

Procedure No.: PS/00040/2018

RESOLUTION R/00484/2018 TERMINATION OF THE PROCEDURE BY
VOLUNTARY PAYMENT

In sanctioning procedure PS/00040/2018, instructed by the Agency
Spanish Data Protection Agency to the entity AVIS ALQUILE UN CAR S.A., view
the complaint filed by Mrs. A.A.A., and by virtue of the following,

BACKGROUND

FIRST: On February 19, 2018, the Director of the Spanish Agency for
Data Protection agreed to initiate a sanctioning procedure against the AVIS entity
RENT A CAR S.A., through the Agreement that is transcribed:

“Procedure No.: PS/00040/2018

AGREEMENT TO START A SANCTION PROCEDURE

Of the actions carried out by the Spanish Agency for the Protection of
Data before the entity AVIS RENT A CAR S.A. under complaint
presented before it by Ms. A.A.A. and according to the following,

FACTS

FIRST: On January 9, 2018, this Agency has entered a letter of
Mrs. A.A.A. (hereinafter the complainant), in which it states that, on the 24th of
December 2016, has received a notice of the publication of an edict in the Bulletin
State Officer by the Madrid City Council for a traffic fine committed on
August 13, 2016. He states that he contacted the company AVIS,
recognize the mistake made and indicate that they will solve the problem with the Agency
sanction issuer.

States that your data has been communicated to the Madrid City Council and has been
published in the BOE as the holder of an infraction not committed, which has received the

sanction and subsequent enforcement with possible account seizure. has been put back

contact AVIS and tell him to repeat the claim to the Agency,

but they recommend paying the fine and then claiming the money back.

It provides proof of payment of the sanction to avoid embargoes.

Attach to your letter, the following documentation:

The complaint received on December 24, 2016, the claim before the

City Council and its denial of its allegations

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2/6

Email to AVIS customer support on May 22, 2017,

claiming the rectification of your data.

Email from AVIS dated June 2, 2017 informing that on June 29,

May provided the correct data to the body and apologized.

Letter of payment of the enforcement order received on December 13, 2017.

Three emails sent to AVIS and their response dated January 2, 2018

where they inform you that they claim the incident again to the body and

They recommend the payment of the fine and the subsequent claim to the agency.

Payment of the fine payment letter on January 4, 2018.

FOUNDATIONS OF LAW

The exposed facts could suppose infraction, on the part of the entity AVIS

RENT A CAR S.A., of article 4.3 of Organic Law 15/1999, of 13

December, Protection of Personal Data (hereinafter LOPD), which

states that: "Personal data will be accurate and updated in a timely manner.

that respond truthfully to the current situation of the affected party”, offense typified as serious in article 44.3.c) of said regulation, which considers as such: “Treat personal data or use them later in violation of the principles and guarantees established in article 4 of this Law and the provisions that develop, except when it constitutes a very serious infraction”; could be sanctioned with a fine of €40,001 to €300,000, in accordance with article 45.2 of the aforementioned Organic Law.

In accordance with the evidence available in this moment of agreement to start the sanctioning procedure, it is considered that the entity AVIS RENT A CAR S.A. has processed the personal data of the complainant without being updated, so they did not respond with veracity to your situation, as required by art. 4.3 of the LOPD.

After the evidence obtained, and without prejudice to what results from the investigation, is considered, in accordance with art. 45.5 LOPD, that the application of the scale of sanctions that immediately precedes in severity the one in which integrates the one considered in the present case, due to the concurrence of the foreseen assumption in point a) of the aforementioned article that establishes: "When a qualified reduction of the guilt of the accused or the unlawfulness of the act as consequence of the significant concurrence of several of the criteria set forth in section 4 of this article".

In this regard, the concurrence of the following criteria can be seen:

In accordance with the evidence available in this moment of agreement to initiate the sanctioning procedure, and without prejudice to what result of the instruction, it is considered, in accordance with art. 45.5 LOPD, which the application of the scale of sanctions that immediately precedes in seriousness to that in which the one considered in the present case is integrated, by the

concurrence of the assumption provided for in point a) of the aforementioned article that establishes:

“When there is a qualified decrease in the guilt of the accused or the

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3/6

illegality of the fact as a result of the significant concurrence of several
of the criteria set forth in section 4 of this article”.

In this regard, the concurrence of the following criteria can be seen:

- a) The continuous nature of the infraction, which on this occasion does not concur because it was a one-off event.
- b) The volume of treatments carried out. It is considered that it is not a high volume of data processing.
- e) The profits obtained as a result of committing the offence.

In this case, there are no benefits obtained as a result of the commission of
the infringement

- f) The degree of intentionality. It is taken into account on this occasion that there is no record of intentional action.

Taking into account the concurrence of the aforementioned criteria of article 45.4 of
the LOPD, it is considered appropriate to graduate the sanction to be imposed on the AVIS entity
RENT A CAR S.A. and fix it in the amount of €10,000 for the infraction of the
article 4.3 of the LOPD.

Therefore, as stated,

By the Director of the Spanish Data Protection Agency,

HE REMEMBERS:

1. START SANCTION PROCEDURE against the entity AVIS RENT A

CAR S.A., in accordance with the provisions of article 127 of the Regulations of development of Organic Law 15/1999, of December 13, on Data Protection of Personal Character, approved by Royal Decree 1720/2007, of December 21, (RLOPD) for the alleged infringement of article 4.3 of the LOPD, typified as serious in article 44.3.c) of the aforementioned Organic Law.

2. APPOINT XXX as Instructor and YYY as Secretary indicating that

any of them may be challenged, where appropriate, in accordance with the provisions of the Articles 23 and 24 of Law 40/2015, of October 1, on the Legal Regime of the Sector Public (LRJSP), and in accordance with the provisions of article 127 of the RLOPD.

