

□ File No.: PS/00001/2022

IMI Reference: A56ID 172880- Case Register 79805

RESOLUTION OF SANCTIONING PROCEDURE

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

BACKGROUND

FIRST: A.A.A. (hereinafter, the claiming party) on December 15,

2020 filed a complaint with the Austrian data protection authority. The

The claim is directed against VACACIONES EDREAMS S.L., with NIF B61965778 (in
forward, EDREAMS). The reasons on which the claim is based are the following:

The complaining party has requested the deletion of their personal data through the
OPODO service, owned by EDREAMS. In response, you have received emails
automated emails but your personal data has not been removed. The part
Claimant considers this response insufficient.

Along with the claim, provide:

- Screen print of an email dated October 28, 2020, from the
email address of the complaining party to customer service-
de@contact.opodo.com, in which you request the deletion of your personal data and
carry out the steps so that the partners to whom their data has been transferred,
delete them too.

- Screenshot of an automatic email dated October 28, 2020 from
the email address no-reply@contact.opodo.com, in which you will be

Thank you for contacting Opodo, you are told that your request will be processed as soon as possible.
as soon as possible, you are informed that you can manage your reservation electronically and
recommends you visit their Help Center for more information.

- Screen print of an email dated November 9, 2020, from the email address of the complaining party to customer service- de@contact.opodo.com, in which he indicates that he has not yet received a response to his request.

- Screen print of an email to the address of the complaining party, dated 12 November 2020 from the email address customerservice- de@contact.opodo.com, in which you are given instructions to obtain a refund of your flight.

- Screen print of an email dated November 13, 2020, from the email address of the complaining party to customer service- de@contact.opodo.com, in which he indicates that it is the third time he has requested the deletion of your personal data.

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- Screenshot of an automatic email dated November 13, 2020 from the email address no-reply@contact.opodo.com, in which you will be Thank you for contacting Opodo, you are told that your request will be processed as soon as possible. as soon as possible, you are informed that you can manage your reservation electronically and recommends you visit their Help Center for more information.

- Screen print of an email dated November 24, 2020, from the email address of the complaining party to customer service- de@contact.opodo.com, in which he indicates that it is the fourth time that he has requested the deletion of your personal data.

- Screenshot of an email dated November 25, 2020 from the

email address no-reply@contact.opodo.com, in which you are told that to complete your registration process as a premium member you must contact telephone form.

- Screenshot of an email dated November 27, 2020, from the email address of the complaining party to customer service-de@contact.opodo.com, in which he indicates that it is the fifth time he has requested the deletion of your personal data.

- Screenshot of an automatic email dated November 27, 2020 from the email address no-reply@contact.opodo.com, in which you will be Thank you for contacting Opodo, you are told that your request will be processed as soon as possible. as soon as possible, you are informed that you can manage your reservation electronically and recommends you visit their Help Center for more information.

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 29th December 2020 and was given a registration date at the Spanish Agency of Data Protection (AEPD) that same day. The transfer of this claim to the AEPD is carried out in accordance with the provisions of article 56 of the 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 Data Processing Personal Information and the Free Circulation of these Data (hereinafter, GDPR), taking into account its cross-border nature and that this Agency is competent to act as the main control authority, given that EDREAMS has its registered office and unique establishment in Spain.

According to the information incorporated into the IMI System, in accordance with the established in article 60 of the GDPR, act as a "control authority data subject", in addition to the Austrian data protection authority, the data protection authority data protection of Norway, Belgium, Italy, France, Denmark and the authority German Berlin, all of them under article 4.22 of the GDPR, since the Data subjects residing in those Member States are affected or are likely to that are substantially affected by the treatment object of the present procedure.

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THIRD: On January 25, 2021, in accordance with article 64.3 of the Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (LOPDGDD), the claim was admitted for processing submitted by the complaining party.

FOURTH: The General Subdirectorate of Data Inspection proceeded to carry out of previous investigative actions to clarify the facts in matter, by virtue of the functions assigned to the control authorities in the article 57.1 and the powers granted in article 58.1 of the Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter GDPR), and in accordance with the provisions of Title VII, Chapter I, Second Section, of the LOPDGDD, having knowledge of the following extremes:

The Data Protection Officer of the EDREAMS group of companies, to whom belongs to ODIGEO, owner of the website www.opodo.com

, of which the part

claimant proves to be a customer through his email address ***EMAIL.1, performs the following manifestations in relation to the processing of the right of cancellation of data:

1. In relation to the detail of the procedure established to exercise the right of data cancellation:

The rights of cancellation of personal data, as well as those of any other personal data right, are centralized from the Privacy Form with the in order to facilitate users the exercise of rights, through this tool of easy access, linked and explained in a transparent way in the Privacy Policy.

This form allows, in turn, to automate part of the process, in which a Freshdesk ticket. This ticket is exclusively managed by a team of agents specialized in the management of said rights, from the internal department of VIP Comms.

The first action will be to review the request, confirming that all the information is available. information and guarantees that the identity of the person is sufficiently accredited.

Subsequently, it connects with "Jira" to communicate with the departments appropriate, according to the right exercised.

Once the appropriate actions have been carried out by each team in their systems, We proceed to respond to the interested party following the internal guide. In this case, the right of cancellation guide applies.

Likewise, clients can exercise their rights by any means they consider timely. In the case of the complaining party, the request was sent to a generic email from customer service that is managed by customer service agents.

Customer service agents have an internal policy that

must follow in case the exercise of any data right is requested

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personal information outside the Privacy Form channel, in order to redirect said customer request.

2. In relation to the reason why the right to cancel the

the complaining party

The case of the complaining party has been investigated and they state that it has not been resolved by a manual error of the agent, who has not given a correct treatment of the same.

