

□ File No.: EXP202211263

## 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 March 1, 2023, the Director of the Spanish Agency for  
Data Protection agreed to start a sanctioning procedure against VODAFONE  
SPAIN, S.A.U. (hereinafter, the claimed party), through the Agreement that  
transcribe:

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Procedure No.: EXP202211263 (PS/00019/2023)

### AGREEMENT TO START THE SANCTION PROCEDURE

Of the actions carried out by the Spanish Data Protection Agency before  
the entity, VODAFONE ESPAÑA SAU., CIF.: A80907397 (hereinafter, "the party  
reclaimed"), by virtue of a complaint filed by D. A.A.A. (hereinafter, "the part  
claimant"), for the alleged violation of data protection regulations:

Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/16,

Regarding the Protection of Natural Persons with regard to the Treatment of  
Personal Data and the Free Circulation of these Data (GDPR), the Organic Law  
3/2018, of December 5, Protection of Personal Data and Guarantee of  
Digital Rights (LOPDGDD) and Law 34/2002, of July 11, on Information Services.

Information Society and Electronic Commerce (LSSI), and based on the  
following:

### FACTS

FIRST: Dated 09/29/22, you have entered this Agency, written submitted by

the complaining party, in which he states the following:

"Because Vodafone constantly sends me text messages and

I receive spam calls almost daily, despite having requested that I not be

send advertising and I do not want my phone number shared

mobile with third parties for commercial purposes. Vodafone received and signed an agreement

that he failed to comply, after granting them 1 month to cease their attitude. By

For this reason, I again contacted the mediators of the Robinson list

and they sent them a new document that has also been ignored, so

They assured me that they couldn't do anything else and that I should get

contact you directly"

The following documentation is submitted together with the claim document:

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2/15

- Certificate certifying the registration of the receiving line in the List

Robinson, from 04/02/12 (Channel telephone calls) and from

02/04/2022 (SMS/MMS Channel).

- Copy of the commercial SMS received on 09/20/22:

"Just for you, get your Familyfans Pack now for only 3.5???. Further

per month for 12 months. +Info at [m.vodafone.es/mejora—tv](http://m.vodafone.es/mejora—tv)".

- Copy of the commercial SMS received on 09/21/22:

"Vodafone: FOR YOU, AN ELECTRIC SKATEBOARD! Participate before

11:59 p.m. and take one with MiérooYE8! We're giving away 10 here:

m.vodafone.es/mieroo4 15:22

- Copy of the commercial SMS received on 09/25/22:

"The news of the month are here! Take the Apple Phone 13

Green 1286b from EUR 32.00 per month with your unlimited mobile rate and in

only 24 installments. What are you waiting for? Hurry up! Limited units. For you

that you are a customer, this and much more here: m.vodafone.es/pp-pr—iphone

17258"

- Copy of the commercial SMS received on 09/28/22:

"Vodafone: Today's surprise on Wednesday YE8 is...We are giving away 300

Wireless headphones! See if you have won instantly in the App

Just today! m.vodafone.es/mieroo4 15231".

- Screenshot where it can be seen that a box remains deactivated

regarding Permits: "I agree to receive communications with offers that

could be of interest to me from third-party companies with which

Vodafone has reached a commercial agreement".

- Mediation Agreement before AUTOCONTROL, dated 07/21/22, in which the

The claimed operator agrees not to make calls or send SMS

of an advertising nature to the claimant.

SECOND:

On 10/13/22, the claimant submits to this Agency a new

written claim stating in it that, after having completed one year of

permanence with the requested operator, since the request for portability

10/08/22 has received 13 calls (on 10/11/22) and one call on 10/13/22 to

try to convince him not to change companies.

The following documentation is attached to the claim document:

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3/15

- Two screenshots of the incoming call log where it is displayed

the reception of calls coming from the calling lines:

\*\*\*PHONE.1, \*\*\*PHONE.2, \*\*\*PHONE.3, \*\*\*PHONE.4 and

\*\*\*PHONE.5, received on 10/11/22.

THIRD: On 10/24/22, in accordance with the provisions of article 65.4

of the LOPDGDD Law, this Agency sent a letter to the claimed party

requesting information regarding what is stated in the claim.

FOURTH: On 12/09/22, this Agency received a written response to the

request made, in which the claimed entity states:

A.- In reference to the calls received:

Calls from phone numbers \*\*\*PHONE.5 and

\*\*\*TELEPHONE.3 were made by its collaborating agent VOICEBOT for

conducting quality surveys and improving customer experience

customers. In this case, it would not be a communication for

business, on the contrary, the calls received by the claimant are

carried out for the purpose of quality control in the provision of services.

