

Procedure No.: PS/00227/2019

RESOLUTION OF PUNISHMENT PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection and

based on the following

BACKGROUND

FIRST: The affected party filed a claim with the Spanish Agency on 05/10/2019

Data Protection. The claim is directed against XFERA MÓVILES, S.A.

(MASMOVIL), with NIF A82528548 (hereinafter XFERA). The reasons on which the

claim are, in summary, the following: that both the fixed telephone line and the

Internet connection via ADSL, suddenly stopped working; that

contacted the company told him that there had been a change

of the holder's name, address, and type of Internet access, now by fiber optics, but

that his ID, bank account and email were still on record; that these new

conditions of service caused a contract change that resulted in charges to your

bank account and that despite having filed a claim with the company

dated 05/30/2018, with incident number ***INCIDENCIA.1, as of

presentation of the claim at the Agency, still without a landline telephone or connection to

Internet, although the mobile lines included in the contract do work. Either

you can connect to the Customer Area; which, according to the complainant, took place

05/29/2018

And, among other things, attach the following documentation:

☐ Individual MASMOVIL Combined Services Contract

☐ SEPA Document

☐ Invoice dated March 1, 2018 where the data of the

claimant and Internet access by ADSL corresponding to the contract

***CONTRACT.1 (Obtained via the website of the Customer Area)

☐ Invoice dated June 1, 2018 where the data changed and

fiber optic Internet access corresponding to the contract ***CONTRACT.2

(Obtained via the web from the Customer Area)

☐ Complaint dated ***DATE.1 filed with the General Directorate of the

Police, with certificate number ***ATESTADO.1, attaching two sheets

typed on one side, stating the facts.

SECOND: In view of the facts denounced in the claim and the

documents provided by the claimant / of the facts and documents of which he has

had knowledge of this Agency, the Subdirector General for Data Inspection

proceeded to carry out preliminary investigation actions for the

clarification of the facts in question, by virtue of the investigative powers

granted to the control authorities in article 57.1 of the Regulation (EU)

2016/679 (General Data Protection Regulation, hereinafter RGPD), and

in accordance with the provisions of Title VII, Chapter I, Second Section, of the Law

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Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter LOPDGDD).

1 In the documentation provided by the claimant, it is verified that there has been a change of contract where the name of the holder of the contract has been changed contract and address, keeping the bank account charged corresponding to the claimant.

1. On 12/6 and 8/2018, this Agency received exactly two documents

equals from XFERA corresponding to the transfer of the claim.

In them he states, having filed a complaint with the General Directorate

of the Police, that "...taking into account that these facts are already being

officially investigated by criminal means, we request that you be at the

resolution of said procedure to clarify the possible causes of the

incident... ". It is worth mentioning that, in these writings, although the file at

that they refer to is correct, they name a person as the claimant

different from the one that has filed the claim in this case. Probably,

it is a claimant from another file.

2. On 05/10/2019, this Agency received a new letter from XFERA, this

once appearing the correct claimant, partially answering what was

required. In it, it states that two incidents were opened with a management date

of 08/20/2018 (**INCIDENCE.1 and **INCIDENCE.2) and another incident

later with management date of 09/11/2018 (INCIDENCE.3). the claimed

reports that as a result of these incidents, the

name of the contract holder, while confirming that the contract

*** CONTRACT.1 did not generate billing, so it is "without action

earing".

Asked about the status of the judicial procedure mentioned in his first

written, and in which they requested to remain pending a resolution,

They state that they do not know the status of the process.

They provide a screen print of the processing of the impersonation incident

of identity where you can see the incidence number ***INCIDENCIA.4 and

creation date of 11/11/2018 and unresolved status.

Regarding the causes that have motivated the claim, they report that they do not

may be fully disclosed at the time of filing of this

written.

Finally, they state that they are internally adopting the actions

timely in order to implement new training measures, including

external advice, for all personnel involved in the processes

commercial.

3. The respondent was asked at the request of this Agency via

by which the identity theft occurred and the procedure used

for identity accreditation, has not responded to the questions

raised.