Being aware of the problem, EDREAMS has assigned this case to a specialist to treat this exercise of law immediately

carrying out all the internal actions in their systems, the appropriate checks and facilitating customer response.

When analyzing the case, they have found the following circumstances:

In recent months, since the beginning of the crisis caused by COVID19, the tourism industry has been dramatically affected. The entity, insofar as it is travel agency, has seen how airlines canceled their flights in mass and have had a 300% increase in customer service requests.

Added to this circumstance is the fact that for nine months of 2020 they have been in a partial ERTE in which the working day was reduced by 60%, working only 40% of the normal working day. Said ERTE was a direct consequence of the economic impact of the COVID19 that has come to reduce more than 90% the

income compared to the previous year.

Taking into account these exceptional circumstances - never seen before - they have tried to continue to respond in the best possible way to customer requests.

The complaining party's case was not handled properly. But the risk that this happens again due to the circumstances described is very remote.

3. In relation to the documentary justification of the effective attention of the request for deletion of data and confirmation sent to the complaining party

They provide the following documentation:

- Copy of the response sent to the complaining party
- Detail of the internal process through which the communications have been produced with the teams responsible for the possible processing of customer data and the requirements of timely action according to the right exercised
- Screen print of the system in which the blocked data of the complaining party until the end of the legal deadlines related to claims of consumption and for the purposes of documentary evidence of the transaction that has an impact on the company accounting and taxation

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4. In relation to whether, in view of this incident, they consider it necessary to adapt or modify their procedure for the attention of the right of cancellation of data:

Despite understanding that this incident occurs in exceptional circumstances mentioned above, have taken advantage of it to carry out the following actions and/or review them:

1.

A reminder has been sent in the weekly newsletter to all customer service agents of the importance of managing well any exercise of rights, reminding them of the internal procedure and the need to centralize it via the Privacy Form.

Advance data protection training that is done re-

1.

gular to be carried out in the next 3 months.

As there has not been a bad management by the same agent

2.

of a right of the interested party, and given the exceptional circumstances,

They have not proceeded to apply any specific disciplinary action, other than warning of the incident and how to prevent it from recurring.

3.

They are working to use simple customer service forms.

tea. As soon as they are ready, it will be remembered that the Privacy Form is the

that must be used for the exercise of any right of the interested parties to

personal data protection purposes (since it is managed by a team

specialized and dedicated to that purpose). Until they have said

forms, will be included in the automatic message of correct reception of

any customer service request, a reminder of the Privacy Form,

vacancy, as it appears in the Privacy Policy, to give greater visibility to the

interested.

FIFTH: On January 24, 2022, the Director of the AEPD adopted a project

decision to initiate disciplinary proceedings. Following the established process

in article 60 of the GDPR, that same day 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, which was notified to EDREAMS in accordance with the rules established in Law 39/2015, of October 1, on Administrative Procedure Common Public Administrations (LPACAP), was collected on the 7th of February 2022, as stated in the acknowledgment of receipt in the file.

SIXTH: On July 15, 2022, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against EDREAMS in order to issue a warning, in accordance with the provisions of articles 63 and 64 of the LPACAP, for the alleged violation of Article 12 of the GDPR, typified in Article C / Jorge Juan, 6

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83.5 of the GDPR, in which he was indicated that he had a period of ten days to submit claims.

This start-up agreement, which was notified to EDREAMS in accordance with the rules established in Law 39/2015, of October 1, on Administrative Procedure Common Public Administrations (LPACAP), was collected on July 18 of 2022, as stated in the acknowledgment of receipt that is in the file.

SEVENTH: On July 30, 2022, it is received at this Agency, on time and form, letter from EDREAMS in which it alleges allegations to the start-up agreement in the which, in summary, stated that:

1.- EXERCISE OF RIGHTS IN EDREAMS IN ACCORDANCE WITH THE REGULATIONS

EDREAMS alleges that it centralizes the management of the exercise of rights (including the right of deletion) through its Privacy Form. And that, in this way,

Users are provided with the exercise of said exercises, through this tool of easy access, linked in its Privacy Notice and managed through a process defined and by a team trained and dedicated to this purpose.

Indicates that the Privacy Form allows in turn to automate part of the process, in order to provide a better and faster response.

Explain that, initially, the interested party exercises his right through the Privacy. Said request is exclusively conditioned to the fact that the agents specialized in the management of these rights can confirm the information and have sufficient guarantees that the person claims to be who he is and/or that the representation of a third party is sufficiently accredited (usually the confirmation happens because the client, who receives a verification email, confirm in your personal email registered in your systems that you have requested the corresponding right).

After said confirmation, it connects with the appropriate departments, to execute the corresponding actions based on the right exercised. Finally, once the necessary actions have been carried out, we proceed to respond to the interested party according to an internal guide (in this case, the right of deletion guide).

You state that this process is carried out in accordance with your Privacy Notice and your Internal privacy policy (provided as Annex 1 - Index and applicable section of the Internal privacy policy), as well as internal procedures; specifically the

Internal guide on the exercise of the right of deletion (provides Annex 2 - Internal guide on the exercise of the right of deletion) and with the data protection regulations:

Article 12 GDPR 1: "The person responsible for the treatment will take the measures to provide the interested party with all the information indicated in the articles 13 and 14, as well as any communication pursuant to articles 15 to 22 and 34 regarding the treatment, in a concise, transparent, intelligible and easily access, in clear and simple language, in particular any information directed specifically at a child. The information will be provided in writing or by other means, including, if applicable, by electronic means."

