

□ File No.: EXP202301038

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 February 16, 2023, the Director of the Spanish Agency for
Data Protection agreed to start a sanctioning procedure against CONCENTRA
SHOPPING AND SERVICES CENTRAL S.L. (hereinafter, the claimed party),
through the Agreement that is transcribed:

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File No.: EXP202301038

AGREEMENT TO START THE SANCTION PROCEDURE

Of the actions carried out by the Spanish Data Protection Agency and in
based on the following

FACTS

FIRST: On 11/16/2021, a document submitted to this Agency was entered
by A.A.A. (hereinafter, the claiming party), through which the claim is made
against ROMBOC COMUNICACIONES with NIF B90488610 (hereinafter, ROMBOC).

The reasons on which the claim is based are the following:

"I am receiving advertising calls with deceptive techniques, where the person who
llama identifies herself as "my energy advisor" and calls me by my first name
giving me consumption data of my power line.

This person is identified by the name of B.B.B. ROMBOC company

COMMUNICATIONS.

At no time have I given my explicit consent to this company to be
can contact me to offer me publicity and according to what the
operator who calls me, has said data for having been an Endesa customer at some point.
moment, to which I reply that I haven't been an Endesa customer for many years, plus
of 5 specifically, that it is not possible for said company to have my consent
Express to send advertising on your part, at least to third parties.

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When requesting a contact email or a site where I can exercise my rights, I have been
said that they are on the website of said company, without offering me clear information or the
specific url or any other email or contact where to exercise said rights. To the
Doing a search for that name on the net brings me to this page that matches
in name and characteristics with the information that they have given me by telephone, but not
there is no place where you can exercise your rights, not even legal notice, information
of cookies or privacy policy. I have therefore found it impossible to exercise my
rights while being completely defenseless in the face of this type of abuse.”

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5
December, Protection of Personal Data and guarantee of digital rights (in
forward LOPDGDD), on 12/17/2021 said claim was transferred to ROMBOC,
to proceed with its analysis and inform this Agency within a month,
of the actions carried out to adapt to the requirements established in the
data protection regulations.

The transfer, which was carried out in accordance with the regulations established in Law 39/2015, of

October 1, of the Common Administrative Procedure of the Administrations Public (hereinafter, LPACAP), was collected on 12/28/2021 as stated in the acknowledgment of receipt in the file. That same day, this Agency receives a written of ROMBOC.

THIRD: On 02/16/2022, in accordance with article 65 of the LOPDGDD, The claim presented by the complaining party was admitted for processing.

FOURTH: The General Subdirectorate of Data Inspection proceeded to carry out of previous investigative actions to clarify the facts in matter, by virtue of the functions assigned to the control authorities in the article 57.1 and the powers granted in article 58.1 of the Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter GDPR), and in accordance with the provisions of Title VII, Chapter I, Second Section, of the LOPDGDD, having knowledge of the following extremes:

After having made an information request to ROMBOC, this company has stated that "it has a collaboration agreement with the company CONCENTRA SHOPPING AND SERVICES CENTRAL, S.L. (hereinafter, CONCENTRA), with CIF B84537935 and address for notification purposes in Logroño (La Rioja), Avenida General Vara del Rey, 69, Low. This Entity is the one that provides us with the bases of data to be able to offer them energy services."

In this way, an information request is made to the CONCENTRA entity, which on 08/18/2022 attached the requested documents:

1. Contract between CONCENTRA and ROMBOC.
1. Acknowledgment of receipt by BOX 24 2050 S.L (hereinafter, BOX 24) of the request for Access by the complaining party dated 08/04/2022.
2. Document in which ROMBOC is informed of the sales pitch. In

This document indicates: Likewise, you can exercise your rights against BOX

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24 2050, S.L. at the following email address bajas@BOX24.es, indicating the reason for your request, or by ordinary mail at the address: Calle MAGISTRAL DOMÍNGUEZ, Number 11, Floor 4, Door A, Almería, C. P. 04003.