THIRD: On 06/11/2019, the Director of the Spanish Protection Agency

of Data agreed to initiate a sanctioning procedure against the person claimed for the alleged

infringement of article 6.1.a) of the RGPD, typified in article 83.4 of the RGPD.

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FOURTH: Having been notified of the aforementioned initiation agreement, the respondent submitted a written

allegations on 07/01/2019 stating, in summary, the following: the error in the

appreciation of the infringement of article 6.1 of the RGPD and that at all times its

The action was adjusted to the current legality, being a different matter the intervention of a

third party in bad faith for fraudulent purposes; which is accredited in the file

the opening of a criminal case to investigate the facts that are the subject of

attention in the same Home agreement and that the same criminal prejudiciality prevents the

prosecution of this file that must be suspended until it is resolved

that; the invocation of the principle of presumption of innocence due to the insufficient justification of the alleged administrative sanction and the file of the proceedings.

FIFTH: On 07/31/2019, the instructor of the procedure agreed to open a period of practical tests, agreeing on the following:

- Consider reproduced for evidentiary purposes the claim filed by the claimant and his documentation, the documents obtained and generated by the Inspection Services that are part of file E/10393/2018.
- Consider reproduced for evidentiary purposes, the allegations to the initial agreement

PS/00227/2019 filed by XFERA MÓVILES, S.A. and documentation that accompanies them.

- Ask XFERA for a copy of the content of incidents MM177623, MM234465 and MM272613.
- Request from the claimant documentation that is in their possession related to sanctioning procedure that for whatever reason had not been provided at the time of the complaint or, any other manifestation in relation to the facts denounced and a copy of your DNI.

The defendant's representation filed a written extension of the term on 08/13/2019, which was addressed by letter dated 08/26/2019.

SIXTH: On 11/05/2019, a Resolution Proposal was issued in the sense of that the Director of the Spanish Data Protection Agency sanctioned XFERA for violation of article 6.1.a) of the RGPD, typified in article 83.5.a) of the GDPR, with a fine of €60,000. Likewise, an Annex was attached containing the list of the documents in the file in order to obtain a copy of the that it deems appropriate.

On 12/05/2019, XFERA's representation presented a letter in which it reiterated the

allegations made during the procedure; that in any case the sanction would have to moderated to conform to the principle of proportionality.

SEVENTH: Of the actions carried out in this procedure, they have been accredited the following:

PROVEN FACTS

FIRST. On 07/03/2018 of the claimant in which she denounces XFERA stating that both the fixed telephone line and the Internet connection through ADSL stopped working and that after contacting the company they told him that

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had produced a change of owner, address and type of Internet access (now by optical fiber), but that they continued to show their ID, their bank account for the purposes of address and email; that these new conditions caused a change of contract causing charges to your bank account and that despite having filed a claim with the company, as of the filing date of the claim at the Agency, still without a landline phone or Internet connection, although the mobile lines included in the contract work, nor can you connect to the Company customer area.

SECOND. There is a complaint before the National Police Station on ***DATE.1,

Certificate No. ***CERTIFICATE.1. The complainant states, among others:

"That these years pass normally carrying out the payment

of invoices per day, until Tuesday passed 05/29/2018

realizes that the internet connection does not work or that it gets

in contact with the Masmovil company who inform him that they do not ADSL works (what the respondent had contracted), but if the fiber.

That they also inform him that a contract change was made on the day 05/18/2018 which includes fiber optic internet connection and a fixed line as well as a change in the data with what was initially the service (those of the appearing party) was contracted to include a new fixed line ***TELÉFONO.3, as well as the contracting of fiber instead of the ADSL that the appearing party had contracted.

That in the new contract the data of the appearing party is changed, appearing as holder A.A.A., with DNI ***NIF.1 and address at ***ADDRESS.1 of Madrid.

That he does not know who this person is since he has not heard that name in the life".

