



File No.: EXP202203952

RESOLUTION OF SANCTIONING PROCEDURE

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

BACKGROUND

FIRST: On 03/04/2022, a document submitted to this Agency was entered
by A.A.A. (hereinafter, the claiming party), through which the claim is made
against ANYLA SERVICIOS INTEGRALES, S.L. with NIF B87952644 (hereinafter, the
claimed party), for the alleged violation of data protection regulations:

Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/2016,

Regarding the Protection of Natural Persons with regard to the Treatment of

Personal Data and the Free Circulation of these Data (GDPR), the Organic Law

3/2018, of December 5, Protection of Personal Data and Guarantee of

Digital Rights (LOPDGDD) and Law 34/2002, of July 11, on Information Services.

Information Society and Electronic Commerce (LSSI).

The reasons on which the claim is based are the following:

“On 02/28/2022 at 08:30 I receive an advertising email from Anyla Servicios sent

from the email address ***EMAIL.1 and with subject Maintenance

insured for your home for tourist use (Message_1) when I have not had any

type of relationship or contact with this company nor have I given my consent for the

sending commercial or advertising communications. Also, it's not an email.

punctual email, if not that I have been included in a database since it is included

an unsubscribe link.

Upon receiving the communication, I contacted the sender to ask him where the

obtained my data and without giving me that answer, he indicated data obtained from the list of Housing for Tourist Use published by the Government of XXXXXX on its website (Message_2 and Attachment_1).”

Attach the following documentation:

- Copy of the list of Homes for Tourist Use published, as of 04/08/2021, by the Government of XXXXXX where they appear as personal data: name of the dwelling, address/town, ZIP, telephone number and email.
- Copy of the three emails received by the claimant on 02/28/2022 at different times from the email address: ***EMAIL.1, with commercial content (under the “Subject”, Insured Maintenance for your housing for tourist use).

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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 forward LOPDGDD), on 04/08/2022 the claim was transferred to the party claimed, so that it proceeds to its analysis and informs this Agency within the term of one month, of the actions carried out to adapt to the foreseen requirements in the data protection regulations.

The transfer, which was carried out in accordance with the regulations established in Law 39/2015, of October 1, of the Common Administrative Procedure of the Administrations Public (hereinafter, LPACAP) by means of electronic notification, resulting accepted on 04/08/2022, as stated in the certificate in the file. TO

As of today, no response has been received to this letter of transfer.

THIRD: On 06/04/2022, in accordance with article 65 of the LOPDGDD,

The claim presented by the complaining party was admitted for processing.

FOURTH: On 07/29/2022, the Director of the Spanish Protection Agency

of Data agreed to initiate disciplinary proceedings against the party claimed by the

alleged violation of article 21 of Law 34/2002, of July 11, on Services of the

Information Society and Electronic Commerce (hereinafter, LSSI), typified in

Article 38.4.d) of the LSSI.

FIFTH: Notified of the aforementioned start-up agreement in accordance with the rules established in

the LPACAP, the claimed party submitted a pleading in which, in summary,

stated the following:

“[...]”

However, we cannot ignore the express content in the matter that

performs the Organic Law on Data Protection (hereinafter, LOPD), and its

Development Regulation (hereinafter, RLOPD), regarding the permissiveness of the

use of customer contact details, or in this case potential customers, since

expressly reflects the consent to its use when this data is

found in a publicly accessible source. This easily accessible source is none other

than the list of Housing for Tourist Use published by the Government of

XXXXXX on their website. We understand, therefore, that this fact entails the

direct decay of any type of sanction to GRUPO ANYLA SERVICIOS

INTEGRAL S.L.

Second.- In no case is it SPAM.

[...]

SPAM is colloquially known as "junk mail" which, moreover, is sent

in a “mass way”. The communication sent to Mr. A.A.A. it doesn't turn out to be mail

garbage nor is it sent in bulk.

Proof that the communication sent on February 28, 2022 to Mr.

A.A.A. does not obey any of the two previous qualifications is that the

information that was provided to him could be of high level of interest (...).

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In addition to the above, it is enough to attend to the information source (public and accessible) in

which the contact of Mr. A.A.A. to verify that it is not at all

of a communication sent "en masse", since the profile of the receiver is

perfectly selected and delimited. (...).

Third.- Possibility of unsubscribing.

We verify how the communication dated February 28, 2022 is offered the

possibility to Mr. A.A.A. to unsubscribe to avoid receiving any notice

commercial. (...).

Fourth.- Contracted advertising action.