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Article 11.1 LOPDGDD 2: "When personal data is obtained from the affected, the data controller may comply with the duty of information established in article 13 of Regulation (EU) 2016/679 providing the affected party with the basic information referred to in section following and indicating an electronic address or other means that allow easy and immediate access to the rest of the information."

Article 12.2 LOPDGDD: "2. The controller will be obliged to inform the affected party about the means at their disposal to exercise the rights that correspond to you. The means must be easily accessible for the affected The exercise of the right may not be denied by the sole reason for the affected person to opt for another means." In this sense we want to insist that we do not deny the exercise of the right (which also would have been managed

to be exercised by the Privacy Form by the team and process dedicated to that end) but rather the exceptional situation and human error in an agent gave rise to not reiterating once again to the CLIENT, according to with our Privacy Notice, the availability of the Privacy Form for the exercise of their rights. We will develop this point in the second allegation. Likewise, we will establish why and how we have mitigated the risk for this to happen again.

European Commission - How should we process applications from people who exercise their rights in terms of data protection?: "When the personal data is processed by electronic means, you must offer means for applications to be submitted electronically."

AEPD - Exercise your rights: "The person in charge is obliged to inform you about the means to exercise these rights. These means must be accessible and This right cannot be denied for the sole reason that you opt for another half".

Furthermore, EDREAMS alleges that it is aware that customers You can contact them in different ways for different purposes. AND, For this reason, they train their Customer Service agents and carry out actions of awareness regarding the exercise of rights. In the same way, they provide a guide response, in order that they know how to detect the exercise of rights and know reiterate the information already collected in your Privacy Notice, regarding the Form Privacy as a means to exercise rights.

2.- EDREAMS MAKES EXTRA EFFORTS IN GENERIC CHANNELS OF CUSTOMER SERVICE IN ORDER TO GIVE THE BEST SERVICE TO ITS CUSTOMERS

In the first place, they allege that after the internal investigations they verified that the

complaining party did not exercise their right in accordance with the Privacy Notice, through the Privacy Form (mentioned in the first allegation and through which they say that a specialized agent is guaranteed to manage the corresponding request).

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Secondly, they allege that they have analyzed the email inboxes generic Customer Service and have verified that they received a request from the complaining party.

They have contacted the Customer Service team who have informed them that the agent mistakenly closed the ticket without having handled it properly based on its internal processes that supposedly guarantee the corresponding management of said request, referring to its Privacy Form (as have indicated in the internal process of management of data protection rights) or to escalate the practice of law internally to the specialized department that is take care of it.

This manual agent error occurred because the agent did not open internal ticket response upon receiving the communication from the complaining party and therefore does not indicate to the complaining party exercising the right in the Privacy Form, as should have done at the time.

In addition, this occurred in a context of an exceptional situation in which found EDREAMS given the unprecedented saturation of requests in its Customer Service email inboxes that received the situation

caused by COVID-19.

Despite these devastating circumstances both economically and organizationally, EDREAMS states that they have tried to continue answering the best possible way to all the requests of your clients, getting support from other teams for this management and have tried to get out of these months as best possible.

Indicates that these Customer Service channels try to answer as soon as possible but there is no determined fixed term of response, since it depends on the filtering of issues and their prioritization, which is done manually by the team

Customer Service and that carries risks of incorrect manual categorization to difference from what happens when they are exercised by the means provided for the exercise of rights (the Privacy Form).

And he states that it is precisely for this reason that a specific medium was created (through the Privacy Form), supposedly complying with the regulations of data protection and in order to be able to offer a mature process and the guaranteeing and transparent as possible for customers to exercise their rights of Data Protection.

In addition, this process has been automated with a privacy tool (**TOOL.1), to reduce risks and improve their responses, and

It is managed with alerts to avoid deadlines and respond to customers as soon as possible. as soon as possible and within a maximum period of thirty days.

EDREAMS points out that proof of the same is the management of the priority response and immediate exercise of the right of the complaining party as quickly as possible from who were aware of it: it was assigned to a senior specialist to give treatment to this exercise of right immediately, performing all actions

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internal in their systems, the appropriate checks and the complaining party agreeably answered.

EDREAMS indicates that much to its regret, the claimant's case was not directed correctly to the appropriate information and to the Privacy Form. and that the exceptional circumstances and manual error by the agent, as well as the measures implemented, make the risk of reproducing this case remote.

3.- CONTINUOUS IMPROVEMENT OF TRANSPARENCY REGARDING THE EXERCISE OF RIGHTS

EDREAMS alleges that they took advantage of this case (produced by not exercising the right correctly and through the appropriate means as well as by manual error of the agent who did not follow internal policies and guidelines, in a context in addition to exceptionality) as an opportunity to analyze all the causes and circumstances of this case, referred to above in the second allegation, and that has allowed them to take extra measures to prevent situations from occurring Similar.

EDREAMS emphasizes that it considers its compliance program regulations in the field of privacy and data protection is based on the continuous monitoring and continuous improvement and learning in order to increase the levels of regulatory compliance.

It points out that, in this context of exercising rights, they also maintain the same philosophy and take the rights of data subjects very seriously, not only as a critical compliance action, but because it is the best way to

guarantee the trust of its customers.

They indicate that this is why they have a dedicated and trained team specifically, as well as an internal process for exercising protection rights of data, to guarantee the best possible response to its clients, through the Privacy Form, and internal coordination systems to deal with said requests in accordance with the regulations.

Likewise, as an extra effort to guarantee and safeguard the exercise of rights, the Customer Service agents are trained and indicated so that in case of receive any matter of protection of personal data, they must direct the client to the Privacy Form so that he can exercise his rights.

It states that, despite understanding that this case occurs in the circumstances previously mentioned exceptions, and having received several manual errors from Customer Service agents in generic channels of said service, have used to implement a Customer Service Form, which customers access, either via the Customer Service Help Center, or by sending an email email to the still generic Customer Service email inboxes customer still available.

