

□ Procedure No.: PS/00048/2021

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: D.A.A.A. in the name and representation of Ms. B.B.B. (hereinafter, the claimant) dated August 5, 2019 filed a claim with the Agency Spanish Data Protection. The claim is directed against the ASSOCIATION OF PRISON WORKERS YOUR ABANDONMENT CAN KILL ME with NIF G88300991 (hereinafter, the claimed one).

The claimant states: "that on August 2, 2018, the respondent proceeded to spread through the social network Twitter a copy of an alleged act of conciliation that would have been filed with the claimant.

Said request includes your personal data, including your home address.
which is not public data or accessible to third parties.

Due to her work, the claimant is a public person, but her domicile is not, and the disclosure of said information.

The dissemination of the data has been massive, as reflected in the number of retweets and favorites that tweet in question."

And, it provides, among other things, the following documentation: The document published in Twitter, which contains the home address of the claimant.

SECOND: In view of the facts stated, he moved, on October 1, 2019 and on the 14th day of the same month and year, the claim for the claimed will report:

1.

“The decision adopted regarding this claim.

1. In the event of exercising the rights regulated in articles 15 to 22
of the RGPD, accreditation of the response provided to the claimant.

two.

3.

Report on the causes that have motivated the incidence that has originated the
claim.

Report on the measures adopted to prevent incidents from occurring
similar, dates of implementation and controls carried out to verify their
effectiveness.

4. Any other that you consider relevant.”

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Thus, on October 12, 2019, the notification service
electronic, returned the aforementioned notification, due to the expiration of the deadline for
provision and on November 8, 2019, it was returned by the postal service, by
not to be withdrawn said shipment from the post office.

THIRD: On January 18, 2021, the respondent states: “that my
constituents withdrew from their Twitter account the document published in an
immediately, not being the same in the network more than 15 minutes, being published by
error, error that once noticed caused the immediate withdrawal of the publication, made
which is easily verifiable by the Agency to which I am addressing, leaving no trace
of any kind of networks, nor of the data, nor of the content of the reconciliation

published by mistake, a fact that caused the complainant not to suffer any harm”.

FOURTH: On February 18, 2021, the Director of the Spanish Agency for Data Protection agreed to initiate sanctioning proceedings against the ASSOCIATION OF PRISON WORKERS YOUR ABANDONMENT CAN KILL ME, for the alleged infringement of Article 6 of the RGPD, typified in Article 83.5 a) of the RGPD in relation to article 72.1 b) of the LOPDGDD.

FIFTH: The Agreement to Start the Sanctioning Procedure was notified to the entity claimed electronically being the date of availability February 19 of 2021, as evidenced by the certificate issued by the FNMT that works in the proceedings.

SIXTH

: Formal notification of the initiation agreement, the respondent has presented brief of allegations on March 4, 2021, stating: “We must state that my constituents removed from their Twitter account the published document of immediately, not being the same in the network more than 15 minutes, being published by mistake, error that once noticed, reason for the immediate withdrawal of the publication, leaving no trace of any kind on the networks, neither of the data, nor of the content of the conciliation published by mistake, a fact that caused the complainant did not suffer any harm.

For this reason, recognizing the facts and not having any previous sanction, taking into account the principle of proportionality and seriousness of what happened and the rapid correction made we request in application of art. 148 of the RGPD that the sanction remains in a warning, showing our deepest regret for what happened, not being our intention to cause damage to anyone, since everything is due to an inadvertent error.

We request: that they consider the facts recognized and if they consider that the

action is reprehensible, we request that in accordance with the principles of seriousness and proportionality, the sanction imposed on us is a Warning”.

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

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PROVEN FACTS

RIMERO: It is on record that on August 2, 2018, the respondent proceeded to disseminate by the social network Twitter a copy of an alleged demand for a conciliation act that would have been filed against the claimant.

The claimant's personal data is included in the aforementioned lawsuit.

including your home address, which is not public data or accessible to third parties.

Due to her work, the claimant is a public person, but her domicile is not, and the disclosure of said information.

The dissemination of the data has been massive, as reflected in the number of retweets and favorites that tweet in question.

SECOND: On March 4, 2021, the party claimed in his writ of allegations acknowledges the facts and agrees with the sanction imposed.

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 arts. 47 and 48.1 of the LOPDPGDD, the Director of the Spanish Data Protection Agency is competent to resolve

this procedure.

II

Article 6.1 of the RGPD establishes the assumptions that allow considering

lawful processing of personal data.