THIRD. CONSISTENT PROVIDED MASMOVIL COMBINED SERVICES CONTRACT

INDIVIDUALS signed by the entity and the claimant on 09/08/2016, in which your personal data appears, consisting of contracted services two mobile telephone lines associated with the numbers ***TELEPHONE.1 and ***TELEPHONE.2 and fixed telephony services and broadband internet access, linked to the line landline ***TELEPHONE.3, not appearing in the aforementioned contract change of owner or data of the previous owner.

FOURTH. It also provides a document of Acceptance of direct debit payment of invoices in a bank account owned by you.

FIFTH. There is a copy of the invoice issued by XFERA nº ***FACTURA.1, dated 03/01/2018 in which the personal data of the claimant (name, surnames, DNI, bank account details of ownership, etc.)

SIXTH. There is a copy of the invoice issued by XFERA, nº ***FACTURA.2, dated

06/01/2018 in which the personal data of the third party appears:

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Street ***ADDRESS.2

28044 Madrid

Madrid

At the same time, the invoice shows direct debit as a form of payment

and as the holder of the same account as the claimant, is associated with

BBB

SEVENTH. XFERA on 05/10/2018 has provided a screenshot of its systems

computer systems related to the processing of incidents for impersonation of

identity, number ***INCIDENCIA.4 and date of creation of 11/11/2018, state without

solve. At the bottom is the following comment: "please check, attached

the call where the operator calls the client to do technology migration but

despite the fact that the client gives other different data, the operator, instead of

verify/contrast, makes mysim change of address, name directly".

EIGHTH. XFERA has not provided any document that proves or justifies the

modification of the conditions indicated above in the contract carried out

with the claimant.

FOUNDATIONS OF LAW

By virtue of the powers that article 58.2 of the RGPD recognizes to each

control authority, and according to the provisions of articles 47 and 48 of the LOPDGDD,

The Director of the Spanish Agency for Data Protection is competent to initiate

and to solve this procedure.

Yo

Beforehand, it is necessary to resolve the allegation presented by the

representation of the defendant, based on the existence of a criminal preliminary ruling.

II

It is stated that having had knowledge that certain facts that could

be constitutive of an alleged crime of fraud typified in article 248 and

following the Penal Code, a complaint has been filed with the national police,

which would entail the declaration of the suspension of the present procedure before the

concurrence of a possible criminal infraction for false documentation, impersonation of

personality and scam. In particular, and by virtue of the complaint filed by the

claimant, Avon has become aware that its process may have been misrepresented

contracting using a third party fraudulently the identity of the

complainant.

It should be noted that art. 77.4 of Law 39/2015, of October 1, of the

Common Administrative Procedure of Public Administrations (LPACAP): "In

sanctioning procedures, the facts declared proven by

firm criminal judicial resolutions will bind the Public Administrations

regarding the sanctioning procedures that substantiate". However, even though

there were prior criminal proceedings in process, which do not appear, it must be indicated,

that there is no triple identity necessary to apply article 77 of the LPACAP, (from

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subject, fact and foundation), between the administrative infraction that is valued and the possible infraction or criminal infractions that could derive from the alleged Preliminary proceedings carried out by a jurisdictional body. This, because the subject offender it is obvious that it would not be the same -regarding infractions of the LOPD the responsible is the XFERA, while the criminal responsible for a possible crime of usurpation of personality or fraud would be the third party who had passed himself off as the claimant. Nor would the legal basis be the same: while the legal right protected by the LOPDGDD is the fundamental right to data protection personal, the legal right that is protected in criminal types whose commission would investigate, if necessary, the Investigating Court would be the marital status, the heritage etc

In this sense, the Judgment of the National High Court of 04/27/2012 (rec. 78/2010), in whose second Legal Basis the Court pronounces in the following terms in response to the appellant's allegation that the AEPD has violated article 7 of the R.D. 1398/1993 (rule that was in force until the entry into force of the LPACAP): "In this sense, Art. 7 of the Royal Decree 1398/1993, of August 4, of the procedure for the exercise of the power sanctioning, it only foresees the suspension of the administrative procedure when the effective and real existence of a criminal proceeding is verified, if considers that there is identity of subject, fact and basis of law between the administrative infraction and criminal infraction that may correspond.