Said form has assessed categories, among which is the option of exercise of rights that redirects to your Privacy Form (as the only means

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that must be used for the exercise of any right of the interested parties for the purposes of personal data protection; since it is managed by a specialized team and

dedicated to this purpose) (Annex 3 - Customer Service Form and Annex

4 - Help center and frequently asked questions).

In this way, they understand that they guarantee a specialized and guarantee procedure,

while also redirecting their customers to contact them

by other means (such as the general means of contact for Customer Service)

In order to have a system that allows anyone who wants to exercise their rights,

can do it smoothly and mitigating the risks of manual agent errors

of Customer Service.

Likewise, they train annually on a mandatory basis on data protection

and specialized in the exercise of rights, including practical cases such as the

present case, as well as awareness-raising actions by the Attention team

to the client (Annex 5 is provided - Awareness articles on the exercise of

rights), for example, covering topics such as "what is an exercise of rights

of data protection" and "how to accompany clients to exercise them via the

Privacy Form".

On the other hand, in recent months they have carried out a migration of the

Privacy and rights management form, going from a generic to a

specialized in privacy (such as ***TOOL.1) in which apart from being

managed by a specialized and highly qualified team aware of

data protection, work on process automation to

to be more agile and reduce risks of human errors.

They state that they are sorry for what happened in this exceptional case. At the same time

understand that given the circumstances and measures described above, EDREAMS

complies with data protection regulations as well as with the guidelines of the

AEPD itself (previously referred to in the first allegation) and that the closure of the

disciplinary procedure against EDREAMS with a warning, entails a

disproportionate interpretation of maximum data protection regulations,
in a context of a global pandemic with effects never experienced, especially
by the tourism industry in which said company carries out its activity, as well as by the
efforts made by it, especially when they have mitigated the risk that
cases similar to this occur again, with a Customer Service Form
that guides customers in the event that, without having read or ignoring the Notice of
Privacy, want to exercise their rights, and can be guided accordingly and their
rights managed, through the Privacy Form.

They reiterate the commitment of the EDREAMS team to work tirelessly
regarding learning and continuous improvement of its processes, with the aim of not
only to comply with the regulations, but also to strengthen the trust of their clients in us. AND
In this context, they indicate that they will continue to monitor and continuously improve the
policies, processes, actions and measures referred to herein.

For all these reasons, it requests that the sanctioning procedure be closed without
warning based on the fact that it is an exceptional manual error, caused by
the management of a right of deletion referred to by a generic Customer Service channel

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client, not contemplated in its Privacy Notice as a means for the exercise of
rights, with the Customer Service completely saturated (as never before
in the entire history of the company and in the entire tourism industry, due to the
massive cancellations by the airlines of the reserved flights that
reached more than 90%, together with the travel restrictions imposed by the

governments due to the pandemic for the exercise of data protection rights),
that EDREAMS has acted and acts diligently in the respect, defense and exercise
of the rights of the interested parties and always in collaboration with the AEPD, and
which, furthermore, has been mitigated with a Customer Service Form
in the terms described in his third allegation.

EIGHTH: On October 17, 2022, the investigating body of the procedure
sanctioner formulated a proposal for a resolution, in which he proposes that the Director
AEPD sends a warning to VACACIONES EDREAMS, S.L., with NIF
B61965778, for a violation of Article 12 of the GDPR, typified in Article 83.5
of the GDPR.

This proposed resolution, which was notified to EDREAMS in accordance with the rules
established in Law 39/2015, of October 1, on Administrative Procedure
Common Public Administrations (LPACAP), was collected on the 18th of
October 2022, as stated in the acknowledgment of receipt in the file.

NINTH: On October 19, 2022, EDREAMS files a brief through
of which he requests the extension of the term to adduce allegations.

TENTH: On October 21, 2022, the investigating body of the procedure
agrees to the extension of the term requested up to a maximum of three days, in accordance with
the provisions of article 32.1 of the LPACAP.

The aforementioned agreement is notified to EDREAMS on October 24, 2022, as
It appears in the acknowledgment of receipt that is in the file.

ELEVENTH: On November 4, 2022, this Agency received,
in due time and form, a letter from EDREAMS in which it alleges allegations to the proposal
resolution in which, in summary, stated that:

PREVIOUS.- REITERATION OF THE ALLEGATIONS PREVIOUSLY PRESENTED

In the first place, EDREAMS emphasizes the rigorous respect for the rule of law and the

rights of people in the diligence shown by EDREAMS in all its actions, as well as its efforts and proactivity in ensuring and protecting the rights of the interested parties.

Having said the foregoing, EDREAMS reiterates its previous allegations and understands that complies with the regulations in the terms described below, without prejudice to emphasize in this writing those that he considers most relevant and add those that considered pertinent, in order to refute the grounds on which the intends to warn EDREAMS by the AEPD.

1.- ACCUSATIONS AGAINST EDREAMS SATISFACTORIOUSLY RESOLVED

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Preliminarily, EDREAMS emphasizes that the claim filed with the Authority Austrian data protection law concerned the alleged violation of the GDPR regarding the precepts related to the transparency of the modalities of exercise of the rights of the interested party. Specifically, and as is clear from the Proposed Resolution of Sanctioning Procedure, the complaining party denounced before the Austrian Data Protection Authority the different communications that made to generic Customer Service email addresses (including a no-reply address, “no-reply@contact.opodo.com”) for the suppression of your personal information.

EDREAMS alleges that it has been proven that it acted diligently in relation to internal policies and protocols, both in the specialized internal department of rights management such as training for Customer Service agents as

as described in the pleadings in response to the settlement agreement

disciplinary procedure of this file.