3. Contract signed between CONCENTRA, ATRATO MEDIA and BOX 24 for the Acquisition of leads for advertising actions.

Our Atrato Media contact is:

C.C.C.- ***PHONE.1 ***EMAIL.1”

According to the response to the request for information, the following is confirmed:

1. Existence of a contract signed by CONCENTRA and ROMBOC on 1 July/March 2020 after signing an Agency contract by Law 12/1992 of Agency, for which CONCENTRA (company) is interested in ROMBOC (agency) carry out the services of commercial agent, for the development of its activity (recruitment and personalized customer service).

1. Existence of acknowledgment of receipt from BOX 24 of the request for access to 08/04/2022 of the claimant. Well, the data of the affected person has been obtained from

mobile application network linked to

<https://contuopinion.com/>, which were included in a file owned by

of BOX 24., on which the right of access was exercised. They consist of following data: name, surname, postal address, province, postal code, age, mobile phone, IP and registration date 06/26/2021.

the

2. Document 3, Annex_3APENDICE_IV, includes the sales pitch:

"Good morning/afternoon, my name is _____, I am calling from Endesa because your data were obtained through the website [<https://contuopinion.com/>] where consented before BOX 24 2050, S.L. that your data be transferred to third parties of the energy sector, and we have here your name and surname, date of birth, phone, postal code and email address). Your data will be processed by Endesa Energía, as Data Controller, to Provide you with information about our products and services. If you want to get more information about our data protection policy, including the way to exercise your rights, you can consult our website www.endesa.com. Likewise, you can exercise your rights against BOX 24 2050, S.L. at the following email address bajas@BOX24.es, indicating the reason for your request, or by ordinary mail at the address: Calle MAGISTRAL DOMÍNGUEZ, Number 11, Floor 4, Door A, Almería, C. P. 04003."

3. Document 4 includes the Contract between CONCENTRA and ATRATO (on behalf of de Box): Collaboration contract for the remittance of advertising offers between CONCENTRATE and ATRATE from 11/09/2021.

Therefore, within the framework of the investigation carried out with respect to what is indicated in the claim, this Agency has been made aware of the contractual relationship between ROMBOC and CONCENTRA and, in addition, the existence of a possible non-compliance by CONCENTRA of the provisions of the data protection regulations of personal character.

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FUNDAMENTALS OF LAW

Competition and applicable regulations

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

(General Data Protection Regulation, hereinafter GDPR), grants each

control authority and as established in articles 47, 48.1, 64.2 and 68.1 of the

Organic Law 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 Protection Agency

of data.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures

processed by the Spanish Data Protection Agency will be governed by the provisions

in Regulation (EU) 2016/679, in this organic law, by the provisions

regulations dictated in its development and, insofar as they do not contradict them, with character

subsidiary, by the general rules on administrative procedures."

II

previous questions

Article 4 "Definitions" of the GDPR defines the following terms for the purposes of the

Regulation:

"1) "personal data": "any information about an identified natural person or

identifiable ("the data subject"); An identifiable natural person shall be considered any person

whose identity can be determined, directly or indirectly, in particular by means of

an identifier, such as a name, an identification number, data of

location, an online identifier or one or more elements of identity

physical, physiological, genetic, mental, economic, cultural or social of said person;”.

2) "processing": "any operation or set of operations carried out on

personal data or sets of personal data, either by procedures

automated or not, such as the collection, registration, organization, structuring,

conservation, adaptation or modification, extraction, consultation, use,

communication by transmission, diffusion or any other form of authorization of

access, collation or interconnection, limitation, deletion or destruction;”.

7) "responsible for the treatment" or "responsible": the natural or legal person, authority

public authority, service or other body that, alone or jointly with others, determines the purposes and

means of treatment; if the law of the Union or of the Member States

determines the purposes and means of processing, the controller or the

Specific criteria for their appointment may be established by Union law

or of the Member States;”

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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

responsible for the treatment;”

II

GDPR Article 14

The principles that must govern the treatment are listed in the article

5 of the GDPR. In this sense, section 1 letter a), states that: "Personal data

will be:

a) Treated in a lawful, loyal and transparent manner in relation to the interested party

(lawfulness, loyalty and transparency);

(...)"