However, and for the concurrence of a criminal preliminary ruling, it is required that it directly conditions the decision to be taken or that it is essential to solve, budgets that do not concur in the case examined,

in which there is a separation between the facts for which it is sanctioned in the resolution now appealed and those that the appellant invokes as possible illicit penalties. Thus, and even if it had been initiated, in the present case, and due to the facts now controversial, also criminal proceedings against the distribution company, The truth is that both the sanctioning conduct and the protected legal interest are different in both ways (contentious-administrative and criminal). In the criminal field, the a protected legal asset is a possible documentary forgery and fraud, and in the administrative, on the other hand, the power to dispose of your personal data by of its owner, so such objection of the defendant must be rejected”.

In consideration of the foregoing, the question raised by the representation of XFERA and must be rejected.

The RGPD deals in its article 5 with the principles that must govern the treatment of personal data and mentions among them that of legality, loyalty and transparency, noting:

III

"1. The personal data will be:

a) processed in a lawful, loyal and transparent manner in relation to the interested party ("legality, loyalty and transparency");

On the other hand, article 6, Legality of the treatment, of the RGPD establishes that:

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"1. The treatment will only be lawful if at least one of the following is met conditions:

a) the interested party gave their consent for the processing of their data

personal for one or more specific purposes;

b) the treatment is necessary for the execution of a contract in which the

interested party is a party or for the application at the request of the latter of measures

pre-contractual;

(...)”

Article 7 of the RGPD, Conditions for consent, states that:

"1. When the treatment is based on the consent of the interested party, the

responsible must be able to demonstrate that he consented to the treatment of his

personal information.

2. If the data subject's consent is given in the context of a declaration

writing that also refers to other matters, the request for consent will be

presented in such a way as to be clearly distinguishable from other matters, in a manner

intelligible and easily accessible and using clear and simple language. It will not be binding

any part of the declaration that constitutes an infringement of these Regulations.

3. The interested party shall have the right to withdraw their consent at any

moment. The withdrawal of consent will not affect the legality of the treatment

based on consent prior to withdrawal. Before giving your consent, the

Interested party will be informed of this. It will be as easy to withdraw consent as it is to give it.

4. In assessing whether consent has been freely given, account will be taken

to the greatest extent possible whether, among other things, the execution of a

contract, including the provision of a service, is subject to the consent of the

processing of personal data that is not necessary for the execution of said

contract".

And article 4 of the RGPD, Definitions, in section 11, states that:

“11) «consent of the interested party»: any manifestation of free will,

specific, informed and unequivocal by which the interested party accepts, either through a statement or a clear affirmative action, the processing of personal data that concern him”.

Also article 6, Treatment based on the consent of the affected party, of the new Organic Law 3/2018, of December 5, on Data Protection Personal and guarantee of digital rights (hereinafter LOPDGDD), indicates that:

"1. In accordance with the provisions of article 4.11 of the Regulation (EU) 2016/679, consent of the affected party is understood to be any manifestation of will free, specific, informed and unequivocal by which he accepts, either through a

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declaration or a clear affirmative action, the treatment of personal data that concern.

2. When the data processing is intended to be based on consent of the affected party for a plurality of purposes, it will be necessary to state specific and unequivocal that said consent is granted for all of them.

3. The execution of the contract may not be subject to the affected party consenting to the processing of personal data for purposes unrelated to the maintenance, development or control of the contractual relationship”.

The defendant is attributed the violation of article 6 of the RGPD; of

In accordance with the facts declared proven, it is proven that the claimed

I carry out the modification of the data contained in the subscribed telephone contract

with the claimant, linking them to the personal data of a third party who had nothing to do with it without your consent.

In accordance with what was stated above, the processing of personal data requires the existence of a legal basis that legitimizes it, such as the consent of the interested party validly lent.

IV

From the documentation in the file it is evident that XFERA violated article 6.1.a) of the RGPD, since the aforementioned entity carried out a treatment of the personal data of the claimant materialized in the alteration of the conditions and personal data of the claimant contained in the contract that unía, associating your NIF and your bank details to the name, surnames and address corresponding to a third party; that both the mobile telephone line and the ADSL contracted stopped working as of the aforementioned modifications and that before the claim filed by the claimant before XFERA was classified as fraud for your study.