On the other hand, regarding the request to exercise rights made by the party

claimant, it is necessary to point out that an immediate response has been given to the rights

exercised once the claim has been brought to the attention of EDREAMS.

Likewise, and in this line of argument, it indicates that the AEPD has assessed

positively the measures implemented by EDREAMS, to mitigate the risk of

that a case like the one in the present claim could occur again.

For all these reasons, and in conjunction with the following allegation, EDREAMS requests in the

present the file of the disciplinary procedure in writing.

2.- EXERCISE OF RIGHTS IN EDREAMS IN ACCORDANCE WITH THE REGULATIONS

With regard to the adoption of measures tending to guarantee the correct

management of the exercise of rights, on the one hand, EDREAMS alleges that it has a

official channel, the Privacy Form (Annex 1 - Privacy Form), which is,

in their opinion, transparently informed and made available to those interested in

its Privacy Notice, resulting in easy access for the interested party (Annex 2 - Notice

of Privacy: exercise of rights).

On the other, EDREAMS alleges that it has processes, tools, training materials

and other opportune measures already supposedly accredited in which it is contemplated

that the hypothetical exercise of rights cannot be denied for the simple fact of

that is exercised through other channels that are not the official channel.

In this last direction, EDREAMS indicates that it works tirelessly to improve

continuation of the previously mentioned measures, and that, in his opinion, were accredited

accordingly in the third allegation of its response to the agreement to start

sanctioning procedure dated July 30, 2022 (with registration number

000007128e22P0006393), so that in all its Customer Service channels

redirect customers to the official and dedicated channel for their management (the referred to Privacy Form), in the event that they were used for the exercise of rights.

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EDREAMS agrees that an organization must have an official channel that collects a guarantee procedure in the terms stipulated by the regulations for the protection of data, as well as appropriate measures to guide the actions of any employee thereof to inform any interested party on how to exercise their data protection rights. However, he understands that an interpretation in the that the same degree of diligence is required that the official channel must have (as long as when it is transparently informed in the Privacy Notice) to any other channel of the organization, would lead to an overload and dedication of resources disproportionate of the organization, without prejudice to the fact that, in addition, it interprets that would be contrary to the fact that the regulations require an official channel for the exercise of rights.

The aforementioned interpretation is based, in his opinion, on the fact that the rule in question (article 12.2 LOPDGDD 2) clearly establishes that the responsible for the treatment can determine an official channel, as long as it is easily accessible (as it turns out in the case of EDREAMS).

EDREAMS understands that it seems clear that the standard has wanted to go further and therefore organizations require greater cooperation to enhance the effectiveness of the rights and, therefore, it has been stated that organizations cannot hide behind

the fact that the corresponding right had been exercised through another channel of the official, to directly deny it without further ado, without having internal controls in this regard (in the aforementioned article 12.2 LOPDGDD).

But, does that mean that an organization must have in any channel a notification filtering and management system that is not only extremely urgent -due to said nature of the period of exercise of rights included in the regulations of data protection - but also be infallible? And, if you don't have it, do you would proceed with the opening of disciplinary proceedings against the organization despite have appropriate measures for said channels not specially dedicated to the exercise of rights, as has happened in the instant case and has been recognized by the AEPD?

EDREAMS considers disproportionate an interpretation that entails a positive response to the above questions, so please reconsider that interpretive position.

The AEPD is requested to take into account that EDREAMS has (and had in the moment in which the events took place) of an official channel, which is, in its opinion, transparently informed in the Privacy Notice, and it is easily accessible in accordance with the regulations, and with technical and organizational measures implemented, as well as measures to reduce the risk of possible human error in the manual management of an agent in charge of an unofficial channel. EDREAMS understands that a conclusion cannot be drawn that, in practice, would result in that any communication channel of the company could automatically be a official channel for the exercise of rights.

It alleges that if the law had intended such a conclusion, requiring the same level of diligence for any channel of the organization, the wording should have included

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the following position: "The person responsible for the treatment will be obliged to inform the affected party about the fact that in any means of contact of the organization may exercise the rights that correspond to it, as well as facilitate the list thereof".

It understands that EDREAMS's position is aligned with recital 59

GDPR, since EDREAMS has created formulas and electronic means that allow you to request the exercise of the rights of the interested parties free of charge. Said formulas and means, it alleges, have been informed to all interested parties in a transparent and loyal in its different forms and web privacy notices, and in the recruitment process.

Additionally, it insists that customer service channels, such as the employee by the complaining party, are intended for consumer purposes, and therefore do not You can have a privacy channel expectation due to its nature, and require the same level of extreme diligence that supports a channel dedicated to the exercise of rights.

Even so, in order to try to guarantee that the interested party has the

Privacy at your disposal despite possible exceptional human error by an agent

Customer Service, EDREAMS has implemented a note at the bottom of the emails generic customer service emails, through which customers are informed clients, once again, of the existence of the Privacy Form for a management easy exercise of rights and allows correct verification of identity

of the interested parties (Annex 3 - Note at the foot of the emails from Customer Service

customer).

For all these reasons, EDREAMS considers that the precept in question requires a duty of reasonable diligence, but not maximalist. And, in this logic, without prejudice to the position previously recognized regarding the interpretation of the precept in question, EDREAMS insists that what happened in this case is exceptional, and reiterates the commitment to continue working tirelessly to improve of its processes, tools, and training in all its channels of Customer service so that, in the event that they are used for the exercise of rights, customers are directed to the special and dedicated channel for the management of themselves (the aforementioned Privacy Form).