The principle of transparency is regulated, fundamentally, in articles 12 to 14 of the GDPR. In this sense, article 12 of the GDPR establishes that "1. The person in charge of treatment will take the appropriate measures to provide the interested party with all information indicated in articles 13 and 14" and contains various rules on the "form" in the that must and can provide the information that is mandatory. The content of the information related to the processing of the data that is obligatory to provide to the interested party is regulated in the GDPR in articles 13 and 14 that distinguish two hypotheses: that the data is collected from the interested party (article 13 GDPR) or obtained from another source (article 14 GDPR).

Article 14 "Information to be provided when personal data is not obtained from the interested party" of the GDPR establishes:

"1. When the personal data has not been obtained from the interested party, the person in charge of the treatment will provide you with the following information:

a) The identity and contact details of the person in charge and, where appropriate, their representative;

a) The contact details of the data protection officer, if applicable;

b) The purposes of the processing for which the personal data is intended, as well as the legal basis of the treatment;

c) The categories of personal data in question;

d) The recipients or categories of recipients of personal data, in Their case;

e) Where appropriate, the intention of the person responsible for transferring personal data to a addressee in a third country or international organization and the existence or

absence of an adequacy decision from the Commission or, in the case of

transfers indicated in Articles 46 or 47 or Article 49(1),

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second paragraph, reference to the adequate or appropriate guarantees and the

means to obtain a copy of them or to the fact that they have been lent.

2. In addition to the information mentioned in section 1, the person responsible for the

treatment will provide the interested party with the following information necessary to guarantee

a fair and transparent treatment of data with respect to the interested party:

a) the period during which the personal data will be kept or, when this is not

where possible, the criteria used to determine this term;

a) when the treatment is based on article 6, paragraph 1, letter f), the interests

legitimate of the person in charge of the treatment or of a third party;

b)

the existence of the right to request the data controller access to

personal data relating to the interested party, and its rectification or deletion, or the

limitation of your treatment, and to oppose the treatment, as well as the right to

data portability;

c) when the treatment is based on article 6, paragraph 1, letter a), or the

Article 9(2)(a), the existence of the right to withdraw the

consent at any time, without affecting the legality of the

treatment based on consent before its withdrawal;

d) the right to file a claim with a control authority;

and)

the source from which the personal data comes and, where appropriate, if they come from from publicly accessible sources;

F)

the existence of automated decisions, including profiling, to referred to in Article 22, paragraphs 1 and 4, and, at least in such cases, significant information about the applied logic, as well as the importance and expected consequences of such processing for the data subject.

3. The controller will provide the information indicated in sections 1 and

2:

a) within a reasonable period of time after obtaining the personal data, and no later than take within one month, taking into account the specific circumstances in those in which said data is processed;

a) if the personal data are to be used for communication with the data subject, at the latest at the time of the first communication to that data subject, or

b) if it is planned to communicate them to another addressee, at the latest at the time in which the personal data is communicated for the first time.

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4. When the controller plans the subsequent processing of the data personal data for a purpose other than that for which they were obtained, will provide the data subject, prior to said further processing, information about that other purpose and any other pertinent information indicated in section 2.

5. The provisions of paragraphs 1 to 4 shall not apply when and to the extent

in what:

a) the interested party already has the information;

to)

the communication of such information is impossible or involves an effort

disproportionate, in particular for processing for archiving purposes in

public interest, scientific or historical research purposes or statistical purposes,

subject to the conditions and guarantees indicated in article 89, paragraph

1, or insofar as the obligation referred to in paragraph 1 of the

this article may make it impossible or seriously hinder the achievement of the

goals of such treatment. In such cases, the person in charge will adopt measures

adequate to protect the rights, freedoms and legitimate interests of the

interested, including by making the information public;

b)

obtaining or communication is expressly established by law

of the Union or of the Member States that applies to the person responsible for the

treatment and that establishes adequate measures to protect the interests

legitimate interests of the interested party, or

c) when personal data must remain confidential about

the basis of an obligation of professional secrecy regulated by the Law of the

Union or of the Member States, including an obligation of secrecy of

statutory nature.”