The Contentious-Administrative Chamber of the National High Court, in similar assumptions has considered that when the owner of the data denies the consent in the processing of your data corresponds the burden of proof to who affirms its existence, and the data controller must collect and keep the necessary documentation to prove the consent of the holder. A) Yes, the SAN of 05/31/2006 (Rec. 539/2004), Fourth Law Basis.

The claimant has provided a copy of the contract signed with the company date 09/08/2016 where there is no change of owner or data of the previous owner, as well as the invoices before and after the aforementioned modification, in the first one their address and direct debit data linked to your personal data personal while in the second your personal data has been modified

including those of a third party unrelated to it and as a form of payment there is direct debit bank linking the third party as the owner of the same account that is the owner of the claimant.

It should be noted that respect for the principle of legality of the data requires that accredited evidence that the owner of the data consented to the processing of the data of

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personal character and display a reasonable diligence essential to prove that end. Failure to act in this way would result in emptying the content of the principle of legality.

In this sense, XFERA in writing of 05/10/2018 has provided capture of screen related to the processing of incidents for identity theft, incidence number ***INCIDENCIA.4 and creation date of 11/11/2018, without solve. At the bottom there is the following comment: “please verify, attached the call where the operator calls the client to do technology migration but despite the fact that the client gives other different data, the operator, instead of verify/contrast, makes mysim change of address, name directly”.

In addition, it should be noted that despite the information requirement of the Agency, the respondent did not provide a response to the questions raised, such as the by which the alleged impersonation occurred and the procedure used to accredit the personality, limiting itself to pointing out that the causes that caused the incidence could not be exposed by not knowing what happened.

The infraction that is attributed to the claimed one is typified in the article 83.5 a) of the RGPD, which considers that the infringement of “the basic principles for processing, including the conditions for consent under the articles 5, 6, 7 and 9” is punishable, in accordance with section 5 of the aforementioned Article 83 of the aforementioned Regulation, "with administrative fines of €20,000,000 as maximum or, in the case of a company, an amount equivalent to 4% as maximum of the overall annual total turnover of the previous financial year, opting for the highest amount.

The LOPDGDD in its article 71, Offenses, states for prescription purposes that: "The acts and behaviors referred to in the sections 4, 5 and 6 of article 83 of Regulation (EU) 2016/679, as well as those that are contrary to this organic law.

And in its article 72, it considers for prescription purposes, which are: "Infringements considered very serious:

1. Based on the provisions of article 83.5 of the Regulation (EU) 2016/679 are considered very serious and the infractions that suppose a substantial violation of the articles mentioned in that and, in particularly the following:

(...)

b) The treatment of personal personal data without the concurrence of any of the the conditions of legality of the treatment established in article 6 of the Regulation (EU) 2016/679.

(...)"

In accordance with the facts considered proven, the defendant violated Article 6.1.a) of the RGPD, by illegally processing the personal data of the claimant without his consent being recorded, modifying the conditions and

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personal data contained in the contract that linked them, associating their NIF and data bank accounts to the name, surnames and address corresponding to a third party, an infraction that is typified in article 83.5.a) of the RGPD and that for prescription purposes is determined in article 72.1.b) of the LOPDGDD.

In order to establish the administrative fine to be imposed, observe the provisions contained in articles 83.1 and 83.2 of the RGPD, which point out:

SAW

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

Regulation indicated in sections 4, 5 and 6 are in each individual case effective, proportionate and dissuasive.

2. Administrative fines will be imposed, depending on the circumstances of each individual case, in addition to or as a substitute for the measures contemplated in article 58, paragraph 2, letters a) to h) and j). When deciding to impose a fine administration and its amount in each individual case will be duly taken into account:

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 infringement;

c) any measure taken by the controller or processor

to alleviate the damages suffered by the interested parties;

d) the degree of responsibility of the person in charge or of the person in charge of the

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

applied under articles 25 and 32;

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

treatment;

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

remedying the breach and mitigating the possible 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

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

what extent;

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

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

in relation to the same matter, compliance with said measures;

j) adherence to codes of conduct under article 40 or mechanisms

certificates approved in accordance with article 42, and

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

case, such as financial benefits realized or losses avoided, direct

or indirectly, through infringement.

