

□ File No.: PS/00008/2022

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 February 3, 2022, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against DOOR2DOOR

SPAIN, S.L. (hereinafter, the claimed party), through the Agreement that is transcribed:

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AGREEMENT TO START A SANCTION PROCEDURE

Of the actions carried out by the Spanish Agency for Data Protection, and in
based on the following

FACTS

FIRST: Dated September 9, 2021, by the Director of the Agency

Spanish Data Protection, a resolution was issued in the sanctioning procedure

number PS/00196/2021, filed against DOOR2DOOR SPAIN, S.L. (hereinafter, the

claimed party). In said resolution, in addition to directing a warning, the

adoption of the following measures:

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“SECOND: REQUEST DOOR2DOOR SPAIN, S.L., with NIF B01782739, to under the provisions of article 58.2 d) of the RGD, so that within ten working days from this act of notification proves before this body the adoption of measures to provide information to the people whose personal data it collects, in accordance with the provisions of article 13 of the RGD.”

SECOND: The resolution of the sanctioning procedure was notified irrefutably on September 10, 2021 to the claimed party, granting a period of ten working days for the adoption of the measures imposed, as evidenced in the file.

THIRD: After the expiration of the indicated term without this Agency having received any written on the measures implemented by the claimed party, it is proceeded to request them again so that, within ten working days, prove to this Agency that they have adopted the appropriate corrective measures, in attention to what was agreed in the aforementioned Resolution.

This requirement was collected by the person in charge on October 5, 2021, as stated in the Notific@ certificate in the file.

FOURTH: The respondent has not sent any response to this Agency that certifies compliance with the imposed measures.

FIFTH: Against the aforementioned resolution requiring the adoption of measures not There is no ordinary administrative appeal, due to the expiration of the deadlines established for it. Likewise, the interested party has not stated his intention to file a contentious-administrative appeal, nor is this Agency aware that the same has been filed and a precautionary suspension of the resolution.

SIXTH: According to the report collected from the AXESOR tool, the entity DOOR2DOOR SPAIN, S.L. is a limited company incorporated in the year 2020, not

having information on their turnover.

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FOUNDATIONS OF LAW

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Competition

By virtue of the powers that article 58.2 of Regulation (EU) 2016/679

(General Data Protection Regulation, hereinafter RGPD) recognizes each

control authority, and according to the provisions of 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), the Director of the

Spanish Agency for Data Protection is competent to initiate and resolve this

process.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures

processed by the Spanish Agency for Data Protection will be governed by the provisions

in Regulation (EU) 2016/679, in this organic law, by the provisions

regulations issued in its development and, as long as they do not contradict them, with a

subsidiary, by the general rules on administrative procedures."

II

unfulfilled mandate

In accordance with the evidence available at the present time of

agreement to initiate the sanctioning procedure, and without prejudice to what results from the

instruction, it is considered that the party claimed has failed to comply with the resolution of the

Spanish Agency for Data Protection in relation to the measures that are they imposed.

Therefore, the events described in the "Events" section are deemed to constitute an infraction, attributable to the claimed party, for violation of article 58.2.d) of the GDPR, which provides the following:

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"two. Each supervisory authority will have all of the following corrective powers listed below:

(...)

d) order the person in charge or in charge of the treatment that the operations of treatment comply with the provisions of this Regulation, where appropriate, in a specified manner and within a specified period;"

III

Typification and qualification of the infraction

This infringement is typified in article 83.6 of the RGPD, which stipulates the following:

"Failure to comply with the resolutions of the control authority pursuant to article 58, paragraph 2, will be sanctioned in accordance with paragraph 2 of this article with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, of an amount equivalent to a maximum of 4% of the turnover global annual total of the previous financial year, opting for the highest amount."

For the purposes of the limitation period for infringements, the infringement charged prescribes after three years, in accordance with article 72.1 of the LOPDGDD, which qualifies as

very serious the following conduct:

“m) Failure to comply with the resolutions issued by the authority for the protection of competent data in exercise of the powers conferred by article 58.2 of the Regulation (EU) 2016/679.”

IV

sanction proposal

According to the exposed facts, without prejudice to what results from the investigation of the procedure, it is considered that it corresponds to impute a sanction to the party

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claimed for the violation of article 58.2 of the RGPD typified in article 83.6 of the GDPR. The sanction that should be imposed is an administrative fine.