In the present case, it is clear that ROMBOC had access to the personal data of the party

claimant after having been ceded by CONCENTRA, a company with which it signed a

agency contract to carry out the services of commercial agent for the

development of its activity (actions aimed at energy efficiency,

customer acquisition, etc.). Proof of this is the eleventh clause of the contract, which expressly states the following: "To perform its functions assigned in this contract, data of a personal nature is transferred to the AGENCY personal (understanding as personal data all those data identifying and referenced to any physical person) may also have accidental or circumstantial access to similar data (...)."

For its part, CONCENTRA signed a collaboration contract with ATRATO (it is agent and acts on behalf of BOX 24), to carry out product campaigns and services of third-party beneficiary companies. ATRATO undertakes to provide you with personal data of the recipients of advertising found in a file ownership of BOX 24, which includes those of the claiming party. Therefore, www.aepd.es

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there is a transfer of data in favor of CONCENTRA that acts as responsible in relation to the personal data that you provide to ROMBOC, since it establishes the instructions for treatment.

In the third clause, "Exercise of the rights of the interested parties", of the contract of collaboration, CONCENTRA expressly undertakes that the advertiser of each campaign includes in the advertising shipment an informative clause that informs the interested party that they can exercise their rights before BOX 24. The legend that appears on

This contract states the following: "In accordance with the provisions of the current legislation on the protection of personal data, the Regulation General Data Protection and the Organic Law on Data Protection and Guarantee

of Digital Rights, we inform you that your personal data is part of an automated file for which BOX 24 2050, S.L., with CIF is responsible B16855629, and address at Calle MAGISTRAL DOMÍNGUEZ, Number 11, Floor 4, Puerta A, Almería, C. P. 04003. You can exercise the rights of access, rectification, portability, deletion of your data, opposition, withdrawal of the consent and those of limitation to its treatment by addressing by postal mail to the indicated address, or by email to the following address dpo@BOX 24.es. If you do not wish to continue receiving communications commercial, you can exercise your right to oppose the processing of your data by postal mail or at the email address bajas@BOX 24.es, indicating in the subject "LOW" or "DO NOT SEND."

However, CONCENTRA presents an argument to inform the interested parties which departs from what was stated above, since it indicates the following: "Good morning/afternoon, My name is _____, I call you from Endesa because your data was obtained from through the website [<https://contuopinion.com/>] where you consented before BOX 24 2050, S.L. that your data was transferred to third parties in the energy sector, and we are aware of your name and surname, date of birth, telephone, postal code and mailing address electronic). Your data will be processed by Endesa Energía, as Responsible for the treatment, to provide you with information about our products and services. If you want obtain more information about our data protection policy, including the way to exercise your rights, you can consult our website www.endesa.com.

Likewise, you can exercise your rights against BOX 24 2050, S.L. in the next email address bajas@BOX24.es, indicating the reason for your request, or by email ordinary at the address: Calle MAGISTRAL DOMÍNGUEZ, Number 11, Floor 4, Door A, Almería, C.P. 04003." Thus, this clause would not be complying with what provided in article 14 of the GDPR in relation to the duty to inform about all

the categories of personal data that are processed, since article 11.3 of the LOPDGDD forces this issue to be included in the first layer of information that is provided to the interested party.

IV.

Classification of the infringement of article 14 of the GDPR

The commission of the infringement of article 14 of the GDPR is typified in the article 83.5.b) of the RGPD that under the heading "General conditions for the imposition of administrative fines" provides:

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Violations of the following provisions will be sanctioned, in accordance with the paragraph 2, with administrative fines of maximum EUR 20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the total annual global business volume of the previous financial year, opting for the highest amount:

to)

to)

(...)

the rights of the interested parties in accordance with articles 12 to 22; (...)"

For the purposes of the limitation period, article 74 "Infringements considered minor" of the LOPDGDD indicates:

"1. The remaining infractions of a nature are considered minor and will prescribe after one year.

merely formal of the articles mentioned in sections 4 and 5 of article 83

of Regulation (EU) 2016/679 and, in particular, the following:

a) Failure to comply with the principle of transparency of information or the right of information of the affected party for not providing all the information required by the Articles 13 and 14 of Regulation (EU) 2016/679. (...)”

