

□ File No.: PS/00184/2022

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 26, 2022, the Director of the Spanish Agency for
Data Protection agreed to start a sanctioning procedure against the FOUNDATION
CITIZENGO (hereinafter, the claimed party), through the transcribed Agreement:

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File No.: PS/00184/2022

IMI Reference: A56ID 120466- Case Register 121188

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: A.A.A. (hereinafter, the claiming party), dated January 7, 2020
filed a complaint with the Croatian data protection authority. The
claim is directed against FUNDACIÓN CITIZENGO (hereinafter CITIZENGO) with
NIF G86736998. The reasons on which the claim is based are the following:

The claimant states that they have received an email in their private e-mail box
e-mail from the CITIZENGO platform, without having given your
consent.

In said email you are encouraged to vote in the second round of the elections
presidential elections of their country, and to participate in the campaigns that are launched through the

platform in question.

SECOND: Through the "Internal Market Information System" (hereinafter IMI), regulated by Regulation (EU) No. 1024/2012, of the European Parliament and of the Council, of October 25, 2012 (IMI Regulation), whose objective is to promote the cross-border administrative cooperation, mutual assistance between States members and the exchange of information, the aforementioned claim was transmitted on the day dated April 8, 2020, and was given the date of entry registration at this Agency

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Spanish Data Protection Agency (AEPD) on April 8, 2020. The transfer of this claim to the AEPD is made in accordance with the provisions of article 56 of Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/2016, regarding the Protection of Physical Persons with regard to the Processing of Personal Data and the Free Circulation of these Data (in the hereinafter, GDPR), taking into account its cross-border nature and that this Agency is competent to act as main control authority, since CITIZENGO has its registered office and unique establishment in Spain.

The data processing that is carried out affects interested parties in various Member states. According to the information incorporated into the IMI System, of in accordance with the provisions of article 60 of the GDPR, acts as "control authority concerned", in addition to the Croatian data protection authority data, the authorities of Italy, Poland, Norway, Denmark, Portugal, France, Latvia, Hungary, Slovakia, Sweden and the German authority of Berlin, Lower Saxony and

Bavaria (private sector). All of them under article 4.22 of the GDPR, given that

Data subjects residing in these Member States are likely to be

substantially affected by the treatment object of this procedure.

THIRD: On April 15, 2020, the AEPD requests, through the IMI, the authority of

data protection of Croatia additional information about the complaint, at least,

that the original claim be shared, as well as evidence of the email not

requested and their identification and contact information.

The Croatian data protection authority shared via IMI, on the 22nd of

May 2020, together with the original claim, the following documentation provided

by the complaining party:

Email sent on January 3, 2020, at 4:24 PM, from the email

email ***USER.1@citizengo.org, addressed to ***USER.2@gmail.com with the

subject "nije svejedno" (in Spanish, "it doesn't matter") and with the following text (in Croatian in

the original):

"I am writing to you today because I am concerned that you will not go to the presidential elections in this Sunday.

Since we are working on this every day to empower your voice in front of

police officers who claim to share our values, I understand your disappointment, and

I can tell you with all sincerity that I share it.

But it always reminds me that as citizens we are obliged to participate in the

democracy and to actively monitor how we are represented by police officers and

we react as necessary.

Only together can we teach politicians that they have a duty to represent us,

especially if they are thanks to us in power.

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It does not matter who for the next five years of two candidates will be President of the Republic of Croatia, will co-create foreign policy, we will represent the world, appoint ambassadors, constitutional judges and influence strongly on the social climate in Croatia.

Before the last round of elections, we prepared a statement.

"Promise for free democratic Croatia"

We asked candidates who said they shared the principles of the values to read about whether and how to advocate for its realization.

We inform you of your answers and invite you to vote according to your conscience.

And this time we invite you to vote according to your conscience.

I'm sure none of us want a president who:

- Actively act against the will of Croatian citizens raised in the National Referendum
- Work actively against the right to conscience of professionals doctors
- Advocate for the indoctrination of children with gender ideology through of school curricula
- Oppose the state commemoration of the victims of communism
- Prevent the extradition and trial of murder organizers communists
- Open Croatian borders for the illegal crossing of migrants
- Bring new ideological divisions to our society of hopes under the parol "we or they"

No matter who will be the President of the Republic of Croatia at a time when that the world order and the zones of influence change because Croatia is in the sphere of intersection of the interests of the world's superpowers.