3. INCORPORATE to the disciplinary file, for evidentiary purposes, the complaint filed by the complainant and its documentation.

4. THAT for the purposes provided in art. 64.2 b) of Law 39/2015, of October 1 and art. 127 letter b) of the RLOPD, the sanction that could correspond would be 10,000 euros, without prejudice to what results from the instruction.

5. NOTIFY this Agreement to the entity AVIS ALQUILE UN CAR S.A.

expressly indicating their right to a hearing in the procedure and granting him a period of TEN WORKING DAYS to formulate the allegations and propose the tests that it considers appropriate, in accordance with the provisions of section f) of article 127 of the RLOPD.

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4/6

Likewise, in accordance with articles 64.2.f) and 85 of Law 39/2015, of 1

October, of the Common Administrative Procedure of the Public Administrations

(LPACAP), you are hereby informed that if you do not make representations to this agreement within the term initially, it may be considered a resolution proposal.

You are also informed that, in accordance with the provisions of article 85.1

LPACAP, may recognize its responsibility within the term granted for the

formulation of allegations to this initial agreement; which will bring a

reduction of 20% of the sanction to be imposed in the present

procedure, equivalent in this case to 2,000 Euros. With the application of this

reduction, the sanction would be established at 8,000 Euros, resolving the

procedure with the imposition of this sanction.

Similarly, you may, at any time prior to the resolution of this

procedure, carry out the voluntary payment of the proposed sanction,

in accordance with the provisions of article 85.2 LPACAP, which will mean a

reduction of 20% of the amount of the same, equivalent in this case to 2,000

euros. With the application of this reduction, the penalty would be established at 8,000

Euros and its payment will imply the termination of the procedure.

The reduction for the voluntary payment of the penalty is cumulative with the corresponding

apply for the acknowledgment of responsibility, provided that this acknowledgment

of the responsibility is revealed within the period granted to formulate

arguments at the opening of the procedure. The 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 it were appropriate to apply both reductions, the amount of the penalty would be

set at 6,000 Euros.

In any case, the effectiveness of any of the two reductions mentioned will be

conditioned to the abandonment or renunciation of any action or resource in via

administrative against the sanction.

In case you chose to proceed to the voluntary payment of any of the amounts indicated above (8,000 Euros or 6,000 Euros), in accordance with the provisions of article 85.2 referred to, we indicate that you must make it effective by entering in the restricted account number ES00 0000 0000 0000 0000 0000 opened in the name of the Spanish Data Protection Agency at Banco CAIXABANK, S.A., indicating in the concept the reference number of PS/00040/2018 and the cause of reduction of the amount of the sanction to which he accepts, and sending proof of income to the Subdirector General for Inspection to continue with the procedure in accordance with the entered amount.

In accordance with the provisions of articles 37.g) and 36 of the LOPD, in relation to with articles 120 and 127 of the RLOPD, the competence to resolve this Sanctioning Procedure corresponds to the Director of the Spanish Agency of Data Protection.

In accordance with the provisions of article 112.1 of the LPACAP, against this act There is no administrative appeal.

Sea Spain Marti

Director of the Spanish Agency for Data Protection"

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5/6

SECOND: On March 6, 2018, the entity AVIS RENT A CAR

S.A. has proceeded to pay the penalty in the amount of 6,000 euros using the reductions provided for in the Initiation Agreement, which entails the waiver of any administrative action or recourse against the sanction and recognition of

responsibility.

THIRD: On March 7, 2018, this Agency received a letter from the entity AVIS ALQUILE UN CAR S.A., dated March 6, 2018, in which expressly acknowledges its responsibility in relation to the facts to which it is refers to the Home Agreement.

FOUNDATIONS OF LAW

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The Director of the Agency is competent to resolve this procedure.

Spanish Data Protection, in accordance with the provisions of article 37.g), in relation to article 36, both of the Organic Law 15/1999, of December 13, of Personal data protection.

II

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

Common Administrative of Public Administrations (hereinafter LPACAP), under the heading "Termination in sanctioning procedures" provides the following:

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

2. When the sanction is solely pecuniary in nature or fits impose a pecuniary sanction and another of a non-pecuniary nature but it has been justified the inadmissibility of the second, the voluntary payment by the alleged perpetrator, in any time 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 infringement.

3. In both cases, when the sanction is solely pecuniary in nature, the competent body to resolve the procedure will apply reductions of, at

least 20% of the amount of the proposed sanction, these being cumulative each. The aforementioned reductions must be determined in the notification of initiation of the procedure and its effectiveness will be conditioned to the withdrawal or Waiver of any administrative action or recourse against the sanction.

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6/6

The reduction percentage provided for in this section may be increased regulations"

According to what was stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: DECLARE

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

the termination of procedure PS/00040/2018, of

SECOND: NOTIFY this resolution to the entity AVIS RENT A

CAR S.A.

In accordance with the provisions of section 2 of article 37 of the LOPD,

This Agreement will be made public, once it has been notified to the interested parties. The publication will be carried out in accordance with the provisions of Instruction 1/2004, of 22 December, of the Spanish Agency for Data Protection on the publication of their Resolutions and in accordance with the provisions of article 116 of the regulations of development of the LOPD approved by Royal Decree 1720/2007, of December 21.

They may file a contentious-administrative appeal before the Chamber of the Contentious-administrative of the National Court, in accordance with the provisions of the

Article 25 and in section 5 of the fourth additional provision of Law 29/1998, of July 13, regulatory of the Contentious-administrative Jurisdiction, in the term of two months from the day following the notification of this resolution, as provided for in article 46.1 of the aforementioned legal text.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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