However, based on what is indicated in the previous paragraphs, the alleged infringement of article 14 of the GDPR has prescribed as more than one year has elapsed since the commission of the facts.

V

GDPR Article 21

"1. The interested party will have the right to oppose at any time, for reasons related to your particular situation, to what personal data concerning you are subject to processing based on the provisions of article 6, paragraph 1, letters e) or f), including profiling on the basis of those provisions.

The person responsible for the treatment will stop processing the personal data, unless accredit compelling legitimate reasons for the treatment that prevail over the interests, rights and freedoms of the data subject, or for the formulation, exercise or defense of claims.

2. When the processing of personal data is for marketing purposes directly, the interested party will have the right to oppose at all times the treatment of personal data concerning you, including profiling on the insofar as it is related to said marketing.

3. When the interested party opposes the treatment for direct marketing purposes, personal data will no longer be processed for said purposes.

4. At the latest at the time of the first communication with the data subject, the right indicated in sections 1 and 2 will be explicitly mentioned to the interested party and it will be presented clearly and apart from any other information.

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5. In the context of the use of information society services, and not

Notwithstanding the provisions of Directive 2002/58/EC, the interested party may exercise his

right to oppose by automated means that apply specifications

techniques.

6. When personal data is processed for the purposes of scientific research or

historical or statistical purposes in accordance with article 89, paragraph 1, the

The interested party shall have the right, for reasons related to their particular situation, to

oppose the processing of personal data concerning you, unless it is

necessary for the fulfillment of a mission carried out for reasons of interest

public."

The sales argument does not comply with the provisions of article 21.4 of the

GDPR, which establishes as the maximum term "the first communication with the

interested" to inform you explicitly, clearly and apart from other information,

about your right to object. Unlike the clause that contemplated the

collaboration contract, in the sales argument that CONCENTRA provides to

ROMBOC to inform customers in the call you make, this does not appear

mention, only the following is indicated with respect to the exercise of rights: "the form of

exercise your rights, you can consult our website www.endesa.com. In addition,

You can exercise your rights against BOX 24 2050, S.L. at the following address

e-mail (...)".

Classification of the infringement of article 21 of the GDPR

SAW

If confirmed, the aforementioned infringement of article 21.4 of the GDPR could lead to the commission of the offense typified in article 83.5 of the GDPR that under the rubric

"General conditions for the imposition of administrative fines" provides:

Violations of the following provisions will be sanctioned, in accordance with the paragraph 2, with administrative fines of maximum EUR 20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the total annual global business volume of the previous financial year, opting for the highest amount:

to)

to)

(...)

the rights of the interested parties in accordance with articles 12 to 22; (...)"

For the purposes of the limitation period, the first paragraph of article 72 "Offences considered very serious" of the LOPDGDD indicates:

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

(...)"

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Therefore, although the LOPDGDD does not specifically include the infringement of the

Article 21.4 of the GDPR, does establish in general that infringements of the

Article 83.5 of the GDPR are very serious infringements for prescription purposes.

Penalty for violation of article 21 of the GDPR

VII

The corrective powers available to the Spanish Agency for the Protection of

data, as a control authority, are established in article 58.2 of the GDPR. Between

they have the power to impose an administrative fine in accordance with the

article 83 of the GDPR -article 58.2 i)-, or the power to order the person responsible or

processor that the processing operations comply with the

provisions of the GDPR, where applicable, in a certain way and within a certain

specified term -article 58. 2 d)-.

According to the provisions of article 83.2 of the GDPR, the measure provided for in article 58.2

d) of the aforementioned Regulation is compatible with the sanction consisting of a fine

administrative.

