

□ File No.: EXP202204227

## 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 October 18, 2022, the Director of the Spanish Agency for  
Data Protection agreed to initiate sanction proceedings against BANCO BILBAO  
VIZCAYA ARGENTARIA, S.A. (hereinafter, the claimed party), through the Agreement  
which is transcribed:

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File No.: EXP202204227

### 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: Mrs. A.A.A. (hereinafter, the claimant) dated March 15, 2022  
filed a claim with the Spanish Data Protection Agency. The  
The claim is directed against BANCO BILBAO VIZCAYA ARGENTARIA, S.A. with NIF  
A48265169 (hereinafter, BBVA). The reasons on which the claim is based are the following:  
following:

It states that the Probate Department of the claimed entity, in the  
processing of the testamentary of the deceased mother of the claimant, has facilitated  
a third party, information from seven investment funds of the claimant, exclusively  
ownership, without dealing with assets subject to inheritance.

The information has been provided, on August 27, 2020, through a email message sent from [atencionherederos@bbva.com](mailto:atencionherederos@bbva.com), addressed to the address of the claimant and to that of a third party, sending said entity certificates and statements of positions in relation to seven investment funds exclusive ownership of the claimant (corresponding to her assets), as well as the same information corresponding to three other investment funds owned exclusive to his uncle. It states that the third party receiving the information has been harassing her, going so far as to send more than 1425 e-mails, accusing her of stealing from her mother deceased.

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As a result of the breach of her data, the claimant files numerous claims before the claimed entity (the first of them, dated August 29, 2020) receiving a response from the entity (on September 3, 2020) indicating that "at no time have we forwarded information about you to third parties people, since we do not have any type of information nor are we authorized to provide it.

Finally, the claimant files a claim with the Bank of Spain and receives a letter from the data protection delegate of the claimed entity (dated 29 November 2021) stating, among others, the following: "We deeply regret the incident that occurred on August 27, 2020, where, completely involuntarily, it was attached to the mail sent to D.E.E.E... as documents... information about various investment funds of which you are the sole owner in

our entity, and in which Ms. A.A.A.... was only listed as authorized". On the other hand, hand, states that, in relation to the data of his uncle that were also exposed, the respondent entity sent a communication to the claimant and the third party recipient of the information indicating that these funds were the exclusive property of his uncle and that they had communicated by mistake, urging them to proceed to destroy said information and requesting that they refrain from using it.

However, the claimant states that, in relation to her bank details that were also exposed, the claimed entity did not proceed in the same way, In addition to not having rectified and informed said third party of the error, indicating that the funds are the exclusive property of the claimant, the origin of their own funds. In fact, it states that it filed against the third party recipient of the information, complaint for harassment before the Court and that, in the course of the proceedings followed, he has provided the controversial bank documentation corresponding to the claimant.

Along with the notification, a copy of the email message object of controversy and part of the attached documentation, claim made in this regard and copy of the responses received.

Likewise, a screenshot of one of the emails sent by the third party to the claimant, including the number of e-mails received by that sender, as well as an e-mail sent by the claimed entity (on July 14, 2021) requesting the deletion of the banking information received (relating to the uncle of the claimant).

D.B.B.B. (hereinafter, the claimant) on March 23, 2022 filed claim before the Spanish Data Protection Agency. The claim is against BANCO BILBAO VIZCAYA ARGENTARIA, S.A. with NIF A48265169 (the BBVA). The reasons on which the claim is based are the following:

It states that the Probate Department of the claimed entity, in the processing of the probate of the deceased sister of the claimant, has facilitated two people (among them his niece and representative at the same time), information from three investment funds of the claimant, of his exclusive ownership, without being property subject to inheritance.

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The information has been provided, on August 27, 2020, through a email message sent from [atencionherederos@bbva.com](mailto:atencionherederos@bbva.com), addressed to the email address of two third parties (interested in the probate file), sending said entity certificates and statements of Positions in Relation to Three Investment Funds Solely Owned by the Claimant (corresponding to his patrimony), as well as the same information corresponding to seven other investment funds owned exclusively by his niece.

As a result of the breach of their data, on August 29, 2020, the claimant files a claim (through its representative) with the claimed entity, receiving a response, dated September 3, 2020, in which said entity denies the facts, indicating that they have never forwarded information to third parties "since that we do not have any type of information nor are we authorized to provide it".

