

Procedure No.: PS/00040/2019

## RESOLUTION OF PUNISHMENT PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection before  
QUALITY TECHNOLOGY SOLUTIONS ALPE, S.L., by virtue of a claim  
presented by D.A.A.A. (hereinafter, the claimant) and based on the following:

### BACKGROUND

FIRST: The claim filed by the claimant has an entry dated 11  
October 2018 at the Spanish Data Protection Agency. the claim  
is directed against QUALITY TECHNOLOGY SOLUTIONS ALPE, S.L. with NIF  
B91797613 (hereinafter, the claimed one). The grounds on which the claim is based are  
in which the respondent addressed the claimant and three other companions for a  
labor matter giving publicity of the e-mail addresses of  
all recipients, without being authorized.

Along with your claim, provide a copy of an email dated 7  
October 2018, addressed to four recipients with all addresses visible.

SECOND: In view of the facts denounced in the claim and the  
documents provided by the claimant, as well as the facts and documents that  
had knowledge of this Agency, the Subdirectorate General for Data Inspection  
proceeded to carry out preliminary investigation actions for the  
clarification of the facts in question, in accordance with the provisions of the  
Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter  
RGPD, requiring the claimed the following information.

Copy of the communications and the decision adopted

1.

sent to the claimant in connection with the transfer of this claim.

Report on the causes that have motivated the incidence that has

two.

originated the claim.

Report on the measures adopted to prevent the occurrence of

3.

similar incidents.

Four.

Any other that you consider relevant.

THIRD: On February 13, 2019, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the claimant, for the

infringement of article 5.1. f) of the RGPD, in relation to article 5 of the LOPDGDD;

typified in art. 83.5 section a) of the RGPD and qualified as very serious in art.

72.1.i) of the LOPDGDD.

FOURTH: On February 26, 2019, QUALITY TECHNOLOGY SOLUTIONS ALPE,

S.L., makes the following allegations to the initial agreement:

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First: The company recognizes the carelessness of not using the blind copy to the

Claimant's personal email account.

Second: In addition, having received the social security claim

carried out between co-workers, they had the obligation to communicate with

them in a mandatory way by fast and immediate way.

Third: Likewise, it is not the practice of the company to disclose the

personal email since they use corporate emails.

Fourth: On the other hand, they have implemented the LOPD.

Fifth: They recognize that this has been the only case in which it has not been use of the blind copy, however, its use has not been for commercial purposes or advertising, solely for the purposes of an administrative procedure with the social Security.

Sixth: They provide proof that the company has made use of the option of hidden copy.

That to prove the allegations made, they provide the following documents:

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Screenshot taken from B.B.B.'s personal phone. In said conversation by WhatsApp is appreciated as one of his companions provide the personal email address of the person who files the claim.

- Requirement of the Social Security Inspector.

- Copy of an email in which blind copying is used.

In view of everything that has been done, by the Spanish Protection Agency of Data in this procedure the following are considered proven facts,

#### PROVEN FACTS

FIRST: On October 11, 2018, filed a claim D. A.A.A. for having addressed QUALITY TECHNOLOGY SOLUTIONS ALPE, S.L by email on October 7, 2018 to the claimant and three other recipients with all the visible directions.

SECOND: QUALITY TECHNOLOGY SOLUTIONS ALPE, S.L, has contributed in the present sanctioning procedure the measures that it has adopted, among the same

consists:

- Copy of an email in which blind copying is used.

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## FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of the RGPD recognizes to each control authority, and as established in art. 47 of the Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of rights (hereinafter LOPDGDD), the Director of the Spanish Agency for Data Protection is competent to initiate and resolve this procedure.

## II

Article 5, section 1, letter f) RGPD "Principles related to treatment"

provides that the personal data will be:

f) treated in such a way as to ensure adequate security of the personal data, including protection against unauthorized or unlawful processing and against its loss, destruction or accidental damage, through the application of measures appropriate technical or organizational (<<integrity and confidentiality>>).

Article 32 of the RGPD "Security of treatment" provides that:

1. Taking into account the state of the art, the application costs, and the nature, scope, context and purposes of the treatment, as well as risks of variable probability and severity for the rights and freedoms of individuals physical, the person in charge and the person in charge of the treatment will apply technical measures and

appropriate organizational measures to guarantee a level of security appropriate to the risk,

which in your case includes, among others:

a) pseudonymization and encryption of personal data;

b) the ability to ensure the confidentiality, integrity, availability and

permanent resilience of treatment systems and services;

c) the ability to restore the availability and access to personal data

quickly in the event of a physical or technical incident;

d) a process of regular verification, evaluation and evaluation of the effectiveness

of the technical and organizational measures to guarantee the security of the treatment.