In the present case, taking into account the facts exposed and without prejudice to what

results from the instruction of the procedure, it is considered that the sanction that

It would be appropriate to impose an administrative fine. The fine imposed shall

be, in each individual case, effective, proportionate and dissuasive, in accordance with the

Article 83.1 of the GDPR. In order to determine the administrative fine to be imposed,

to observe the provisions of article 83.2 of the GDPR, which indicates:

"2. Administrative fines will be imposed, depending on the circumstances of each

individual case, in addition to or in lieu of the measures contemplated in

Article 58, paragraph 2, letters a) to h) and j). When deciding to impose a fine

administration and its amount in each individual case shall 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 as

such as the number of interested parties affected and the level of damages that have suffered;

b) intentionality or negligence in the infraction;

c) any measure taken by the controller or processor to

alleviate the damages and losses suffered by the interested parties;

d) the degree of responsibility of the controller or processor,

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 controller or processor;

f) the degree of cooperation with the supervisory authority in order to remedy the infringement and mitigate the possible adverse effects of the infringement;

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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 extent;

i) when the measures indicated in article 58, paragraph 2, have been ordered

previously against the person in charge or the person in charge in relation to the same matter, compliance with said measures;

j) adherence to codes of conduct under article 40 or to mechanisms of

certification approved in accordance with article 42,

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”.

For its part, in relation to letter k) of article 83.2 of the GDPR, the LOPDGDD, in its article 76, "Sanctions and corrective measures", provides:

"1. The sanctions provided for in sections 4, 5 and 6 of article 83 of the Regulation (UE) 2016/679 will be applied taking into account the graduation criteria established in section 2 of said article.

2. 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 data processing. personal information.
- c) The benefits obtained as a consequence of the commission of the infraction.
- d) The possibility that the conduct of the affected party could have included 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 it is not mandatory, a data protection delegate.
- h) Submission by the person responsible or in charge, on a voluntary basis, to alternative conflict resolution mechanisms, in those cases in which there are controversies between those and any interested party”.

The balance of the circumstances contemplated makes it possible to establish as an initial assessment a fine of €2,000.00 (two thousand euros) for the violation of article 21.4 of the GDPR.

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VIII

adoption of measures

If the infringement is confirmed, it could be agreed to impose on the person responsible the adoption of adequate measures to adjust its performance to the regulations mentioned in this act, in accordance with the provisions of the aforementioned article 58.2 d) of the GDPR, according to the which each control authority may "order the person responsible or in charge of the processing that the processing operations comply with the provisions of the this Regulation, where appropriate, in a certain way and within a certain specified term...". The imposition of this measure is compatible with the sanction consisting of an administrative fine, according to the provisions of art. 83.2 of the GDPR.

It is noted that not meeting the requirements of this body may be considered as an administrative offense in accordance with the provisions of the GDPR, classified as an infraction in its article 83.5 and 83.6, being able to motivate such conduct the opening of a subsequent administrative sanctioning procedure.

Therefore, in accordance with the foregoing, by the Director of the Agency

Spanish Data Protection,

HE REMEMBERS:

FIRST: INITIATE SANCTION PROCEDURE for the CENTRAL CONCENTRATE

DE COMPRAS Y SERVICIOS S.L., with NIF B84537935, for the alleged infringement of the article 21.4 of the RGPD, typified in article 72.1 of the LOPDGDD.

SECOND: APPOINT D.D.D. and, as secretary, to E.E.E.,

indicating that any of them may be challenged, if applicable, in accordance with the established in articles 23 and 24 of Law 40/2015, of October 1, on the Regime

Legal Department of the Public Sector (LRJSP).

THIRD: INCORPORATE into the disciplinary file, for evidentiary purposes, the claim filed by the claimant and its documentation, as well as the documents obtained and generated by the Sub-directorate General of Inspection of Data in the actions prior to the start of this sanctioning procedure.

FOURTH: THAT for the purposes provided for in art. 64.2 b) of Law 39/2015, of 1 October, of the Common Administrative Procedure of Public Administrations, the sanction that could correspond would be €2,000.00 (two thousand euros).

FIFTH: NOTIFY this agreement to CONCENTRA CENTRAL DE COMPRAS Y SERVICIOS S.L., with NIF B84537935, granting a hearing period of ten business days for him to formulate the allegations and present the evidence he deems convenient. In your statement of allegations you must provide your NIF and the number of procedure that appears in the heading of this document.

If, within the stipulated period, he does not make allegations to this initial agreement, the same may be considered a resolution proposal, as established in article

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64.2.f) of Law 39/2015, of October 1, on the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP).