GRUPO ANYLA SERVICIOS INTEGRALES, S.L., contracted the services of a

commercial dedicated to advertising, who designed, planned and directly executed the

commercial strategy (...). For this reason, it understands that whoever must respond to

any type of responsibility for malpractice is the subcontracted company

for this type of advertising action. (...).

It is the company ATMOSFERA EVENTOS S.C., domiciled at (...).

Fifth.- Moderation of the sanction.

[...]"

SIXTH: On 11/30/2022, the investigating body of the procedure agreed to the opening of a test period, taking the claim as incorporated filed by the claimant and its documentation, as well as the allegations to the initiation agreement PS/00409/2022 presented by the claimed party and the accompanying documentation.

Likewise, the claimed party was required to submit the following information:

- Copy of the contract or equivalent document signed by the claimed party and ATMOSFERA EVENTOS S.C., in which there is evidence of the existence of a relationship between both parties in order to provide an advertising service and what is its scope.
- Proof that ATMOSFERA EVENTOS S.C. acknowledge having made the advertising action in question.

On 01/05/2023, the claimed party filed a response brief before this Agency, whose content is identical to the allegations made against the agreement of start. In addition, attach the following documentation:

- Document of "COMMERCIAL PROSPECTION ANYLA SERVICIOS 01/15/2022" where the design of the strategy and commercial campaign is detailed.

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- Copy of 3 invoices issued by ATMOSFERA EVENTOS S.C. to GROUP ANYLA SERVICIOS INTEGRALES, S.L., with the description "Prospecting Comercial Anyla Servicios", amounting to €605, respectively. The dates

correspond to 02/01/2022, 03/01/2022 and 05/01/2022.

SEVENTH: On 03/22/2023, a resolution proposal was formulated in which the proposed sanctioning with two administrative fines of €1,000 each, to the claimed party, for violations of articles 21.1 of the LSSI and 6.1 of the GDPR.

EIGHTH: The proposed resolution was notified to the claimed entity on 03/23/2023 in accordance with the rules established in the LPACAP. expiration of the term granted for the formulation of allegations, it has been verified that no allegation by the claimed party.

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: On 02/28/2022, at 8:30 a.m., the claimant receives a commercial electronic communication from the address ***EMAIL.1 and with the subject "Insured maintenance for your home for tourist use".

SECOND: On 02/28/2022 the claimant sends an email (***EMAIL.2) to the address ***EMAIL.1 to ask about the origin of your data, receiving a response indicating that your email has been obtained from a list of Housing for Tourist Use published by the Government of XXXXXX in their website. Next, the complaining party requests the deletion of their data, being attended on that same date.

THIRD: As a result of the test requirement of 11/30/2022 made by the body instructor, the response of the claimed party is identical to the allegations formulated to the initiation agreement, whose content is indicated in the fifth point, of the "Background" section. However, it provides new documentation that proves the following extremes:

- The design by ATMOSFERA EVENTOS, S.C. of a strategy and

commercial campaign for the claimed entity. Of its content it is worth noting

the next:

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"A complete database will be prepared, with the contact and in which

The activity with that company will be updated".

"Keep the database of Public Tenders up to date in which

we can offer our services.

"We will create a specific email for these campaigns: ***EMAIL.1 (or

Something similar). Generate an individual Mail_Marketing campaign for

each of the possible clients that are in the database. The mail

will have direct access to a landing that will be for them to request

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a quick way to test your services. They may also

Reply directly to your own email. there will be

establish a contact email for your staff to forward the

contact of all those who answer that they want the test or

request it through the web".

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"Every 15 days the results of the campaign will be reported, customers

contacted, emails answered... This database will be owned by
of Anyla Services”.

"In order to see results, there would have to be a minimum of
commitment of 3 months to be able to assess the results obtained.

The first 3 months would have a cost of 500 euros/month. From
4th month we will assess the results obtained and adjust the
economic proposal".

- Payment to ATMOSFERA EVENTOS, S.C., by the claimed party, on the date
02/01, 03/01 and 05/01/2022; of €605, respectively, for the services of
"Commercial Prospecting".

FOURTH: This Agency has notified the requested entity of the proposed
resolution of this disciplinary procedure, but it has not presented
allegations or evidence that contradicts the facts denounced.

FUNDAMENTALS OF LAW

Competition and applicable regulations

Yo

In accordance with the provisions of article 43.1 of the LSSI and as established in
articles 47, 48.1, 64.2 and 68.1 of the LOPDGDD, is competent to initiate and
resolve this procedure the Director of the Spanish Agency for the Protection 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."