However, as a result of a claim made before the CNMV, the entity claimed sends a communication (via email) addressed to the two recipients of the controversial information, on July 14, 2021, indicating the following:

"Regarding the certificates attached to the email of 8/27/20, such as

you know, by mistake two certificates of ownership funds were attached  
sole property of B.B.B.... therefore not being funds owned by the cause of the  
file... We regret any inconvenience that may have been caused and we urge you to  
to destroy said information and refrain from using it".

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  
hereafter LOPDGDD), said claims were forwarded to BBVA, so that  
proceed to their analysis and inform this Agency within a month of the  
actions carried out to adapt to the requirements established in the regulations of  
Data Protection.

The transfers, which were carried out in accordance with the norms established in the Law  
39/2015, of October 1, of the Common Administrative Procedure of the  
Public Administrations (hereinafter, LPACAP), by means of electronic notification,  
were collected on April 8, 2022, as stated in the acknowledgments of receipt  
that are in the file.

On May 24, 2022, this Agency received a written response  
indicating that "...The incident that has given rise to the request for information to which  
response is being given is due to the fact that in the processing of the  
testamentary no. 20027251, corresponding to the deceased C.C.C., Mrs. A.A.A.  
claimant and heir, requested on 07/28/2020 from BBVA a certificate that accredited  
where the amount that existed in an investment fund was deposited  
signed by the deceased in February 1993.

The BBVA probate processing department sent, on 08/27/2020,  
the nominative certificates and position statements of 28 investment funds, among which  
which, by mistake, found 9 funds in which the deceased was listed  
solely as authorized...

The incident that causes this claim is due to the fact that the Entity committed the mistake of providing Mr. D.D.D., grandson of the deceased and representative of his father D. E.E.E., the statement of position of 9 investment funds where the originator was listed as authorized but not as owner. Of the 9 referred funds; 6 are owned by the

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daughter of the deceased, Mrs. A.A.A., and 3 owned by the brother of the deceased, D. B.B.B....

In said file and between 06/26/2020 and 03/28/2022, they have been exchanged, between BBVA and the heirs, a total of 4,803 emails. Therefore, in the case of a very voluminous file that has given rise to a mistake in the sending of one of multiple communications.

Due to the age of the information requested, transfers and movements of a fund subscribed in 1993, BBVA carried out a search based on the DNI number of the originator, which caused by mistake certificates of all the funds in for which their DNI was reported, both in their capacity as owner and as authorized.

Said information was sent by email to Mrs. A.A.A. and his nephew

Mr. D.D.D. (representative of his father D.E.E.E.) ...”.

THIRD: On June 15, 2022 and on June 23, 2022, of

In accordance with article 65 of the LOPDGDD, the claims submitted by the claiming parties, respectively.

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

previous questions

In the present case, in accordance with the provisions of article 4.1 of the GDPR, there is the processing of personal data, since BBVA carries out, among other treatments, the collection, conservation, use and dissemination of the following You have personal data of individuals who are clients of the financial institution, such as: name and surname, ID, telephone number, email address, postal address, data banking and financial coughs.

BBVA carries out this activity in its capacity as data controller, given who is the one who determines the purposes and means of such activity, by virtue of the aforementioned article 4.7 of the GDPR.

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Article 4 section 12 of the RGPD defines, in a broad way, the "violations of security" security of personal data" (hereinafter security breach) as "all those security violations that cause the destruction, loss or alteration accidental or unlawful personal data transmitted, stored or otherwise processed form, or unauthorized communication or access to said data."

In the present case, there is a personal data security breach in the circumstances indicated above, categorized as a breach of confidentiality, by been sent to a third party by the BBVA Probate Department, in the processing of the probate of the deceased mother of the claimant and sister deceased of the claimant, information of seven investment funds of the claimant, of its exclusive ownership, without dealing with assets subject to inheritance.

The information was sent, on August 27, 2020, through a message from email sent from [atencionherederos@bbva.com](mailto:atencionherederos@bbva.com), addressed to the address of the claimant and that of a third party, sending said entity certificates and two of positions in relation to seven investment funds exclusively owned by the claimant (corresponding to his estate), as well as certificates and statements of positions in relation to three investment funds exclusively owned by the claimant (corresponding to his heritage).

It should be noted that the receipt of a claim about a security breach does not imply the imposition of a sanction directly, since it is necessary to analyze the diligence of managers and managers and the security measures applied.

