

□ File No.: EXP202208873

RESOLUTION OF SANCTIONING PROCEDURE

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

BACKGROUND

FIRST: On April 28, 2022, by the Director of the Spanish Agency for

Data Protection resolution was issued in sanctioning procedure number

PS/00478/2020, filed against EDITORIAL RIBADEO S.L. (hereinafter, the part

claimed). In said resolution, in addition to issuing a warning, the

adoption of the following measures:

“SECOND: ORDER EDITORIAL RIBADEO, S.L., with NIF B01864982, pursuant to

of article 58.2.d) of the GDPR, for an infringement of article 13 of the GDPR typified in

Article 83.5.b) of the aforementioned Regulation, which, within a period of 15 days computed

since this resolution is executive, proceed to adopt the measures

necessary to comply with the information obligation imposed by articles 12 and

13 of the GDPR.”

SECOND: The resolution of the disciplinary procedure, which was notified according to

to the rules established in Law 39/2015, of October 1, on the Procedure

Common Administrative of Public Administrations (hereinafter, LPACAP),

by means of electronic notification, it was not collected by the person in charge, within the term

of making available, understood as rejected in accordance with the provisions of art.

43.2 of the LPACAP dated May 9, 2022, as stated in the certificate that

work on file. Although the notification was validly made by means

e-mails, considering that the procedure has been carried out in accordance with the provisions of article

41.5 of the LPACAP, for information purposes a copy was sent by postal mail that was

duly notified on May 27, 2022. In said resolution, you are granted the defendant a period of 15 days to adopt the measures imposed, as evidenced in the file.

THIRD: After the indicated period has elapsed without this Agency having received any writing on the measures implemented by the claimed party, proceeded to require them again so that, within ten business days, prove to this Agency that they have adopted the appropriate corrective measures, in attention to what was agreed in the aforementioned Resolution.

This requirement, which was notified in accordance with the rules established in the LPACAP, It was not collected by the person in charge within the period of making it available, being understood rejected in accordance with the provisions of art. 43.2 of the LPACAP in dated July 4, 2022, as stated in the Notific@ certificate that is in the proceedings.

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Although the notification was validly made by electronic means, it was sent to you the request again by postal mail, being duly notified in dated July 18, 2022.

FOURTH: The claimed party has not sent any response to this Agency that certify compliance with the imposed measures.

FIFTH: Against the aforementioned resolution, in which the adoption of measures is required, There is no ordinary administrative appeal due to the expiration of the deadlines established for it. Likewise, the interested party has not expressed his intention to

file a contentious-administrative appeal, nor is this Agency aware that the same has been filed and a precautionary suspension of the resolution.

SIXTH: According to the report collected from the AXESOR tool, the entity EDITORIAL RIBADEO S.L. is an SME incorporated in the year 2020 whose information Financial information is not available as I have never deposited annual accounts.

SEVENTH: On September 15, 2022, the Director of the Spanish Agency of Data Protection agreed to initiate disciplinary proceedings against the claimed party, for the alleged violation of Article 58.2 of the GDPR, typified in Article 83.6 of the GDPR.

EIGHTH: Notification of the aforementioned initiation agreement in accordance with the established regulations in Law 39/2015, of October 1, of the Common Administrative Procedure of the Public Administrations (hereinafter, LPACAP) and after the period granted for the formulation of allegations, it has been verified that no allegation has been received any by the claimed party.

Article 64.2.f) of the LPACAP -provision of which the claimed party was informed in the agreement to open the procedure - establishes that if no arguments within the established term on the content of the initiation agreement, when it contains a precise pronouncement about the imputed responsibility, may be considered a resolution proposal. In the present case, the agreement of beginning of the disciplinary file determined the facts in which the imputation, the infringement of the GDPR attributed to the defendant and the sanction that could impose. Therefore, taking into consideration that the claimed party has not made allegations to the agreement to start the file and in attention to what established in article 64.2.f) of the LPACAP, the aforementioned initiation agreement is considered in the present case resolution proposal.

In view of all the proceedings, by the Spanish Agency for Data Protection

In this proceeding, the following are considered proven facts:

PROVEN FACTS

FIRST: The resolution of the disciplinary procedure and the requirements for the compliance with the measures imposed therein, indicated in the background first to third, were notified in accordance with the provisions of the LPACAP.

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SECOND: The claimed party has not sent any response to this Agency that certify compliance with the imposed measures.

THIRD: Notification of the agreement to start this procedure disciplinary action was carried out by postal mail, being collected by the person in charge with dated September 27, 2022.

FOURTH: The claimed party has not submitted allegations to the agreement to start this disciplinary procedure.