Finally, the fourth additional provision "Procedure in relation to the

Powers attributed to the Spanish Agency for Data Protection by other laws" establishes that: "The provisions of Title VIII and its implementing regulations will apply to the procedures that the Spanish Agency for the Protection of Data should be processed in the exercise of the powers attributed to it by other laws."

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This Agency is not aware that the claimed party has submitted a written of allegations against the proposed resolution.

Allegations adduced

However, as already indicated in the motion for a resolution, with respect to the allegations presented by the claimed party against the opening agreement of the present sanctioning procedure, the following considerations were made.

1. DATA OBTAINED IN A PUBLIC FILE.

The defendant alleges that current regulations on data protection of a personal nature allows the use of contact details of clients or potential clients. when they are found in a publicly accessible source, in this case, the list of Housing for Tourist Use published by the Government of XXXXXX on its page Web.

In this regard, this Agency wishes to point out that, in accordance with article 21.1 of the LSSI, the claimed entity would only be authorized to send commercial communications to the complaining party if he had expressly given his consent to

receipt thereof, or requested. In addition, we are not before a subsumable case in the exception contemplated in section 2 of the aforementioned precept, since that there is no prior contractual relationship between both parties.

Not only must it be a prior, specific and unequivocal consent, but also,

Also, you must be informed. This information must be complete and accurate about the sector of activity from which you can receive advertising, with a warning about the right to deny or withdraw consent. Furthermore, this information should be taken as a necessary budget to grant validity to the manifestation of will of the affected.

For all the foregoing, this claim is dismissed.

2. IN NO CASE IS IT A SPAM. POSSIBILITY TO REMOVE.

The claimed entity alleges that the email sent to the claiming party does not have the considered spam, since it is not "junk mail" sent "in a massive", and the information provided may be useful to you.

It affirms that, since it is not sent from a "non reply" address, the party claimant was able to contact the issuer and unsubscribe.

In this regard, this Agency wishes to remind the defendant that, as already indicated in the agreement to initiate this disciplinary procedure, for "spam"

We understand any unsolicited message and that it is normally intended to offer, market or try to arouse interest in a product, service or company. Thus, the criteria to take into account when classifying a message as "spam", it is not whether it is carried out in a massive way, but rather that the existence of or not with the consent or prior request of the recipient. In this sense, it turns out evident that the complaining party at no time authorized the receipt of this type of messages, being the entity claimed the one that recognizes that the personal data

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The email address of the complaining party was obtained from a list published in the website of the Government of XXXXXX.

For all the foregoing, this claim is dismissed.

3. CONTRACTED ADVERTISING ACTION.

The defendant entity alleges that it contracted the advertising services of ATMOSFERA EVENTOS S.C., being this company who "designed, planned and directly executed the commercial strategy that has led to a proposed sanction". Therefore, understand that "who must respond to any type of responsibility for malpractice is the subcontracted company for this type of advertising action".

Examining the documentation that works in the administrative file, it is evident that ATMOSFERA EVENTOS, S.C. is dedicated to marketing the services of the claimed entity through direct marketing actions, including sending electronic commercial communications to attract customers in favor of the claimed. Thus, the database created by the company becomes the property of the company. claimed entity

Although it is true that the claimed entity does not design the instructions to be followed by ATMOSFERA EVENTOS, S.C., from the moment it makes three payments in favor of the company, it is understood that it agrees with the strategy presented. So, the performance of ATMOSFERA EVENTOS S.C. adheres to the stipulations and, on behalf of the claimed entity, is in charge of processing the personal data that were necessary for the correct provision of the service. Proof of this is the email received by the complaining party where, throughout the entire content, it is noted that the

The only services offered are those of the claimed entity. What's more, the mail start by saying "Hello! Am (...)".

For all the foregoing, this claim is dismissed.

4. MODERATION OF THE SANCTION.

The defendant entity alleges that the proposed sanction, amounting to €1,500, must be "moderate to the specific circumstances and not assimilate them to malpractice that in the most of the time the big companies do it".

In this regard, this Agency values positively that the request for deregistration was attended to made by the complaining party via email on 02/28/2022, and that was treated that same day. However, it is necessary to remember that this action of the claimed entity attends to compliance with the regulations and, consequently, he is bound to it.

For all of the foregoing, this claim is partially upheld.

II

Article 21 of the LSSI

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Article 21 "Prohibition of commercial communications made through email or equivalent electronic means of communication" of the LSSI establishes:

"1. The sending of advertising or promotional communications by co-electronic mail or other equivalent means of electronic communication that previously have not been requested or expressly authorized by the recipients of the

same.