Additionally, it is the intention of EDREAMS to record and demonstrate that the measures in force at the time of the alleged infringement complied with the most rigorous norms, guidelines, standards and recommendations to be able to deal with the risks and that they were adequate and suitable taking into account the state of the technique, the costs of implementation, and the nature, scope, context and purposes of the treatment, as well as risks of variable probability and severity for the rights and freedoms of natural persons. Likewise, EDREAMS transfers to the AEPD, within of the scrupulous respect of this entity to the data protection regulations and its willingness to collaborate with the AEPD, the acceptance of any type of proposal for improvement or recommendation by this AEPD in relation to compliance with the normative.

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For all these reasons, it requests that an archive decision be issued in this procedure.

disciplinary action and that the AEPD take into account in its resolution: (i) the nature exceptional case, because the complaining party has not exercised their rights through the channel designated and described in the Privacy Notice (Privacy Form), but through generic Customer Service channels at a time of unprecedented saturation of requests in the email inboxes of Customer service they received for the devastating situation caused by the COVID-19; (ii) that, in relation to channels intended for consumer issues, the response expectation of exercise of rights cannot be the same as that of the channels for the exercise of rights offered by EDREAMS; (iii) that has been given a satisfactory response to the exercise of the rights presented by the party claimant; and (iv) that EDREAMS has acted and acts diligently in respect, defense and exercise of the rights of the interested parties and always in a collaborative way with the AEPD, and that all this is not diminished by this exceptional case.

Of the actions carried out in this procedure and of the documentation in the file, the following have been accredited:

PROVEN FACTS

FIRST: - On October 28, 2020 at 12:00 hrs an email was sent from the email address of the complaining party to customer service-de@contact.opodo.com, in which you request the deletion of your personal data and carry out the steps so that the partners to whom their data has been transferred, delete them too.

SECOND: On October 28, 2020 at 12:02 p.m. an email was sent automatic from the email address no-reply@contact.opodo.com, in which you are thanked for contacting Opodo, you are told that your request as soon as possible, you are informed that you can manage your reservation

email and you are advised to visit their Help Center for more information.

THIRD: On November 9, 2020 at 10:43 a.m. an email was sent

from the email address of the complaining party to customer service-

de@contact.opodo.com, in which he indicates that he has not yet received a response to his request.

FOURTH: On November 12, 2020 at 3:59 p.m., an email was sent to

the complaining party from the email address customerservice-

de@contact.opodo.com, in which you are given instructions to obtain a refund

of your flight.

FIFTH: On November 13, 2020 at 4:23 p.m. an email was sent

from the email address of the complaining party to customer service-

de@contact.opodo.com, in which he indicates that it is the third time he has requested the deletion

of your personal data.

SIXTH: On November 13, 2020 at 4:25 p.m. an email was sent

to the complaining party from the email address not-

reply@contact.opodo.com, thanking you for contacting Opodo, you will be

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says that your application will be processed as soon as possible, you are informed that you can

manage your reservation electronically and you are recommended to visit your Contact Center

Help for more information.

SEVENTH: On November 24, 2020 at 7:04 p.m. an email was sent

from the email address of the complaining party to customer service-

de@contact.opodo.com, in which he indicates that it is the fourth time that he has requested the deletion

of your personal data.

EIGHTH: On November 25, 2020 at 08:57, an email was sent to

No-

the complaining party from

reply@contact.opodo.com, in which it is indicated that to complete its process of

registration as a premium member must contact by phone.

the email address

NINTH: On November 27, 2020 at 08:47, an email was sent

from the email address of the complaining party to customer service-

de@contact.opodo.com, in which he indicates that it is the fifth time he has requested the deletion

of your personal data.

TENTH: On November 27, 2020 at 08:49 a.m. an email was sent

to the complaining party from the email address not-

reply@contact.opodo.com, thanking you for contacting Opodo, you will be

says that your application will be processed as soon as possible, you are informed that you can

manage your reservation electronically and you are recommended to visit your Contact Center

Help for more information.

ELEVENTH: The EDREAMS agent who processed the party's request

claimant closed the ticket without having handled it properly.

FUNDAMENTALS OF LAW

Competition and applicable regulations

Yo

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 and 48.1 of the Law

Organic 3/2018, of December 5, 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: "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."

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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 EDREAMS

carries out the collection and conservation of, among others, the following personal data of

natural persons: name and surname and email, among other treatments.

EDREAMS carries out this activity in its capacity as data controller, given

who is the one who determines the purposes and means of such activity, by virtue of article 4.7 of the

GDPR.

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, EDREAMS has its only establishment in Spain, so the Spanish Agency for Data Protection is competent to act as the main supervisory authority.

For its part, the right to delete personal data is regulated in article 17 of the RGPD and the modalities of exercise of the rights of the interested parties are detailed in article 12 of the GDPR.

II

Allegations adduced

In relation to the allegations adduced to the agreement to initiate this disciplinary procedure, we proceed to respond to them according to the order exposed by EDREAMS:

1. EXERCISE OF RIGHTS IN EDREAMS IN ACCORDANCE WITH THE REGULATIONS

EDREAMS alleges that it centralizes the management of the exercise of rights through a Privacy Form and that the requests received through of this form in compliance with data protection regulations.

It also states that it is aware that customers may contact with the company through other channels and, therefore, train their agents Customer service and carry out awareness actions regarding the exercise of rights. And they provide a response guide to these agents so that they know how to detect the exercise of rights and know how to reiterate the information regarding the Form of Privacy as a means to exercise rights.

In this regard, this Agency values the efforts made by EDREAMS to train its agents in the exercise of rights that could be requested through other means other than the Privacy Form. But it is not the subject of this proceeding if

the procedure provided for dealing with the exercise of rights requested through

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of the Privacy Form complies or not with the requirements of the regulations of Data Protection.