Within the principles of treatment provided for in article 5 of the GDPR, the integration The quality and confidentiality of personal data is guaranteed in section 1.f) of article Article 5 of the GDPR. For its part, the security of personal data is regulated



in articles 32, 33 and 34 of the GDPR, which regulate the security of the treatment, the notification of a breach of the security of personal data to the authority of control, as well as the communication to the interested party, respectively.

II

Article 5.1.f) of the GDPR

Article 5.1.f) "Principles relating to processing" of the GDPR establishes:

"1. Personal data will be:

(...)

f) processed in such a way as to guarantee adequate security of personal data;

personal information, including protection against unauthorized or unlawful processing and against its accidental loss, destruction or damage, through the application of technical or appropriate organizational procedures ("integrity and confidentiality")."

In the present case, it is clear that the personal data of the complaining parties, contained in the BBVA database, were improperly disclosed to third parties, violating the principle of confidentiality; although and according to the record, The Heirs Attention Service notifies the third party, Mr. D.D.D., through his co-email, that the documentation that had been transferred on 08/27/2020 ado-

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read from an error; since, information was included on funds owned by Ms.

A.A.A. as well as information on funds owned by D. B.B.B. and not of the cause of the probate, urging him not to use the information and to destroy it.

In accordance with the evidence available in this initiation agreement,

disciplinary procedure, and without prejudice to what results from the investigation,  
it is considered that the known facts could constitute an infringement,  
attributable to BBVA, for violation of article 5.1.f) of the GDPR.

Classification of the infringement of article 5.1.f) of the GDPR

IV.

If confirmed, the aforementioned violation of article 5.1.f) of the GDPR could lead to the  
commission of the offenses typified in article 83.5 of the GDPR that under the

The heading "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:

a) the basic principles for the treatment, including the conditions for the  
consent under articles 5, 6, 7 and 9; (...)"

In this regard, the LOPDGDD, in its article 71 "Infractions" establishes that

"The acts and behaviors referred to in sections 4,

5 and 6 of article 83 of Regulation (EU) 2016/679, as well as those that result  
contrary to this organic law".

For the purposes of the limitation period, article 72 "Infractions 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:

a) The processing of personal data in violation of the principles and guarantees

established in article 5 of Regulation (EU) 2016/679. (...)”

Penalty for violation of article 5.1.f) of the GDPR

V

For the purposes of deciding on the imposition of an administrative fine and its amount,

In accordance with the evidence available at the present time of

agreement to start disciplinary proceedings, and without prejudice to what results from the

investigation, it is considered that the offense in question is serious for the purposes of the

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

criteria established in article 83.2 of the GDPR:

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As aggravating factors:

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b) intentionality or negligence in the infraction;

BBVA informs this Agency that the facts reported refer to an error

isolated and involuntary, there being no intentionality in the offense committed.

In this same sense, the Supreme Court has been understanding that there is

recklessness whenever a legal duty of care is neglected, that is, when the

offender does not behave with the required diligence. And in the assessment of the degree of

diligence, the professionalism or not of the subject must be specially considered, and not

there is no doubt that, in the case now examined, when the activity of the appellant

is of constant and abundant handling of personal data, it must be insisted on

the rigor and the exquisite care to adjust to the legal preventions in this regard.

[Sentence of the National Court of 17/10/2007 (rec. 63/2006)].

As mitigations:

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c) any measure taken by the controller or processor

to alleviate the damages and losses suffered by the interested parties;

On 04/04/2022, the Heirs Attention Service communicates to Mr. D.D.D., through

of your email, that the documentation that had been transferred to you on

08/27/2020 suffered from a bug; since, information on funds was included

owned by Mrs. A.A.A. and not of the originator of the will, urging him not to

make use of the information and its destruction.

On 07/14/2021, the Heirs Attention Service communicates to Mr. D.D.D.,

through your email, that the documentation that had been transferred to you on

08/27/2020 suffered from an error, since it included information on ownership funds

by D.B.B.B. and not of the originator of the will, urging him not to make use of the

information and its destruction.

Likewise, it is considered appropriate to graduate the sanction to be imposed in accordance with the

following criteria established in section 2 of article 76 "Sanctions and measures

corrective measures" of the LOPDGDD:

As aggravating factors:

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of personal data.

b) Linking the activity of the offender with the performance of processing

The BBVA Probate Department facilitates all bank procedures

necessary in case of inheritance or death.

Consequently and for the purposes of compliance with the legal requirements

established, the exercise of said activity necessarily implies the knowledge and

application of current regulations on the protection of personal data.