For its part, article 5 of the RGPD establishes that personal data will be:

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

("legality, loyalty and transparency");

b) collected for specific, explicit and legitimate purposes, and will not be processed

subsequently in a manner incompatible with those purposes; according to article 89,

paragraph 1, the further processing of personal data for archiving purposes in

public interest, scientific and historical research purposes or statistical purposes are not

deemed incompatible with the original purposes ("purpose limitation");

c) adequate, relevant and limited to what is necessary in relation to the purposes

for which they are processed ("data minimization");

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d) accurate and, if necessary, updated; all measures will be taken

reasonable to eliminate or rectify without delay the personal data that

are inaccurate with respect to the purposes for which they are processed ("accuracy");

e) maintained in a way that allows the identification of the interested parties

for no longer than is necessary for the purposes of data processing

personal; personal data may be kept for longer periods

provided that they are treated exclusively for archiving purposes in the public interest, purposes of

scientific or historical research or statistical purposes, in accordance with article 89, paragraph 1, without prejudice to the application of technical and organizational measures imposed by this Regulation in order to protect the rights and freedoms of the interested party ("limitation of the conservation period");

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").

The data controller will be responsible for compliance with the provided for in section 1 and able to demonstrate it ("proactive responsibility")."

III

In accordance with the evidence available, it is considered proven that on August 2, 2018, the respondent proceeded to spread through the social network Twitter an alleged lawsuit for a conciliation act that would have been filed with the claimant where his personal data included his home address.

Therefore, it is confirmed that the respondent spread on the social network the home address of the claimant, and therefore is responsible for the violation of confidentiality by disseminating said data, for which it is considered that has violated article 6.1 due to an illicit treatment of the personal data of the claimant, in relation to article 5.1 f) of the RGPD, which governs the principles of integrity and confidentiality of personal data, as well as the responsibility proactive of the data controller to demonstrate compliance.

IV

Article 83.5 a) of the RGPD, considers that the infringement of "the basic principles costs for treatment, including the conditions for consent under the articles 5, 6, 7 and 9" is punishable, in accordance with section 5 of the aforementioned article.

Article 83 of the aforementioned Regulation, with administrative fines of €20,000,000 maximum.

mo or, in the case of a company, an amount equivalent to a maximum of 4% of the global total annual turnover of the previous financial year, opting for the of greater amount.”

Article 58.2 of the RGPD indicates: "Each control authority will have all the following corrective powers indicated below:

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b) sanction any person responsible or in charge of the treatment with a warning when the treatment operations have violated the provisions of this Regulation.

glament;

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.”

Points out in Considering 148:

“In the event of a minor offence, or if the fine likely to be imposed would constitute a disproportionate burden for a natural person, rather than sanction by means of a fine, a warning may be imposed. must however

Special attention should be paid to the nature, seriousness and duration of the infringement, its intentional nature, to the measures taken to alleviate the damages suffered, the degree of liability or any relevant prior violation, the manner in which that the control authority has been aware of the infraction, compliance of measures ordered against the person responsible or in charge, adherence to codes of

conduct and any other aggravating or mitigating circumstance.”

There are no sanctions preceding the one claimed, the activity of the claimed

It is not the usual data treatment, nor was it intended to obtain benefits.

The respondent has acknowledged said error, and it is stated that she withdrew from her account

Twitter published the document immediately.

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Formally notified of the initiation agreement, the respondent has submitted a written

of allegations on March 4, 2021, stating: “We must state that my

constituents withdrew from their Twitter account the document published in an

immediately, not being the same in the network more than 15 minutes, being published by

error, error that once noticed, reason for the immediate withdrawal of the publication, not

leaving a trace of any kind on the networks, neither of the data, nor of the content of the

conciliation published by mistake, a fact that caused the complainant not to suffer

no harm.

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proportionality, the sanction imposed on us is a Warning”.

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

Common Administrative of Public Administrations (hereinafter, LPACAP),

under the heading "Termination in sanctioning procedures" provides the

Next:

"1. A sanctioning procedure has been initiated, if the offender acknowledges his responsibility, the procedure may be resolved with the imposition of the sanction let it proceed".

In accordance with the above, the Director of the Spanish Agency for the Protection of Data RESOLVES:

FIRST: IMPOSE ON THE PRISON WORKERS ASSOCIATION YOUR

ABANDONMENT CAN KILL ME, with NIF G88300991, for a violation of article 6 of the RGPD, typified in article 83.5.a) of the RGPD, a penalty of warning.

SECOND: NOTIFY this resolution to the WORKERS ASSOCIATION

PRISONS YOUR ABANDONMENT CAN KILL ME, with NIF G88300991

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

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

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

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

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

contentious-administrative before the Contentious-administrative Chamber of the

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

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

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

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

aforementioned Law.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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