For all the foregoing, this claim is dismissed.

2. EDREAMS MAKES EXTRA EFFORTS IN GENERIC SUPPORT CHANNELS

TION TO THE CUSTOMER IN ORDER TO GIVE THE BEST SERVICE TO ITS CUSTOMERS

EDREAMS first alleges that the complaining party did not exercise its right to

in accordance with its Privacy Notice, through its Privacy Form.

Second, it alleges that the claimant's request was made through

the generic Customer Service email inboxes. And that the team

Customer Service has reported that the ticket was manually closed by the agent without ha-

have it properly managed based on EDREAMS internal processes (ha-

referring to the Privacy Form or escalating the exercise of inter-

directly to the specialized department that is in charge of it).

And that this occurred in a context of an exceptional situation in which he found himself

ba EDREAMS given the unprecedented saturation of requests in its mailboxes

email from Customer Service that they received for the situation caused by

COVID-19.

It is also alleged that the Customer Service channels try to answer the above

possible, but there is no specific fixed response time and that the filtering and

Topic prioritization is done manually by the Customer Service team.

customer and carries risks of incorrect manual categorization.

Likewise, EDREAMS alleges that once it was aware of the exercise of rights of the complaining party was assigned to a senior specialist to treat this exercise of right immediately carrying out all internal actions in its systems, the appropriate checks and the complaining party was compliant answered.

Finally, it affirms that the exceptional circumstances and the manual error of the agent, as well as the measures implemented, make the risk of reproducing this case be remote.

In this regard, this Agency wishes to point out that the fact that the party had not addressed claimant to the channels provided by EDREAMS to request the exercise of their duties. rights, does not imply that the company was not obliged to meet such request. Maximally when the request was made through the Customer Service email, a channel which can reasonably be expected to be in a position to give due process to the request in question.

This Agency values the efforts made to train Customer Service personnel client, but this does not mean that, in the present case, the company mistakenly closed the ticket of the request in question without having handled it properly, as stated by EDREAMS in its allegations.

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For all the foregoing, this claim is dismissed.

3. CONTINUOUS IMPROVEMENT OF TRANSPARENCY REGARDING THE EXERCISE OF DE-

RIGHTS

EDREAMS alleges that it has a dedicated and specifically trained team, as well as as an internal process of exercising data protection rights, to guarantee provide the best possible response to your customers, through the Privacy Form.

Likewise, Customer Service agents are trained and instructed so that in the event of receive any matter of protection of personal data, direct the client to the Formu- Privacy Policy to exercise your rights.

Having received several manual errors from Customer Service agents in channels generic data of said service, EDREAMS has taken the opportunity to implement a For- Customer Service form, which customers will access either via the Help Center Customer Service, either by sending an email to the mailboxes Generic Customer Care email still available. This formula-

The river has appraised categories, among which is the option to exercise rights. chos, which redirects to the Privacy Form.

Likewise, EDREAMS trains annually on a mandatory basis in data protection and in exercise of rights, including practical cases such as this, as well as awareness actions on the exercise of rights by the team of Customer Support.

On the other hand, EDREAMS has carried out in recent months a migration of the tool of the Privacy and Rights Management Form, moving from a generic to a company specializing in privacy in which, apart from being managed by a team specialized and highly qualified and aware of data protection cough, work is being done to automate processes in order to be more agile and reduce risks of human errors.

EDREAMS understands that given the circumstances and measures described above, it complies ple with the data protection regulations as well as with the guidelines of the company itself

AEPD and that the closure of the disciplinary procedure against EDREAMS with a warning development, entails a disproportionate interpretation in a pandemic context worldwide with effects never experienced, especially by the tourist industry in the that the company carries out its activity, as well as for the efforts made by the itself, especially when they have mitigated that the risk of cases recurring similar to this one, with a Customer Service Form that guides customers through the in the event that, without having read or ignoring the Privacy Notice, they want to exercise their rights, and can be guided accordingly and their rights managed, through you the Privacy Form.

In this regard, this Agency positively values the measures implemented to mitigate risk that a case such as the one in this claim could recur.

deduce But, in the present case, it is no less true that the complaining party had requested the exercise of a right that has not been duly addressed by EDREAMS. The fact that it has adopted measures tending to make a situation

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as the one in this procedure does not occur again is, precisely, one of the circumstances that are taken into account to replace the possibility of imposing a fine for the option of directing a warning.

For all the foregoing, this claim is dismissed.

In relation to the allegations made in the proposed resolution of this disciplinary procedure, we proceed to respond to them according to the order exposed by EDREAMS:

PREVIOUS.- REITERATION OF THE ALLEGATIONS PREVIOUSLY PRESENTED

In this regard, this Agency reiterates in its response to the allegations presented to the agreement to initiate this disciplinary procedure.

1.- ACCUSATIONS AGAINST EDREAMS SATISFACTORIOUSLY RESOLVED

Preliminarily, EDREAMS emphasizes that the claim filed with the Authority Austrian data protection law concerned the alleged violation of the GDPR regarding the precepts related to the transparency of the modalities of exercise of the rights of the interested party. Specifically, and as can be seen from the Proposed Resolution of Sanctioning Procedure, the complaining party denounced before the Austrian Data Protection Authority the different communications that made to generic Customer Service email addresses (including a no-reply address, "no-reply@contact.opodo.com") for the suppression of your personal information.

EDREAMS alleges that it has been proven that it acted diligently in relation to internal policies and protocols, both in the specialized internal department of rights management such as training for Customer Service agents as as described in the pleadings in response to the settlement agreement disciplinary procedure of this file.