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The balance of the circumstances contemplated in article 83.2 of the GDPR and the Article 76.2 of the LOPDGDD, with respect to the offense committed by violating the established in article 5.1.f) of the GDPR, allows initially setting a penalty of €10,000 (TEN THOUSAND EUROS).

SAW

GDPR Article 32

Article 32 "Security of treatment" of the GDPR establishes:

"1. Taking into account the state of the art, the application costs, and the nature of nature, scope, context and purposes of processing, as well as probability risks and variable severity for the rights and freedoms of natural persons, the responsibility responsible and the person in charge of the treatment will apply appropriate technical and organizational measures. measures to guarantee a level of security appropriate to the risk, which, where appropriate, will include yeah, among others:

- a) the pseudonymization and encryption of personal data;
- b) the ability to guarantee the confidentiality, integrity, availability and re-permanent silence 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 assessment of effectiveness technical and organizational measures to guarantee the security of processing

I lie.

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

The risks presented by the data processing, in particular as a consequence

of the destruction, loss or accidental or illegal alteration of personal data transmitted

collected, preserved or processed in another way, or the unauthorized communication or access

two to said data.

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

certification document approved in accordance with article 42 may serve as an element to

demonstrate compliance with the requirements established in section 1 of this

article.

4. The controller and the processor shall take measures to ensure that

any person acting under the authority of the controller or processor and having

ga access to personal data can only process such data following instructions

of the controller, unless it is required to do so by Union law or by

the Member States”.

In the present case, at the time of the security breach, there is no record

that BBVA had reasonable security measures based on the possible

ble estimated risks.

BBVA states that the incident could have been due to the large number of emails

electronics exchanged in relation to said file, as well as the volume of

this.

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“...Due to the age of the information requested, transfers and movements of a fund subscribed in 1993, BBVA carried out a search based on the DNI number of the originator, which caused by mistake certificates of all the funds in for which their DNI was reported, both in their capacity as owner and as authorized.

Said information was sent by email to Mrs. A.A.A. and his nephew Mr. D.D.D. (representative of his father D. E.E.E.)

Although the incident was due to human error, the volume of the file, as well as the large number of emails exchanged in relation to said proceedings; in no case, justify the violation of confidentiality, integrity and availability of treatment systems and services...”

For the rest, the way of acting from the Probate Department of the BBVA carries a certain risk that errors such as this may occur. The probability that this type of error occurs, as has happened in the supposition examined, must be assessed by the data controller, for the purposes of implement technical and organizational security measures so that they do not materialize the risks (including human errors), not being confirmed according to the evidence that there were adequate measures that could have prevented it.

In addition, the data controller must establish security measures that implement secure communication mechanisms with their customers when submitting by email documentation or personal data, such as techniques as simple as encryption, which avoid the loss of confidentiality.

The referral to the address of a third-party email of banking information ria, not distinguishing between ownership and authorization, and not related to the file in process, does not guarantee the confidentiality, integrity and availability of the systems. more and treatment services.

Therefore, in accordance with the evidence available in this agreement,

initiation of the disciplinary procedure, and without prejudice to what results from the investigation, it is considered that the known facts could constitute an infraction, attributable to BBVA, for violation of article 32 of the GDPR.

Classification of the infringement of article 32 of the GDPR

VII

If confirmed, the aforementioned infringement of article 32 of the GDPR could lead to the commission of the offenses typified in article 83.4 of the GDPR that under the

The heading "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 10,000,000 or,

in the case of a company, an amount equivalent to a maximum of 2% of the

total annual global business volume of the previous financial year, opting for

the highest amount:

a) the obligations of the person in charge and the person in charge according to articles 8, 11, 25 to 39, 42 and 43; (...)"

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In this regard, the LOPDGDD, in its article 71 "Infractions" establishes that

"The acts and behaviors referred to in sections 4,

5 and 6 of article 83 of Regulation (EU) 2016/679, as well as those that result

contrary to this organic law".

For the purposes of the limitation period, article 73 "Infractions considered serious"

of the LOPDGDD indicates:



"Based on what is established in article 83.4 of Regulation (EU) 2016/679, are considered serious and will prescribe after two years the infractions that suppose a substantial violation of the articles mentioned therein and, in particular, the following:

(...)

f) The lack of adoption of those technical and organizational measures that are appropriate to ensure a level of security appropriate to the risk of treatment, in the terms required by article 32.1 of the Regulation (EU) 2016/679".