In accordance with the provisions of article 85 of the LPACAP, you may recognize your responsibility within the period granted for the formulation of allegations to the present initiation agreement; which will entail a reduction of 20% of the sanction that should be imposed in this proceeding. With the application of this

reduction, the sanction would be established at 1,600.00 euros, resolving the procedure with the imposition of this sanction and the corresponding measures.

In the same way, it 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 1,600.00 euros and its payment will imply the termination of the procedure, with the imposition of the corresponding measures.

The reduction for the voluntary payment of the penalty is cumulative to the corresponding apply for acknowledgment of responsibility, provided that this acknowledgment of the responsibility is revealed within the period granted to formulate allegations at the opening of the procedure. Voluntary payment of the referred amount in the previous paragraph may be done at any time prior to the resolution. In

In this case, if both reductions were to be applied, the amount of the penalty would remain established at 1,200.00 euros.

In any case, the effectiveness of any of the two aforementioned reductions will be conditioned to the withdrawal or resignation of any action or appeal via administrative against the sanction.

In the event that you choose to proceed with the voluntary payment of any of the amounts indicated above (1,600.00 euros or 1,200.00 euros), you must make it effective by depositing it in the account number ES00 0000 0000 0000 0000 0000 opened to name of the Spanish Data Protection Agency in the bank CAIXABANK, S.A., indicating in the concept the reference number of the procedure that appears in the heading of this document and the cause of reduction of the amount to which it receives.

Likewise, you must send proof of income to the General Subdirectorate of Inspection to continue with the procedure in accordance with the quantity

entered.

The procedure will have a maximum duration of nine months from the date of the initiation agreement or, where appropriate, of the draft initiation agreement.

After this period, its expiration will occur and, consequently, the file of performances; in accordance with the provisions of article 64 of the LOPDGDD.

Finally, it is noted that in accordance with the provisions of article 112.1 of the LPACAP, there is no administrative appeal against this act.

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SECOND: On February 22, 2023, the claimed party has proceeded to pay of the penalty in the amount of 1,200 euros making use of the two reductions provided for in the initiation Agreement transcribed above, which implies the recognition of responsibility.

THIRD: The payment made, within the period granted to formulate allegations to the opening of the procedure, entails the waiver of any action or appeal via against the sanction and acknowledgment of responsibility in relation to the facts referred to in the Commencement Agreement.

FOURTH: In the previously transcribed initiation agreement, it was indicated that, if Once the infringement is confirmed, it could be agreed to impose on the controller the adoption of

adequate measures to adjust its performance to the regulations mentioned in this act, in accordance with the provisions of the aforementioned article 58.2 d) of the GDPR, according to the which each control authority may "order the person responsible or in charge of the processing that the processing operations comply with the provisions of the this Regulation, where appropriate, in a certain way and within a certain specified term...".

Having recognized the responsibility for the infringement, the imposition of the measures included in the Initiation Agreement.

FUNDAMENTALS OF LAW

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Competence

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter GDPR), grants each control authority and as established in articles 47, 48.1, 64.2 and 68.1 of the Organic Law 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 Protection Agency of data.

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

II

Termination of the procedure

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

Common for Public Administrations (hereinafter, LPACAP), under the heading

"Termination in disciplinary proceedings" provides the following:

"1. Initiated a disciplinary procedure, if the offender acknowledges his responsibility,

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

2. When the sanction has only a pecuniary 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 presumed perpetrator, in

any moment 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 offence.

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

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

20% of the amount of the proposed penalty, these being cumulative among themselves.

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 resource against the sanction.

The percentage reduction provided for in this section may be increased

according to regulations."

According to what has been stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: DECLARE the termination of procedure EXP202301038, in

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

SECOND: ORDER THE CENTRAL PURCHASING AND SERVICES CONCENTRATE

S.L. so that within a month it notifies the Agency of the adoption of the measures

that are described in the foundations of law of the Commencement Agreement transcribed in the present resolution.

THIRD: NOTIFY this resolution to the CENTRAL CONCENTRATE OF

PURCHASES AND SERVICES S.L..

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

Resolution will be made public once the interested parties have been notified.

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

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

Common of Public Administrations, interested parties may file an appeal

administrative litigation before the Administrative Litigation 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 for in article 46.1 of the

referred Law.

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