In relation to letter k) of article 83.2 of the RGPD, the LOPDGDD, in its

Article 76, "Sanctions and corrective measures", establishes that:

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"two. In accordance with the provisions of article 83.2.k) of the Regulation (EU)

2016/679 may also be taken into account:

- a) The continuing nature of the offence.
- b) The link between the activity of the offender and the performance of treatments of personal data.
- c) The profits obtained as a result of committing the offence.
- d) The possibility that the conduct of the affected party could have induced the commission of the offence.
- e) The existence of a merger by absorption process after the commission of the infringement, which cannot be attributed to the absorbing entity.
- f) Affectation of the rights of minors.
- g) Have, when it is not mandatory, a delegate for the protection of data.
- h) The submission by the person in charge or person in charge, with voluntary, to alternative conflict resolution mechanisms, in those assumptions in which there are controversies between those and any interested."

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 sanction of fine to impose in the present case for the infringement typified in article 83.5 of the RGPD of for which XFERA is held responsible, in an initial assessment, concurrent the following factors:

The merely local scope of the treatment carried out by the entity claimed, since it is a single treatment carried out without consent in

the supply contract that bound them.

Only one person has been affected by the offending conduct.

The damage caused to the claimant by having to file a claim

before the entity and report to the police and, furthermore, according to their own

manifestations the duration of the infraction since on the date of the presentation of the

claim at the Agency continued without landline or Internet connection.

The way in which the supervisory authority became aware of the infringement, in

the extent to which this has been through the claim of the affected party.

The entity claimed has not specified the measures implemented in order to

prevent similar incidents from occurring in order to avoid incidents such as the

occurred by altering the contractual data of its owner without consent, etc.

There is no evidence that the entity had acted maliciously, although

a rather careless performance is observed.

The link between the activity of the offender and the performance of treatment of

personal data because in its usual activity it processes customer data such as

of third parties.

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The entity claimed is considered a large company.

Therefore, in accordance with the graduation criteria established in the

Article 83 of the RGPD and 76 of the LOPDGDD impose a penalty of 60,000 euros

for which XFERA must respond.

Therefore, in accordance with the applicable legislation and having assessed the criteria for

graduation of sanctions whose existence has been proven,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE XFERA MÓVILES, S.A. (MASMOVIL), with NIF A82528548,
for an infringement of article 6.1.a) of the RGPD, typified in article 83.5.a) of the
RGPD, a fine of €60,000 (sixty thousand euros).

SECOND: NOTIFY

(MASMOBIL).

this resolution to XFERA MÓVILES, S.A.

THIRD: Warn the sanctioned party that he must make the imposed sanction effective once

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

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

Common Public Administrations (hereinafter LPACAP), within the payment term

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, through its entry, indicating the NIF of the sanctioned and the number

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

restricted number ES00 0000 0000 0000 0000, opened on behalf of the Spanish Agency

of Data Protection at Banco CAIXABANK, S.A. Otherwise, it

will proceed to its collection in executive period.

Received the notification and once executed, if the date of execution is

is between the 1st and 15th of each month, both inclusive, the term to carry out the

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

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

payment will be until the 5th of the second following month or immediately after.

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

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.

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 reconsideration

before the Director of the Spanish Agency for Data Protection within a period of

month 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

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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, the firm resolution may be provisionally suspended in administrative proceedings

if the interested party expresses his intention to file a contentious appeal-

administrative. If this is the case, the interested party must formally communicate this

made by writing to the Spanish Agency for Data Protection,

introducing him to

the agency

[<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other

records provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. Also

must transfer to the Agency the documentation that proves the effective filing

of the contentious-administrative appeal. If the Agency were not aware of the filing of the contentious-administrative appeal within two months from the day following the notification of this resolution, it would end the precautionary suspension.

Electronic Registration of
through the
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