I'm sure you don't mind either. On the contrary, it is very important to you, the same that I.

Go to the elections and continue to actively participate in CitizenGO campaigns because only our persistent commitment can make it clear to those in the power that, unlike now, we are actually very actively following what

What will they do after the elections?

So go to the elections on Sunday, January 5.

Good greetings,

Here you can read my email on this topic that I sent you earlier:

The presidential elections are at the door. Do you know who you will vote for?

CitizenGO asks presidential candidates to indicate whether they will preserve and

They will represent our values in the exercise of presidential duty.

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We invite you to sign and issue an additional letter that we sent to you in order to be as convincing as possible in your message that we will give a voice exclusively to those who will defend our interests and our values throughout the Republic from Croatia

Firms

Good morning

Elections for the President of the Republic of Croatia are before us. The

The first round of the elections will take place on December 22, 2019.

The function of the President of the Republic, although limited by excellent power, is very important as a guarantor of the constitutional legal order, in the Policy Plan Foreign and as a key morality the leadership of the country.

That is why CitizenGO has prepared a statement for the candidates presidents who want to represent us. We ask them to indicate if they will preserve and they will represent our values in the exercise of presidential duty.

Candidates will be able to comment on our application until the 19th of December 2019, after which we will inform all signatories to this statement on the responses of the candidate for president/president of the Republic of Croatia. If you want to find out the candidate's answers, please sign the petition by clicking here:

I want a president to protect my values.

Sign and share an additional statement we send to candidates who say who share our values.

By signing this statement, you send a clear message that you will cast a vote exclusively to the candidate who will defend their values and interests:

Sign up and ask the presidential candidates to speak!

There are many changes taking place at the national level, but also in politics where so often in our past the fate of Croatia. The person who is going to be elected President of the Republic will have a influence on these processes.

All signers of this petition will be informed of which candidates responded to our inquiry.

If they want us to vote, they have to take on some obligations to us.

Thank you for not giving up and working hard for the good of Croatia,"

FOURTH: On June 25, 2020 in accordance with article 64.3 of the Law

Organic 3/2018, of December 5, Protection of Personal Data and guarantee of

digital rights (LOPDGDD), the claim filed by

the complaining party.

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FIFTH: The General Sub-directorate of Data Inspection proceeded to carry out

preliminary investigation actions to clarify the facts in

matter, by virtue of the functions assigned to the control authorities in article

57.1 and of the powers granted in article 58.1 of the GDPR, and in accordance with the

established in Title VII, Chapter I, Second Section, of the LOPDGDD, taking

knowledge of the following points:

In response to a request for information from this Agency, on July 21,

2020 CITIZENGO declares that:

The details of the account holder ***USUARIO.2@gmail.com were incorporated into your

database after a security alert was signed with that email address.

CitizenGO Foundation in Croatia on 12/30/2019 at the address ***URL.1. They contribute

screenshot of the email program reflecting the signature of the aforementioned campaign.

As proof of the consent of the complaining party to receive information about

other CitizenGO Foundation campaigns, attach a screenshot of the program

email containing the data that the claimant entered in the form

signature:

- Name: A.A.A.
- Surnames: (...)
- Email: ***USER.2@gmail.com
- Country: Croatia
- Postal Code: (...).

According to the representatives of the entity, the screenshot shows the IP of the person who filled out the signature form. However, in the documentation provided, this data is not observed.

Regarding the procedure followed to obtain the consent for the reception of emails related to campaigns other than the one being signed, the representatives of the entity state that it is necessary to carry out positive action Check the acceptance box.

They affirm that, if this box is not checked, the user will not receive more emails from CitizenGO. No changes have been made to the application process for the consent. The screenshot provided shows the columns "subscribe (E-mail list subscription status)" and "gdpr_agreement" that appear with a "1", which indicates that at the time of signing the aforementioned petition, the signatory person would have expressly agreed to receive emails from CitizenGO. Specifically, this is the text that appears in the signature form, after a "radio button" that would have expressly marked:

"Želim znati hoće li ova peticija uspjeti i kako mogu podržati druge peticije."

The Spanish translation of said text would be the following:

"I want to know if this petition wins and how I can help other petitions citizens."