Calls from numbers \*\*\*PHONE.4 and \*\*\*PHONE.5 were

made from VODAFONE due to the portability of the lines

telephone services, contracted at that time with Vodafone, requested by the

claimant.

Said communications, based on promoting customer retention

who have informed their willingness to cancel the products and/or services

contracted, for which the client is sometimes offered an improvement in the contractual conditions or products or services that may result from your interest. In parallel, the initial communication allowed Vodafone to verify that the portability request had actually been made by the party claimant, ruling out any type of fraudulent or malicious actions by third parties.

On the other hand, regarding the apparently high number of calls made For this purpose, it is necessary to clarify that, usually, the services of Vodafone retention affect a single customer interaction with this purpose, for each portability request received. Although in the present case, the claimant made three different portability requests in up to two different days and at spaced times: 1) Request for fixed portability for numbering \*\*\*TELEPHONE.6, carried out on 10/11/2022; 2) Application for mobile portability for numbering \*\*\*TELEPHONE.7, carried out on 10/13/2022 at 08:32:13; 3) Application for mobile portability for the numbering \*\*\*TELEPHONE.8, carried out on 10/13/2022 at 19:31:06.

These circumstances added to the fact that it was not possible to contact the Mr. A.A.A. initially, caused Vodafone to try to contact contacted the claimant on different occasions on October 11 and 12

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4/15

2022 in order to deal with the complaining party such requests for portability.

B.- Regarding SMS messages received:

They have verified that the claimed party is listed on the Robinson List for the opposition to the remission of commercial communications via SMS/MMS. For error in their customer relationship management (CRM) systems will not be the preferences were properly stored in the Vodafone systems indicated by the claimant to the customer service agent.

Likewise, the opposition indicated by the claimant through the claim filed with Vodafone, and subsequent mediation, was not correctly managed in the CRM used by this entity, which made it possible to send of the SMS communions that have motivated the present claim.

Finally, they state that they have corrected the errors detected, have registered the numbers of the complaining party in its internal exclusion list and have prepared a letter to the complaining party informing him of the actions carried out by Vodafone and apologizing for what happened.

On December 14, 2022, in procedure AT/04581/2022 the Spanish Data Protection Agency agreed to carry out these investigation actions in relation to the claimed facts.

FIFTH: On 12/14/22, by the Director of the Spanish Agency for Protection of Data, an agreement is issued to admit the processing of the claim presented, in accordance with article 65 of the LPDGDD Law, when assessing possible rational indications of a violation of the rules in the field of competences of the Spanish Data Protection Agency.

SIXTH: In view of the facts denounced and in accordance with the evidence of that is available, the Data Inspection of this Spanish Agency for the Protection of Datos considers that what is indicated above does not comply with current regulations in matter of data protection, for which the opening of this document is appropriate.

sanctioning procedure.

## FUNDAMENTALS OF LAW

YO-

Competence.

It is competent to initiate and resolve this Disciplinary Procedure, the Director of the Spanish Data Protection Agency, in accordance with the provisions of the art. 43.1, second paragraph, of the LSSI Law.

Summary of the events that occurred:

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5/15

As certified by the claimant, he is registered in the Robinson List, since 04/02/12 in the telephone calls channel and since 02/04/22 in the SMS/MMS channel, but not

However, as indicated in the complaint, because Vodafone sent him

constantly advertising text messages and calls, requested that they not return to

send you more commercial communications. To do this, he signed a contract with the company

Mediation agreement before the entity "AUTOCONTROL", on 07/21/22, in which the

operator and in which the operator promised not to make calls again or

SMS messages of an advertising nature to the claimant.

Notwithstanding the foregoing, the operator continued to send advertising SMS to the claimant,

on 09/20/22; 09/21/22; 09/25/22 and 09/28/22, as can be seen in the

documentation provided by the claimant.

But in addition, and apart from the above, when the claimant requests the portability of

his lines to another company on 10/08/22, he received up to 13 calls, on 10/11/22 and one more call, on 10/13/22, according to him, to try to convince him not to change company.

VODAFONE states, for its part, that regarding SMS sent with messages advertising after signing the agreement, it was due to an error in their customer relationship management (CRM) systems and that calls telephone calls made were intended, apart from corroborating his desire to portability, to encourage customer retention by informing them and offering them an improvement in the contractual conditions, products or services that may result from its interest.