FUNDAMENTALS OF LAW

Yo

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

breached obligation

Based on the available evidence, it is considered that the party claimed has breached the resolution of the Spanish Data Protection Agency in relation to the measures imposed on him.

Therefore, the facts described in the "Facts" section are considered to constitute an infraction, attributable to the claimed party, for violation of article 58.2.d) of the GDPR, which provides the following:

"2. Each control authority will have all the following corrective powers indicated below:

(...)

d) order the person in charge or person in charge of the treatment that the operations of treatment comply with the provisions of this Regulation, where appropriate, in a specified manner and within a specified period;"

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Classification and classification of the offense

II

This infringement is typified in article 83.6 of the GDPR, which stipulates the following:

"Failure to comply with the resolutions of the control authority under article 58, section 2, will be penalized in accordance with section 2 of this article with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, of an amount equivalent to a maximum of 4% of the turnover global annual total of the previous financial year, opting for the highest amount."

For the purposes of the limitation period for infringements, the alleged infringement prescribes after three years, in accordance with article 72.1 of the LOPDGDD, which qualifies as the following behavior is very serious:

"m) Failure to comply with the resolutions issued by the authority for the protection of competent data in exercise of the powers conferred by article 58.2 of the Regulation (EU) 2016/679."

IV.

sanction imputed

In accordance with the facts exposed, it is considered that it is appropriate to impute a sanction to the party claimed for the violation of article 58.2 of the GDPR typified in the article 83.6 of the GDPR. The sanction to be imposed is a fine. administrative.

The fine imposed must be, in each individual case, effective, proportionate and dissuasive, in accordance with the provisions of article 83.1 of the GDPR. In Consequently, the sanction to be imposed must be graduated according to the criteria established in article 83.2 of the GDPR, and with the provisions of article 76 of the LOPDGDD, with respect to section k) of the aforementioned article 83.2 of the GDPR. In the initial assessment, it can be seen that no mitigation or mitigation is applicable.

aggravating.

V

adoption of measures

This Agency agrees to impose on the controller the adoption of appropriate measures to adjust its performance to the regulations mentioned in this act, in accordance with the established in the aforementioned article 58.2 d) of the GDPR, according to which each authority of control may “order the person in charge or person in charge of the treatment that the processing operations comply with the provisions of this Regulation, where appropriate, in a specified manner and within a specified period...”.

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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 83.6, being able to motivate such conduct the opening of a subsequent administrative sanctioning procedure.

Therefore, in accordance with the applicable legislation, the Director of the Agency

Spanish Data Protection RESOLVES:

FIRST: IMPOSE EDITORIAL RIBADEO S.L., with NIF B01864982, for a infringement of Article 58.2 of the GDPR, typified in Article 83.6 of the GDPR, a fine of 1,000.00 euros (THOUSAND euros).

SECOND: REQUEST EDITORIAL RIBADEO S.L., with NIF B01864982, so that within 15 days from the notification of this Resolution accredit before this organism the adoption of all the measures ordered in the Resolution of the

disciplinary procedure PS/00478/2020.

THIRD: NOTIFY this resolution to EDITORIAL RIBADEO S.L.

FOURTH: Warn the sanctioned party that he must enforce the sanction imposed

Once this resolution is enforceable, in accordance with the provisions of Article

art. 98.1.b) of Law 39/2015, of October 1, on Administrative Procedure

Common of Public Administrations (hereinafter LPACAP), within the payment period

voluntary established in art. 68 of the General Collection Regulations, approved

by Royal Decree 939/2005, of July 29, in relation to art. 62 of Law 58/2003,

of December 17, by means of its income, indicating the NIF of the sanctioned and the number

of procedure that appears in the heading of this document, in the account

restricted IBAN number: ES00-0000-0000-0000-0000-0000, open in the name of the

Spanish Agency for Data Protection at the bank CAIXABANK, S.A.

Otherwise, it will proceed to its collection in the executive period.

Once the notification has been received and once executed, if the execution date is

between the 1st and 15th of each month, both inclusive, the term to make the payment

voluntary will be until the 20th day of the following or immediately following business month, and if

between the 16th and the last day of each month, both inclusive, the payment term

It will be until the 5th of the second following or immediately following business month.

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 in accordance with art. 48.6 of the

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

Interested parties may optionally file an appeal for reversal before the

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

count 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

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day following the notification of this act, as provided for in article 46.1 of the
referred Law.

Finally, it is noted 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 through

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

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

[web/](https://sedeagpd.gob.es/sede-electronica-web/)], or through any of the other registries 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 proceedings within a period of two months from the day following the

Notification of this resolution would terminate the precautionary suspension.

Mar Spain Marti

Director of the Spanish Data Protection Agency

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