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Below this text would appear:

“Ne Želim primati novosti niti o ovoj peticiji niti o drugim kampanjama”

The translation of said text would be the following:

"I do not want to receive news about this petition or other campaigns"

On the other hand, CITIZENGO states that, together with this button and the signature button,

included the following text, linked to the Privacy Policy and the Rules of

use; “Vaše podatke obrađujemo u skladu s našim Pravilima o privatnosti i Uvjetima

korištenja.” The Spanish translation of said text would be the following:

We process your personal data in accordance with our Privacy Policy and

Rules of use.”

CITIZENGO states that the claimant terminated its subscription on

January 2020 at 8:54 pm, as it would appear in the screenshot of the program of

marketing.

CITIZENGO indicates that the email cited by the complaining party would have been

sent during the electoral campaign in Croatia and in it gave information about the

content of the programs of the concurrent matches and of the specials

circumstances of the elections in that country.

They add that the mentioned email would have been sent to all the people

that until that date they had signed alerts on the Croatian website and that they had confirmed

who wanted to receive information on how to help other citizen campaigns.

SIXTH: On June 25, 2021, a proposed resolution of

proceedings file, which was shared with the interested authorities on 30

June 2021, and the authorities concerned were informed that they had four

weeks from that moment to make their observations in this regard. Inside of the period granted for this purpose, the control authority of Portugal commented that the

The consent given by the interested parties is not specific, to the extent that implies that even if stakeholders only want to know what is happening with the petition they have signed, they will always have to agree to also receive all other request alerts. By this he understands that, in order to have a choice real, the consents must be autonomous.

SEVENTH: On August 12, 2021, the Director of the AEPD declared the expiration of the proceedings as more than twelve months have elapsed from the date of admission to processing of the claim, and since the infringement has not prescribed, new investigative actions were opened with the number E/08405/2021, and incorporated into these new actions the documentation in the E/05432/2020.

EIGHTH: On April 19, 2022, a procedure is carried out for the incorporation of to the file screenshots of:

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- The procedure to follow to sign a campaign on the web

"<https://citizengo.org/hazteoir>" from Spain, in which a box was observed

without marking with the following message, when selecting Spain as the country of the

Signer: "I want to know if this petition wins and how I can help

other citizen requests.

- The procedure to follow to sign a campaign on the web

“<https://citizengo.org/hr>” from Croatia, in which a box was observed without mark with the following message, when selecting Croatia (Hrvatska) as the country of the person signing: “Želim znati hoće li ova peticija uspjeti i kako mogu podržati druge peticije”.

NINTH: On May 25, 2022, the Director of the AEPD signed a Proposal for a draft decision to initiate disciplinary proceedings. Following the process established in article 60 of the GDPR, on June 9, 2022, the through the IMI System this draft decision proposal as consultation informally and the concerned authorities were informed that they had four weeks from that moment to make your comments.

TENTH: On July 18, 2022, the Director of the AEPD adopted a project decision to initiate disciplinary proceedings. Following the established process in article 60 of the GDPR, on July 22, 2022 it was transmitted through the system IMI this draft decision and the authorities concerned were informed that they had four weeks from that time to raise pertinent objections and motivated. Within the term for this purpose, the control authorities concerned shall not presented pertinent and reasoned objections in this regard, for which reason it is considered that all authorities agree with said draft decision and are linked by it, in accordance with the provisions of section 6 of article 60 of the GDPR.

This draft decision was notified to CITIZENGO in accordance with the regulations established in Law 39/2015, of October 1, on Administrative Procedure Common Public Administrations (LPACAP) on July 26, 2022, as It appears in the acknowledgment of receipt that is in the file.

ELEVENTH: On August 19, 2022, CITIZENGO submitted a written of allegations to the draft decision.

FUNDAMENTALS OF LAW

Competition and applicable regulations

Yo

In accordance with the provisions of articles 58.2 and 60 of Regulation (EU) 2016/679

of the European Parliament and of the Council of April 27, 2016 on the protection

of natural persons with regard to the processing of personal data and the

free circulation of these data (GDPR), and as established in articles 47,

48.1, 64.2 and 68.1 and 68.2 of Organic Law 3/2018, of December 5, Protection

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of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD) is

competent to initiate and resolve this procedure the Director of the Agency

Spanish Data Protection.

Likewise, article 63.2 of the LOPDGDD determines that: "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 and 4.2 of the GDPR,

the processing of personal data is recorded, since CITIZENGO

carries out the collection of, among others, the following personal data of natural persons:

name and surname, country and email, among other treatments.

CITIZENGO carries out this activity in its capacity as data controller,

given that it is the one who determines the ends and means of such activity, by virtue of article

4.7 of the GDPR. In addition, it is a cross-border processing, since

CITIZENGO is established in Spain, although it provides service to the entire Union

European.