Penalty for violation of article 32 of the GDPR

VIII

For the purposes of deciding on the imposition of an administrative fine and its amount, In accordance with the evidence available at the present time of agreement to start disciplinary proceedings, and without prejudice to what results from the investigation, it is considered that the offense in question is serious for the purposes of the GDPR and that it is appropriate to graduate the sanction to be imposed in accordance with the following criteria established in article 83.2 of the GDPR:

As aggravating factors:

-

b) intentionality or negligence in the infringement;

BBVA informs this Agency that the facts reported refer to an error isolated and involuntary, there being no intentionality in the offense committed.

In this same sense, the Supreme Court has been understanding that there is recklessness whenever a legal duty of care is neglected, that is, when the offender does not behave with the required diligence. And in the assessment of the degree of diligence, the professionalism or not of the subject must be specially considered, and not

there is no doubt that, in the case now examined, when the activity of the appellant is of constant and abundant handling of personal data, it must be insisted on the rigor and the exquisite care to adjust to the legal preventions in this regard.

[Sentence of the National Court of 17/10/2007 (rec. 63/2006)]

As mitigations:

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c) any measure taken by the controller or processor

to alleviate the damages and losses suffered by the interested parties;

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On 04/04/2022, the Heirs Attention Service communicates to Mr. D.D.D., through of your email, that the documentation that had been transferred to you on 08/27/2020 suffered from a bug; since, information on funds was included owned by Mrs. A.A.A. and not of the originator of the will, urging him not to make use of the information and its destruction.

On 07/14/2021, the Heirs Attention Service communicates to Mr. D.D.D., through of your email, that the documentation that had been transferred to you on 08/27/2020 suffered from an error, since it included information on ownership funds by D.B.B.B. and not of the originator of the will, urging him not to make use of the information and its destruction.

Likewise, it is considered appropriate to graduate the sanction to be imposed in accordance with the following criteria established in section 2 of article 76 "Sanctions and measures corrective measures" of the LOPDGDD:

As aggravating factors:

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of personal data.

b) Linking the activity of the offender with the performance of processing

The BBVA Probate Department facilitates all bank procedures

necessary in case of inheritance or death.

Consequently and for the purposes of compliance with the legal requirements

established, the exercise of said activity necessarily implies the knowledge and

application of current regulations on the protection of personal data.

The balance of the circumstances contemplated in article 83.2 of the GDPR and the

Article 76.2 of the LOPDGDD, with respect to the offense committed by violating the

established in article 32 of the GDPR, allows to initially set a penalty of 6,000

€ (SIX THOUSAND EUROS).

IX

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,

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HE REMEMBERS:

FIRST: INITIATE SANCTION PROCEDURE against BANCO BILBAO

VIZCAYA ARGENTARIA, S.A., with NIF A48265169, for the alleged violation of the

Article 5.1 f), typified in 83.5 of the GDPR.

START SANCTION PROCEDURE against BANCO BILBAO VIZCAYA

ARGENTARIA, S.A., with NIF A48265169, for the alleged violation of article 32,

typified in 83.4 of the GDPR.

SECOND: APPOINT as instructor R.R.R. and, as secretary, to S.S.S.,

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 in article 64.2 b) of Law 39/2015, of 1

October, of the Common Administrative Procedure of Public Administrations (in

hereinafter, LPACAP), the sanction that may correspond, without prejudice to what

result of the instruction, would be:

TEN THOUSAND EUROS (€10,000) for alleged violation of article 5.1 f) typified in the

Article 83.5 of the GDPR.

SIX THOUSAND EUROS (€6,000) for an alleged violation of article 32 typified in the

Article 83.4 of the GDPR.

NOTIFY this agreement to BANCO BILBAO VIZCAYA

FIFTH:

ARGENTARIA, S.A., with NIF A48265169, granting it 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

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 12,800.00 euros, resolving the

procedure with the imposition of this sanction.

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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 12,800.00 euros and its payment will imply the termination of the procedure.

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 9,600.00 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 (12,800.00 euros or 9,600.00 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.

Mar Spain Marti

Director of the Spanish Data Protection Agency

935-110422

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SECOND: On October 26, 2022, the claimed party has proceeded to pay of the sanction in the amount of 9600 euros making use of the two reductions provided for in the initiation Agreement transcribed above, which implies the recognition of responsibility.

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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.

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

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.

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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 EXP202204227, in

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

SECOND: NOTIFY this resolution to BANCO BILBAO VIZCAYA

ARGENTARIA, S.A.

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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