Classification of the possible offense committed by sending communications

III.-1

commercial

The fact that the claimed entity proceeded to send communications commercials to the claimant via SMS without having been requested or expressly authorized may constitute a violation of the provisions of article 21 of the LSSI, as it establishes the following:

"1. The sending of advertising or promotional communications is prohibited by email or other equivalent electronic means of communication that had not previously been requested or expressly authorized by the recipients of these.

2. The provisions of the previous section shall not apply when there is a prior contractual relationship, provided that the provider had obtained lawful contact details of the recipient and will use them to send commercial communications regarding products or services of your own company that are similar to those that were initially the subject of



contracting with the client.

In any case, the provider must offer the recipient the possibility of  
oppose the processing of your data for promotional purposes through a

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6/15

simple and free procedure, both at the time of data collection

as in each of the commercial communications that you direct.

When the communications have been sent by email,

said means must necessarily consist of the inclusion of an address

email or other valid electronic address where you can

exercise this right, being prohibited the sending of communications that

do not include that address.”

Proposal and graduation of the sanction

III.-2

The aforementioned infraction of article 21 of the LSSI, is classified as minor in the

art. 38.4.d) of said rule, which qualifies as such, "The sending of communications

commercial by e-mail or other means of electronic communication

equivalent when said shipments do not meet the requirements established in the

article 21 and does not constitute a serious infringement”.

After the evidence obtained, and without prejudice to what results from the investigation, the

considers that it is appropriate to graduate the sanction to be imposed in accordance with the following

aggravating criteria, established by art. 40 of the LSSI:

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The existence of intentionality (section a).- since the complaining party had their telephone numbers registered in the Robinson List, had disabled in the preferences of the application of the responding party the communications commercial, and the exclusion agreement adopted by the defendant through intermediary entity Autocontrol, the claimant received commercial communications to text.

via courier

Pursuant to these criteria, it is deemed appropriate to impose an initial sanction of 10,000 euros, (ten thousand euros), for the violation of article 21 of the LSSI, when sending commercial communications to the claimant without having been expressly authorized for this by the recipient.

Classification of the possible infringement committed by the commercial calls made.

#### IV.-1

As has been verified, when the claimant requests the portability of his lines to another company, received up to 13 calls from the entity VODAFONE, on 10/11/22 and one more call, on 10/13/22, to confirm your desire to carry out the portability of his telephone line but also to try to convince him not to change his company with advantageous offers, and containing, therefore, an essentially commercial or promotional of the products offered.

For its part, the entity confirms that these calls, based on promoting the customer retention were, apart from corroborating their desire to port their lines, to offer you an improvement in the contractual conditions, products or services that could be of interest to him and thus get him not to leave the company.

In this sense, the sixth final provision of the law, law 11/2022, of June 28,

General of Telecommunications, indicates the following:

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7/15

1. ☐ This law will enter into force the day after its publication in the "Official State Gazette", except as provided in the following section.

2. ☐ The right of end users not to receive unwanted calls with purposes of commercial communication contemplated in article 66.1.b) will enter into force within one year from the publication of this law in the "Official State Gazette". Until then, the end users of the publicly available interpersonal communications services based on numbering may continue to exercise the right to oppose receiving unwanted calls for commercial communication purposes that are made through systems other than those established in article 66.1.a) and to be informed of this right.

The publication of this standard took place on 06/29/22 and based on the first section of the previous provision entered into force on 06/30/22, except as provided in section second that will enter into force on 06/30/23, therefore, the end users of the interpersonal communications services available to the public based on the numbering may continue to exercise the right to oppose receiving calls not desired for purposes of commercial communication that are carried out through systems other than those established in article 66.1.a) and to be informed of this right Until that date.

As in our case, the claimant received up to 13 calls, on 10/11/22 and one one more call, on 10/13/22, the above is applicable.

Well then, recital 70) of the GDPR indicates that:

“If personal data is processed for direct marketing purposes, the

The interested party must have the right to oppose said treatment, including the

profiling insofar as it is related to such

direct marketing, whether in respect of initial or subsequent processing, and

at any time and at no cost. Said right must

communicate explicitly to the data subject and present itself clearly and to the

margin of any other information.

Well then, the fact that the respondent entity did not exclude the claimant from its

systems to receive commercial communications after you compromised

to this, through an agreement signed on 07/21/22, but having made calls with

commercial nature on October 11 and 13, 2022, apart from confirming the desire

portability, may constitute a violation of article 21 of the

GDPR, as it provides the following:

1. The interested party will have the right to oppose at any time, for reasons

related to your particular situation, to what personal data that

concerned are subject to treatment based on the provisions of article

6, paragraph 1, letters e) (public interest) or f) (legitimate interest), including the

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

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on the interests, rights and freedoms of the interested party, or for the formulation, exercise or defense of claims.