The GDPR provides, in its article 56.1, for cases of cross-border processing,

provided for in its article 4.23), in relation to the competence of the authority of

main control, that, without prejudice to the provisions of article 55, the authority of

control of the main establishment or of the only establishment of the person in charge or of the

The person in charge of the treatment will be competent to act as control authority

for the cross-border processing carried out by said controller or

commissioned in accordance with the procedure established in article 60. In the case

examined, as has been exposed, CITIZENGO has its unique establishment in

Spain, so the Spanish Agency for Data Protection is competent to

act as the main supervisory authority.

For its part, article 6 of the GDPR regulates the legality of data processing

personal. And, in particular, the conditions for consent are detailed in the

Article 7 of the GDPR.

II

Legality of the treatment

Section 1 of article 6 "Lawfulness of processing" of the GDPR establishes:

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

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

for one or more specific purposes;

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b) the treatment is necessary for the execution of a contract in which the interested party is part of or for the application at the request of the latter of pre-contractual measures;

c) the processing is necessary for compliance with a legal obligation applicable to the responsible for the treatment;

d) the processing is necessary to protect 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 the interest public or in the exercise of public powers conferred on the data controller;

f) the treatment is necessary for the satisfaction of legitimate interests pursued by the person in charge of the treatment or by a third party, provided that on said interests do not outweigh the interests or fundamental rights and freedoms of the interested party that require the protection of personal data, in particular when the interested is a child.

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

In the present case, the processing of the personal data of the interested parties collected on the CITIZENGO website was not covered by any other possible legal basis other than consent.

IV.

Consent of the interested party

Article 4.11 of the GDPR defines the consent of the interested party as "all

manifestation of free, specific, informed and unequivocal will by which the

The interested party accepts, either through a declaration or a clear affirmative action, the processing of personal data concerning you”.

In this sense, Article 6.1 of the LOPDGDD provides that "in accordance with the

provided in article 4.11 of Regulation (EU) 2016/679, it is understood by

consent of the affected any manifestation of free, specific,

informed and unequivocal by which he accepts, either by means of a declaration or

a clear affirmative action, the processing of personal data that concerns you”.

For its part, article 7 “Conditions for consent” of the GDPR establishes:

"1. When the treatment is based on the consent of the interested party, the person in charge must be able to demonstrate that he consented to the processing of his data personal.

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

that also relates to other matters, the request for consent will be presented in

in such a way that it is clearly distinguished from the other matters, in an intelligible manner and

easy access and using clear and simple language. No part will be binding

of the declaration that constitutes a violation of this Regulation.

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3. (...).

4. (...)".

In the present case, it is clear that the consent given by the claimant

is not specific to the signed petition, to the extent that it implies that, even if the

The interested party just wants to know what is happening with the petition that they have signed, you will always have to agree to also receive all alerts from other requests.

The consent thus given does not meet the requirements of article 7 of the GDPR, as it is not a free, specific and distinguishable consent from the other matters, in the to the extent that in order to receive information about the signed petition, you lend your Consent to receive information from other requests.

Likewise, it has been possible to verify, through the diligence incorporated into the procedure on April 19, 2022, that the conditions under which the service is provided consent when entering the CITIZENGO website has not been modified.

Therefore, in accordance with the evidence available according to the initiation of disciplinary proceedings, and without prejudice to what results from the investigation, it is considered that the known facts could constitute an infringement, attributable to CITIZENGO, for violation of article 7 of the GDPR.

Classification of the infringement of article 7 of the GDPR

V

If confirmed, the aforementioned infringement of article 7 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 in accordance with 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:

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"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:

(...)

b) Failure to comply with the requirements of article 7 of the Regulations

(EU) 2016/679”

Penalty for violation of article 7 of the GDPR

SAW

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

instruction, it is considered 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:

-

The nature, seriousness and duration of the infringement, taking into account the

nature, scope or purpose of the processing operation in question

such as the number of interested parties affected and the level of damages that

have suffered (section a): due to the invalid collection of the consent of, as

minimum, 17,118,674 users (active citizens), which is the number of users (and

potentially affected) of the platform, in accordance with the diligence incorporated into the

file dated April 19, 2022, at least from January 3, 2020 to the

currently, since the clause for obtaining consent has not been modified.