2. The provisions of the previous section shall not apply when there is a relationship prior contractual condition, provided that the provider had legally obtained the contact details of the recipient and will use them to send communications such as commercials relating to products or services of your own company that are similar to those who were initially contracted with the client.

In any case, the provider must offer the recipient the possibility of opposing the processing of your data for promotional purposes through a simple procedure and free, both at the time of data collection and in each of the commercial ammunition that directs you.

When the communications have been sent by email, said method gave must necessarily consist of the inclusion of an email address unique or other valid electronic address where this right can be exercised, remaining It is forbidden to send communications that do not include said address."

As established in the previous section, the email received by the complaining party is considered commercial electronic communication from the time home maintenance services are offered to you tourism of the claimed entity; without the complaining party previously requesting them. tea.

Therefore, according to the evidence available at this time resolution of the disciplinary procedure, it is considered that the known facts are constitutive of an infringement, attributable to the claimed party, for violation of the Article 21 of the LSSI.

Classification and sanction of the infringement of article 21 of the LSSI
IV.

The aforementioned infringement of article 21 of the LSSI supposes the commission of the infringement

classified as minor in article 38.4.d) of the LSSI, which qualifies as such "The sending of commercial communications by email or other means of communication electronic equivalent when said shipments do not meet the requirements established in article 21 and does not constitute a serious infringement".

Pursuant to the provisions of article 39.1.c) of the LSSI, minor offenses may be sanctioned with a fine of up to €30,000, establishing the criteria for its graduation in article 40 of the same standard, which provides the following:

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"The amount of the fines that are imposed will graduate according to the following criteria:

- a) The existence of intentionality.
- b) Period of time during which the offense has been committed.
- c) Recidivism due to the commission of offenses of the same nature, when so has been declared by firm resolution.
- d) The nature and amount of the damages caused.
- e) The benefits obtained by the infringement.
- f) Billing volume affected by the infraction committed.
- g) Adherence to a code of conduct or an advertising self-regulation system applicable with respect to the offense committed, which complies with the provisions of article 18 or in the eighth final provision and that has been favorably informed by the competent body or bodies."

Pursuant to the criteria established in said Law, it is deemed appropriate to impose a

Administrative fine of €1,000 for violation of article 21 of the LSSI.

V

Article 6.1 of the GDPR

Article 6 "Lawfulness of processing", section 1, states the following:

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

nes:

a) The interested party gave his consent for the processing of his personal data.

for one or more specific purposes;

b) the processing is necessary for the performance of a contract in which the interest

party is part of or for the application at its request of pre-contractual measures

them;

c) the treatment is necessary for compliance with a legal obligation applicable

responsible for the treatment;

d) the processing is necessary to protect the vital interests of the data subject or of

another physical person;

e) the treatment is necessary for the fulfillment of a mission carried out in

public interest or in the exercise of public powers conferred on the person responsible

of the treatment;

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f) the treatment is necessary for the satisfaction of legitimate interests pursued

controlled by the data controller or by a third party, provided that

such interests do not outweigh the interests or the fundamental rights and freedoms

data of the interested party that require the protection of personal data, in particular when the interested party is a child.

The provisions of letter f) of the first paragraph shall not apply to the treatment performance carried out by public authorities in the exercise of their functions.”

In this sense, article 4.1 of the GDPR defines "processing" as "any operation or set of operations carried out on personal or joint data of personal data, whether by automated procedures or not, such as the collection, registration, organization, structuring, conservation, adaptation or modification, extraction, consultation, use, communication by transmission, diffusion or any other form of authorization of access, comparison or interconnection, limitation, suppression or destruction;". Thus, the data processing is carried out on personal data, since the claimed entity collects and preserves the personal data (telephone or email, among others) of the complaining party.

In the present case, the claimed entity acknowledges that the personal data of the complaining party have been obtained from a publicly accessible source, specifically, from the List of Housing for Tourist Use published by the Government of XXXXXX on its page gina web.

In this regard, it should be noted that the concept of "publicly accessible sources" does not appear in the current GDPR, which also does not include among the legitimization bases the consisting of the data coming from publicly accessible sources, thereby

In any case, the need to prove a legitimating basis in accordance with the establishes article 6.1. of the GDPR, which has not been done in this case.

As a consequence, the claimed entity has violated article 6 of the RGPD, in accordance with the aforementioned for understanding that we find- We face illegitimate data processing.