2. When evaluating the adequacy of the security level, particular account shall be taken of

takes into account the risks presented by the processing of data, in particular as

consequence of the accidental or unlawful destruction, loss or alteration of data

data transmitted, stored or otherwise processed, or the communication or

unauthorized access to said data.

3. Adherence to an approved code of conduct under article 40 or to a

certification mechanism approved under article 42 may serve as an element

to demonstrate compliance with the requirements established in section 1 of the

present article.

4. The person in charge and the person in charge of the treatment will take measures to

guarantee that any person acting under the authority of the controller or the

manager and has access to personal data can only process said data

following the instructions of the person in charge, unless it is obliged to do so by virtue of the

Law of the Union or of the Member States.

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Article 5 of the LOPDGDD "Duty of confidentiality" provides that:

1. Those responsible and in charge of data processing as well as all the people who intervene in any phase of this will be subject to the duty of confidentiality referred to in article 5.1.f) of Regulation (EU) 2016/679.
2. The general obligation indicated in the previous section will be complementary of the duties of professional secrecy in accordance with its applicable regulations.
3. The obligations established in the previous sections will remain even when the relationship of the obligor with the person in charge or person in charge had ended of the treatment.

### III

By virtue of the provisions of article 58.2 RGPD, the Spanish Agency for Data Protection, as a control authority, has a set of corrective powers, among which is the power to impose fines, in the event of an infringement of the provisions of the RGPD.

Article 58 section 2 GDPR provides the following:

“Each supervisory authority shall have all of the following powers corrections listed below:

- b) sanction any person responsible or in charge of the treatment with warning when the processing operations have violated the provisions of this Regulation;
- d) order the person in charge or in charge of the treatment that the operations of treatment comply with the provisions of this Regulation, where appropriate, in a certain way and within a specified period.
- i) impose an administrative fine under article 83, in addition to or in

instead of the measures mentioned in this paragraph, depending on the circumstances of each particular case;

In the present case, it is taken into account that the non-use of the option of sending with blind copy, in the sending of emails to different recipients may involve an omission of the duty to adopt or observe the technical and organizational measures that guarantee the security of said data, avoiding improper access to them; fact that motivated the beginning of the present penalty procedure.

In this specific case, it has been accredited by virtue of the documents provided with his allegations to the initial agreement that the respondent has adopted a series of adequate measures to guarantee the security and confidentiality of the data. Therefore, in accordance with the applicable legislation and having assessed the criteria for graduation of sanctions whose existence has been proven,

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the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: PROCEED TO NOTICE QUALITY TECHNOLOGY SOLUTIONS

ALPE, S.L. with NIF B91797613, for the violation of article 5.1. f) of the RGPD, in relation to article 5 of the LOPDGDD; typified in art. 83.5 section a) of RGPD, ordering that it proceed by virtue of the provisions of article 58.2 letter b) GDPR.

SECOND: NOTIFY

QUALITY TECHNOLOGY

SOLUTIONS ALPE, S.L. and, in accordance with art. 77.2 of the RGPD, INFORM the claimant about the outcome of the claim.

this resolution to

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 in accordance with art. 114.1 c) of

the LPACAP, and in accordance with the provisions of article 123 of the LPACAP, the

Interested parties may optionally file an appeal for reconsideration before the

Director of the Spanish Agency for Data Protection within a month from

counting from the day following the notification of this resolution or directly

contentious-administrative appeal 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.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP,

may provisionally suspend the firm resolution in administrative proceedings if the

The interested party expresses his intention to file a contentious-administrative appeal.

If this is the case, the interested party must formally communicate this fact by

writing addressed to the Spanish Agency for Data Protection, presenting it through

Electronic Register of the Agency [[https://sedeagpd.gob.es/sede-electronica-](https://sedeagpd.gob.es/sede-electronica-web/)

web/], or through any of the other registers provided for in art. 16.4 of the

aforementioned Law 39/2015, of October 1. You must also transfer to the Agency the

documentation proving the effective filing of the contentious appeal-

administrative. If the Agency was not aware of the filing of the appeal



contentious-administrative within a period of two months from the day following the notification of this resolution would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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