- Negligence in the infringement (section b): CITIZENGO has been negligent in the

time to assess whether the consent thus collected was valid, especially given that neither

Even when it has responded to the requirement of this Agency, it has made a

evaluation of this consent in conditions.

As a mitigation:

- Any measure taken by the person in charge or in charge of the treatment to

alleviate the damages suffered by the interested parties (section c):

CITIZENGO deleted the data of the complaining party after receiving the request from the

same.

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

regarding the infringement committed by violating the provisions of article 7 of the GDPR,

allows an initial penalty of €5,000 (five thousand euros).

VII

imposition of measures

If the infringement is confirmed, it could be agreed to impose on the person responsible that, within the term

within 60 days proceed to adapt to the RGPD the boxes by which the

consent of the interested parties to receive information about the campaign that is being signature and the rest of the campaigns, without prejudice to others that may derive from the instruction of the procedure, in accordance with the provisions of the aforementioned article 58.2 d) of the GDPR, according to which each control authority may “order the person responsible or processor that the processing operations comply with the provisions of this Regulation, where applicable, in a certain way and within a specified period...”. 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.

Likewise, the measures that could be adopted in the resolution that puts an end to the procedure, in relation to the collection of the consent of the interested parties, will be applicable in all the countries of the European Union in which it operates CITIZENGO.

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,

HE REMEMBERS:

FIRST: INITIATE SANCTION PROCEDURE against CITIZENGO FOUNDATION,

with NIF G86736998, for the alleged violation of Article 7 of the GDPR, typified in the Article 83.5 of the GDPR.

SECOND: APPOINT as instructor B.B.B. and, as secretary, to C.C.C., 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 documentation from IMI that has given rise to the previous actions of investigation, as well as the documents obtained and generated by the Subdirector General of Data Inspection in the actions prior to the start of this disciplinary procedure and documentation from IMI on the project decision.

FOURTH: THAT for the purposes provided for in art. 64.2 b) of Law 39/2015, of 1 October, of the Common Administrative Procedure of Public Administrations, the sanction that could correspond would be 5,000 euros, without prejudice to what is of the instruction.

FIFTH: NOTIFY this agreement to FUNDACIÓN CITIZENGO, with NIF G86736998, granting a hearing period of ten business days to formulate the allegations and present the evidence it deems appropriate. In his writing of

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allegations must provide your NIF and the procedure number 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).

Pursuant to article 85 of the LPACAP, a proceeding disciplinary measure, if the offender acknowledges his responsibility, the problem may be resolved procedure with the imposition of the appropriate sanction.

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 4,000.00 euros, resolving the procedure with the imposition of this sanction.

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 4,000.00 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 3,000.00 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 (4,000.00 euros or 3,000.00 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.

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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

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SECOND: On November 14, 2022, the claimed party has proceeded to the payment of the penalty in the amount of 3000 euros making use of the two reductions provided for in the initiation Agreement transcribed above, which implies the recognition of responsibility.

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.

FOURTH: In the above-mentioned Initiation Agreement transcribed above, it was indicated that Once the infringement is confirmed, it could be agreed to impose on the controller 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...".

Having received a letter by which FUNDACIÓN CITIZENGO informs that has adopted the necessary measures so that the events do not occur again determinants of the offense committed, this Agency acknowledges receipt of the itself, without this statement implying any pronouncement on the regularity or legality of the measures adopted.

Notice of the provisions of article 5.2 of the GDPR, which establishes the principle of proactive responsibility when it states that "The person responsible for the treatment will be responsible for compliance with the provisions of paragraph 1 and capable of prove it". This principle refers to the obligation that falls on the

controller not only design, implement and observe the measures appropriate legal, technical and organizational so that data processing is in accordance with the regulations, but to remain actively attentive throughout the entire life cycle of the treatment so that this compliance is correct, also being able to prove it.

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FUNDAMENTALS OF LAW

Yo

Competence

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter GDPR), grants each control authority and as established in articles 47, 48.1, 64.2 and 68.1 of the Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Protection Agency of data.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed by the Spanish Data Protection Agency will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions regulations dictated in its development and, insofar as they do not contradict them, with character subsidiary, by the general rules on administrative procedures."

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.

The percentage reduction provided for in this section may be increased

according to regulations."

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According to what has been stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: DECLARE the termination of procedure PS/00184/2022, according to
in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to FUNDACIÓN CITIZENGO.

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.

Mar Spain Marti

Director of the Spanish Data Protection Agency

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