2. When the processing of personal data is for the purpose of direct marketing, the interested party will have the right to oppose in all time to the processing of personal data concerning you, including the profiling to the extent that it is related to said marketing.

3. When the interested party opposes the treatment for marketing purposes directly, the 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 when concerned and will be presented clearly and apart from any other information.

5. In the context of the use of information society services, and notwithstanding the provisions of Directive 2002/58/EC, the interested party may exercise your right to oppose by automated means that apply Technical specifications.

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 his situation in particular, to oppose the processing of personal data concerning you, unless it is necessary for the fulfillment of a mission carried out by reasons of public interest.

IV.-2

Sanction proposal

This infraction can be sanctioned with a fine of a maximum of €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 of greater amount, in accordance with article 83.5.b) of the GDPR.

article 72.1.k) of the LOPDGDD, considers it very serious, for the purposes of prescription,

"The impediment or the obstruction or the reiterated non-attention to the exercise of the rights established in articles 15 to 22 of the Regulation".

#### IV.-3

##### Graduation of the sanction

The determination of the sanction that should be imposed in the present case requires observe the provisions of articles 83.1 and 2 of the GDPR, precepts that, respectively, provide the following:

"1. Each control authority will guarantee that the imposition of fines administrative procedures under this article for violations of the

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9/15

this Regulation indicated in sections 4, 9 and 6 are in each case individual effective, proportionate and dissuasive.

2. Administrative fines will be imposed, depending on the circumstances of each individual case, as an additional or substitute title to the measures referred to in article 58, paragraph 2, letters a) to h) and j). When deciding the imposition of an administrative fine and its amount in each individual case is will take due account of:

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 the number of stakeholders affected and the level of damage and

damages they 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 the person in charge of the

processing, taking into account the technical or organizational measures that have

applied under articles 25 and 32;

e) any previous infringement committed by the person in charge or in charge of the

treatment;

f) the degree of cooperation with the supervisory authority in order to put

remedy the breach and mitigate the potential adverse effects of the breach;

g) the categories of personal data affected by the infringement;

h) the way in which the supervisory authority became aware of the infringement, in

particularly if the person in charge or the person in charge notified the infringement and, in such a case,

what extent;

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

previously ordered against the person in charge or in charge in question

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, and

k) any other aggravating or mitigating factor applicable to the circumstances of the

case, such as the financial benefits obtained or the losses avoided, direct

or indirectly, through the infraction.”

Within this section, the LOPDGDD contemplates in its article 76, entitled

"Sanctions and corrective measures":

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10/15

"1. The sanctions provided for in sections 4, 5 and 6 of article 83 of the Regulation (EU) 2016/679 will be applied taking into account the criteria of graduation 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) Linking the activity of the offender with the performance of processing of personal data.
- 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 led to the commission of the offence.
- e) The existence of a merger process by absorption after the commission of the infringement, which cannot be attributed to the absorbing entity.
- f) The affectation of the rights of minors.
- g) Have, when it is not mandatory, a data protection delegate data.
- h) The submission by the person in charge or in charge, with character voluntary, alternative conflict resolution mechanisms, in those cases in which there are controversies between those and any interested.



3. It will be possible, complementary or alternatively, the adoption, when appropriate, of the remaining corrective measures referred to in article 83.2 of Regulation (EU) 2016/679.”

In accordance with the transcribed precepts, and without prejudice to what results from the instruction of the procedure, in order to set the amount of the fine to impose on the claimed entity, in an initial assessment, are considered concurrent in the present case the following factors:

As aggravating circumstances:

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The intentionality or negligence of the infringement, on the part of the entity, (section b), assuming that it is an entity whose activity carries out coupled with continuous processing of personal data of users. HE considers it especially important to remember at this point, the SAN of 17 October 2007 (rec. 63/2006), where it is indicated that: “...the Supreme Court has been understanding that imprudence exists whenever a duty is neglected legal care, that is, when the offender does not behave with due diligence callable. And in assessing the degree of diligence, consideration must be especially the professionalism or not of the subject, and there is no doubt that, in the

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11/15

case now examined, when the appellant's activity is constant and copious handling of personal data must insist on rigor and exquisite care to comply with the legal precautions in this regard”.

Therefore, if we abide by the jurisprudence of the TS, we could even consider this section as a qualified aggravating circumstance, when verifying the lack of diligence should in this case, with regard to the management of personal data.

