A., indicating in the concept the reference number of the

procedure that appears in the heading of this document and the cause, for

voluntary payment, reduction of the amount of the sanction. Also, you must send the

proof of entry to the General Subdirectorate of Inspection to proceed to close

The file.

By virtue of this, you are notified of the foregoing, and the procedure is made clear to you.

so that within TEN DAYS you can allege what you deem appropriate in your defense and present the documents and information that it considers pertinent, in accordance with article 89.2 of the LPACAP.

Paloma Alonso Garcia

INSPECTOR/INSTRUCTOR

926-050522

EXHIBIT

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>>

SECOND: On August 1, 2022, the claimed party has proceeded to pay of the sanction in the amount of 1600 euros making use of the reduction foreseen in the motion for a resolution transcribed above.

THIRD: The payment made entails the waiver of any action or resource in via against the sanction, in relation to the facts referred to in the resolution proposal.

FOUNDATIONS OF LAW

Yo

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679

(General Data Protection Regulation, hereinafter RGPD), grants each control authority and as established in articles 47 and 48.1 of the Law

Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions regulations issued in its development and, as long as they do not contradict them, with a subsidiary, by the general rules on administrative procedures."

II

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Article 85 of Law 39/2015, of October 1, on Administrative Procedure

Common to Public Administrations (hereinafter LPACAP), under the rubric

"Termination in sanctioning procedures" provides the following:

"1. Started a sanctioning procedure, if the offender acknowledges his responsibility,

the procedure may be resolved with the imposition of the appropriate sanction.

2. When the sanction is solely pecuniary in nature or it is possible to impose a

pecuniary sanction and another of a non-pecuniary nature, but the

inadmissibility of the second, the voluntary payment by the alleged perpetrator, in

any time prior to the resolution, will imply the termination of the procedure,

except in relation to the replacement of the altered situation or the determination of the

compensation for damages caused by the commission of the infringement.

3. In both cases, when the sanction is solely pecuniary in nature, the

competent body to resolve the procedure will apply reductions of, at least,

20% of the amount of the proposed sanction, these being cumulative with each other.

The aforementioned reductions must be determined in the notification of initiation

of the procedure and its effectiveness will be conditioned to the withdrawal or resignation of

any administrative action or recourse against the sanction.

The reduction percentage provided for in this section may be increased

regulations."

According to what was stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: TO DECLARE the termination of procedure PS/00379/2021, of

in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to B.B.B..

In accordance with the provisions of article 50 of the LOPDGDD, this

Resolution will be made public once it has been notified to the interested parties.

Against this resolution, which puts an end to the administrative procedure as prescribed by

the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of the Public Administrations, the interested parties may file an appeal

contentious-administrative before the Contentious-administrative Chamber of the

National Court, in accordance with the provisions of article 25 and section 5 of

the fourth additional provision of Law 29/1998, of July 13, regulating the

Contentious-Administrative Jurisdiction, within a period of two months from the

day following the notification of this act, as provided in article 46.1 of the

aforementioned Law.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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