Classification and sanction of the infringement of article 6.1 of the GDPR

SAW

If confirmed, the aforementioned infringement of article 6 of the GDPR could lead to the commission of the infringement typified in article 83.5 of the GDPR that under the heading "Conditions general provisions 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 20 000 000 EUR maximum or, treating- of a company, of an amount equivalent to a maximum of 4% of the volume of overall annual total business of the previous financial year, opting for the one with the highest amount:

to)

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

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For the purposes of the limitation period, article 72 "Infringements considered very serious" you see" of the LOPDGDD indicates:

"Based on what is established in article 83.5 of Regulation (EU) 2016/679, the

They are considered very serious and will prescribe after three years the infractions that suppose a substantial violation of the articles mentioned therein and, in particular, the following following:

(...)

b) The processing of personal data without the fulfillment of any of the conditions of legality of the treatment established in article 6 of the Regulation (EU)

2016/679; (...)”

The corrective powers available to the Spanish Agency for the Protection of data, as a control authority, are established in article 58.2 of the GDPR. Between them they have the power to impose an administrative fine in accordance with the article 83 of the GDPR -article 58.2 i)-, or the power to order the person responsible or processor that the processing operations comply with the provisions of the GDPR, where applicable, in a certain way and within a certain specified term -article 58. 2 d)-.

According to the provisions of article 83.2 of the GDPR, the measure provided for in article 58.2 d) of the aforementioned Regulation is compatible with the sanction consisting of a fine administrative.

In the present case, based on the facts exposed, it is considered that the sanction that would be appropriate to impose is an administrative fine. The fine imposed must be, in each individual case, effective, proportionate and dissuasive, in accordance with article 83.1 of the GDPR. In order to determine the administrative fine to be imposed, They must observe the provisions of article 83.2 of the GDPR, which indicates:

"2. Administrative fines will be imposed, depending on the circumstances of each individual case, in addition to or in lieu of 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 shall 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 such as the number of interested parties affected and the level of damages that have suffered;
- b) intentionality or negligence in the infraction;
- c) any measure taken by the controller or processor to

alleviate the damages and losses suffered by the interested parties;

d) the degree of responsibility of the controller or processor,

taking into account the technical or organizational measures that they have applied under

of articles 25 and 32;

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e) any previous infringement committed by the controller or processor;

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

infringement and mitigate the possible adverse effects of the infringement;

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 whether the person in charge or the person in charge notified the infringement and, if so, in what extent;

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

previously against the person in charge or the person in charge in relation to the same matter, compliance with said measures;

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

certification approved in accordance with article 42,

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

such as financial benefits obtained or losses avoided, directly or

indirectly, through the infringement”.

For its part, in relation to letter k) of article 83.2 of the GDPR, the LOPDGDD, in

its article 76, "Sanctions and corrective measures", provides:

"1. The sanctions provided for in sections 4, 5 and 6 of article 83 of the Regulation (UE) 2016/679 will be applied taking into account the graduation criteria established in section 2 of said article.

2. In accordance with the provisions of article 83.2.k) of 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 data processing. personal information.
- c) The benefits obtained as a consequence of the commission of the infraction.
- d) The possibility that the conduct of the affected party could have included the commission of the offence.
- e) The existence of a merger by absorption process subsequent to 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 data protection delegate.

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- h) Submission by the person responsible or in charge, on a voluntary basis, to alternative conflict resolution mechanisms, in those cases in which there are controversies between those and any interested party".

The balance of the circumstances contemplated allows setting an administrative fine of €1,000 (one thousand euros) for the violation of article 6.1 of the GDPR.

Therefore, in accordance with the applicable legislation and assessed the criteria of

graduation of sanctions whose existence has been accredited,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE GRUPO ANYLA SERVICIOS INTEGRALES, S.L., with NIF

B87952644, for a violation of article 21.1 of the LSSI, typified in article

38.4.d) of the LSSI, a fine of €1,000 (one thousand euros).

SECOND: IMPOSE GRUPO ANYLA SERVICIOS INTEGRALES, S.L., with NIF

B87952644, for a violation of article 6.1 of the GDPR, typified in article

83.5.a) of the GDPR, a fine of €1,000 (one thousand euros).

THIRD: NOTIFY this resolution to GRUPO ANYLA SERVICIOS

INTEGRALES, 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 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, 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 (BIC/SWIFT Code:

XXXXXXXXXXXX), opened on behalf of the Spanish Agency for Data Protection in

the banking entity CAIXABANK, S.A. Otherwise, it will proceed to its

collection in 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

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contentious-administrative appeal before the Contentious-administrative Chamber of the

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

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

Contentious-administrative jurisdiction, within a period of two months from the

day following the notification of this act, as provided 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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