It is also considered that it is appropriate to graduate the sanction to be imposed in accordance with the following aggravating criteria, established in article 76.2 of the LOPDGDD:

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The linking of the activity of the offender with the performance of treatment of personal data, (section b), considering that in the activity that is develops, the personal data of its clients are involved.

Considering the exposed factors, the valuation that reaches the fine, for the Violation of article 21 of the GDPR, is 10,000 euros (ten thousand euros).

Therefore, in accordance with the foregoing, by the Director of the Agency Spanish Data Protection,

HE REMEMBERS:

START: SANCTION PROCEDURE against the entity VODAFONE ESPAÑA SAU., CIF.: A80907397, for the following infractions:

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Violation of article 21 of the LSSI, regarding the sending of communications commercial despite the fact that the claimant has opposed it.

Violation of article 21 of the GDPR, due to the fact of not excluding the claimant from their systems to receive commercial communications having been issued messages of a commercial nature two months after their commitment to it.

APPOINT: D. B.B.B. as Instructor, and Secretary, if applicable, D<sup>a</sup> C.C.C., 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 Legal Regime of the Public Sector (LRJSP).

ADD: to the disciplinary file, for evidentiary purposes, the claim filed by the claimant and their documentation, all of them part of this Administrative file.

WHAT: for the purposes provided in art. 64.2 b) of Law 39/2015, of October 1, of Common Administrative Procedure of Public Administrations, sanctions that could correspond would be:

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12/15

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10,000 euros (ten thousand euros) for the violation of article 21 of the LSSI, without prejudice to what results from the investigation of this procedure sanctioning.

10,000 euros (ten thousand euros) for the violation of article 21 of the GDPR, without prejudice to what results from the investigation of this procedure sanctioning.

Being the total sanction of 20,000 euros (twenty thousand euros).

NOTIFY: the present agreement to start a disciplinary file against the entity, VODAFONE ESPAÑA SAU., granting a hearing period of ten working days to formulate the allegations and present the evidence it deems appropriate.

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 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, in the event that the sanction to be imposed other than a fine, may recognize its responsibility within the term granted for the formulation of allegations to the present initiation agreement; it which will entail a reduction of 20% of the sanction that should be imposed in this procedure, equivalent in this case to 4,000 euros. with the app of this reduction, the sanction would be established at 16,000 euros, resolving the procedure with the imposition of this sanction.

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 the amount of this, equivalent in this case to 4,000 euros. With the application of this reduction, the sanction would be established in 16,000 euros and its payment will imply the termination of the procedure, without prejudice to 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 this case, if both reductions were to be applied, the amount of the penalty would remain established at 12,000 euros (twelve thousand 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.

If you choose to proceed to the voluntary payment of any of the amounts indicated above, you must make it effective by depositing it into account No. ES00 0000 0000 0000 0000 open in the name of the Spanish Agency for the Protection of Data in Banco CAIXABANK, S.A., indicating in the concept the number of reference of the procedure that appears in the heading of this document and the C / Jorge Juan, 6  
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13/15

cause of reduction of the amount to which it receives. You must also send the proof of admission to the Sub-directorate General of Inspection to continue with the procedure according to the amount 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.

Mar Spain Marti

Director of the Spanish Data Protection Agency.

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SECOND: On March 23, 2023, the claimed party has proceeded to pay of the sanction in the amount of 16,000 euros using one of the two reductions provided for in the Commencement Agreement transcribed above. Therefore, there has not The acknowledgment of responsibility has been accredited.

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

## FUNDAMENTALS OF LAW

Yo

### Competence

In accordance with the provisions of article 43.1 of Law 34/2002, of July 11, on  
services of the information society and electronic commerce (hereinafter  
LSSI), the powers that article 58.2 of Regulation (EU) 2016/679 (Regulation  
General of Data Protection, hereinafter RGPD), grants each authority of  
control and as established in articles 47, 48.1, 64.2 and 68.1 of the Organic Law  
3/2018, of December 5, Protection of Personal Data and guarantee of the  
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 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."

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14/15

Finally, the fourth additional provision "Procedure in relation to the  
Powers attributed to the Spanish Agency for Data Protection by other

laws" establishes that: "The provisions of Title VIII and its implementing regulations will apply to the procedures that the Spanish Agency for the Protection of Data should be processed in the exercise of the powers attributed to it by other laws."

## II

### Termination of the procedure

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 EXP202211263, in

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

SECOND: NOTIFY this resolution to VODAFONE ESPAÑA, S.A.U..

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

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C / Jorge Juan, 6

28001 – Madrid

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15/15

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.

Mar Spain Marti

Director of the Spanish Data Protection Agency

937-181022

C / Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)