The fine imposed must be, in each individual case, effective, proportionate and dissuasive, in accordance with the provisions of article 83.1 of the RGPD. In Consequently, the sanction to be imposed must be graduated according to the criteria established in article 83.2 of the RGPD, and with the provisions of article 76 of the LOPDGDD, with respect to section k) of the aforementioned article 83.2 of the RGPD.

In the initial assessment, it can be seen that no extenuating circumstances or aggravating.

Therefore, based on the foregoing,

By the Director of the Spanish Data Protection Agency, IT IS AGREED:

FIRST: START A SANCTION PROCEDURE AGAINST DOOR2DOOR SPAIN,

S.L., with NIF B01782739, for the infringement of article 58.2 of the RGPD, typified in the

art. 83.6 of the aforementioned RGPD.

SECOND: APPOINT A.A.A. and, as secretary, to B.B.B.,

indicating that any of them may be challenged, where appropriate, 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 to the disciplinary file, for evidentiary purposes, the

sanctioning resolution by which the corrective measures are imposed and the subsequent

additional requirement to prove compliance with said resolution, as well as

as the certification of having practiced its notification.

FOURTH: THAT for the purposes provided in art. 64.2 b) of Law 39/2015, of 1

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

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sanction that could correspond would be 1,000.00 euros, without prejudice to what

result of the instruction.

FIFTH: NOTIFY this agreement to DOOR2DOOR SPAIN, S.L., with NIF

B01782739, granting him a hearing period of ten business days to formulate

the allegations and present the evidence it deems appropriate. In his writing of

allegations you must provide your NIF and the procedure number that appears in the

header of this document.

If within the stipulated period it does not make allegations to this initial agreement, the same

may be considered a resolution proposal, as established in article

64.2.f) of the LPACAP.

The procedure will have a maximum duration of nine months from the date of the start-up agreement or, where appropriate, of the draft start-up agreement.

Once this period has elapsed, it will expire and, consequently, the file of performances; in accordance with the provisions of article 64 of the LOPDGDD.

In accordance with the provisions of article 85 of the LPACAP, you may recognize your responsibility within the term granted for the formulation of allegations to the this initiation agreement; which will entail a reduction of 20% of the sanction to be imposed in this proceeding. With the application of this reduction, the sanction would be established at 800.00 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, which will mean a reduction of 20% of its amount. With the application of this reduction, the sanction would be established at 800.00 euros and its payment will imply the termination of the process.

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

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In this case, if it were appropriate to apply both reductions, the amount of the penalty would be

set at 600.00 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 (800.00 euros or 600.00 euros), you must make it effective by depositing it in account number ES00 0000 0000 0000 0000 0000 open to name of the Spanish Agency for Data Protection 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 is accepted.

Likewise, you must send proof of payment to the General Subdirectorate of Inspection to proceed with the procedure in accordance with the quantity entered.

Finally, it is pointed out that in accordance with the provisions of article 112.1 of the LPACAP, there is no administrative appeal against this act.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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SECOND: On February 16, 2022, the claimed party has proceeded to pay of the sanction in the amount of 600 euros making use of the two reductions provided for in the Start Agreement transcribed above, which implies the acknowledgment of responsibility.

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THIRD: The payment made, within the period granted to formulate allegations to the opening of the procedure, entails the waiver of any action or resource in via administrative action against the sanction and acknowledgment of responsibility in relation to the facts referred to in the Initiation Agreement.

FOUNDATIONS OF LAW

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In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter RGPD), grants each control authority and as established in articles 47 and 48.1 of the Law Organic 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 Data Protection Agency.

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

II

Article 85 of Law 39/2015, of October 1, on Administrative Procedure Common to Public Administrations (hereinafter, LPACAP), under the rubric "Termination in sanctioning procedures" provides the following:

"1. Started a sanctioning procedure, if the offender acknowledges his responsibility, the procedure may be resolved with the imposition of the appropriate sanction.

2. When the sanction is solely pecuniary in 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 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 with each other.

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 recourse against the sanction.

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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: TO DECLARE the termination of procedure PS/00008/2022, of in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to DOOR2DOOR SPAIN, S.L..

In accordance with the provisions of article 50 of the LOPDGDD, 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 as prescribed by the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure Common of the Public Administrations, the interested parties may file an appeal contentious-administrative 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 in article 46.1 of the aforementioned Law.

Sea Spain Marti

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