In this regard, this Agency wishes to point out that it has not been demonstrated in the present file that had acted diligently in relation to the policies and internal protocols, both in the specialized internal department of management of rights such as training for Customer Service agents, since they do not

This issue is the subject of this proceeding.

On the other hand, regarding the request to exercise rights made by the party complainant, EDREAMS points out that an immediate response has been given to the rights exercised once the claim has been brought to your attention.

In this regard, this Agency wishes to highlight that it is the person responsible who recognizes that the claimant party's exercise of rights was not dealt with in time, but rather a once received the claim from the AEPD.

Likewise, and in this line of argument, EDREAMS points out that the AEPD has assessed positively the measures implemented to mitigate the risk that a case such as that of the present claim could occur again.

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In this regard, this Agency wishes to point out once again that the fact that adopted measures tending to mitigate the risk that a situation such as that of the pre- this procedure occurs again is, precisely, one of the circumstances taken into account to replace the possibility of imposing a fine with the option tion of directing a warning.

For all the foregoing, everything indicated in this claim is rejected.

2.- EXERCISE OF RIGHTS IN EDREAMS IN ACCORDANCE WITH THE REGULATIONS

With regard to the adoption of measures tending to guarantee the correct management of the exercise of rights, on the one hand, EDREAMS alleges that it has a official channel, the Privacy Form (Annex 1 - Privacy Form), which is, in their opinion, transparently informed and made available to those interested in its Privacy Notice, resulting in easy access for the interested party (Annex 2 - Notice of Privacy: exercise of rights).

On the other, EDREAMS alleges that it has processes, tools, training materials and other opportune measures already supposedly accredited in which it is contemplated

that the hypothetical exercise of rights cannot be denied for the simple fact of

that is exercised through other channels that are not the official channel.

In this last direction, EDREAMS indicates that it works tirelessly to improve

continuation of the previously mentioned measures, and that, in his opinion, were accredited

accordingly in the third allegation of its response to the agreement to start

sanctioning procedure dated July 30, 2022 (with registration number

O00007128e22P0006393), so that in all its Customer Service channels

redirect customers to the official and dedicated channel for their management (the

referred to Privacy Form), in the event that they were used for the exercise of

rights.

In this regard, this Agency reiterates that it is not the object of this procedure if

the procedure provided for dealing with the exercise of rights requested through

of the Privacy Form complies or not with the requirements of the regulations of

Data Protection.

EDREAMS alleges that it agrees that an organization must have an official channel that

includes a guarantee procedure in the terms stipulated by the regulations of

data protection, as well as appropriate measures to guide the actions of

any employee thereof to inform any interested party on how to exercise

your data protection rights. However, you understand that an interpretation in

which requires the same degree of diligence that the official channel must have (as long as

when it is transparently informed in the Privacy Notice) to any other

channel of the organization, would lead to an overload and dedication of resources

disproportionate of the organization, without prejudice to the fact that, in addition, it interprets that

would be contrary to the fact that the regulations require an official channel for the

exercise of rights.

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And he wonders if an organization should have in any channel a system of filtering and management of extremely urgent and infallible notifications, or otherwise the AEPD would proceed to the opening of a disciplinary file, which he considers disproportionate.

It alleges that EDREAMS has (and had at the time the facts) from an official channel, which is, in their opinion, transparently informed in the Privacy Notice, and is easily accessible in accordance with the regulations, and with technical and organizational measures implemented, as well as measures to reduce the risk of a possible human error in the manual management of an agent in charge of an unofficial channel. EDREAMS understands that a conclusion cannot be drawn that, in practice, results in any communication channel of the company could automatically be an official channel for the exercise of rights.

It understands that EDREAMS's position is aligned with recital 59 GDPR, since EDREAMS has created formulas and electronic means that allow you to request the exercise of the rights of the interested parties free of charge. Said formulas and means, it alleges, have been informed to all interested parties in a transparent and loyal in its different forms and web privacy notices, and in the recruitment process.

Additionally, it insists that customer service channels, such as the employee by the complaining party, are intended for consumer purposes, and therefore do not You can have a privacy channel expectation due to its nature, and require the same level of extreme diligence that supports a channel dedicated to the exercise of

rights.

Even so, it indicates that EDREAMS has implemented a note at the bottom of the emails generic Customer Service emails, through which customers are informed of the existence of the Privacy Form for a simple management of the exercise of rights and that allows the correct verification of the identity of the interested parties.

In this regard, this Agency wishes to point out that the aforementioned recital (59) of the GDPR establishes that: "Formulas must be arbitrated to facilitate the interested party the exercise of his rights under this Regulation, including mechanisms for requesting and, where appropriate, obtain free of charge, in particular, access to the data personal information and its rectification or deletion, as well as the exercise of the right to opposition. The data controller must also provide means for applications are submitted by electronic means, in particular when the data Personal information is processed by electronic means. The data controller must be obliged to respond to the requests of the interested party without undue delay and to no later than within a month, and to explain his reasons in case he was not going to serve them".

These mechanisms are not mandatory and it cannot be understood that they will only be those requests for the exercise of rights that are made only to through the channels established by the data controllers in their policies Of privacy. On the contrary, each data controller has the power to organize itself as it deems best, provided that a response is provided satisfactory to the exercise of the rights requested by the interested parties, within the term

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legally provided. But the organization that this person in charge of treatment cannot be an obstacle to the satisfaction of a right that recognizes the interested parties the GDPR.

In the present case, EDREAMS has decided to centralize all requests for exercise of rights in an electronic form. Now, the fact that a particular request is directed through another channel, does not imply that EDREAMS should not give due response, as data controller.

Obviously, it is not intended (according to EDREAMS) "that an organization must have a filtering and notification management system on any channel that, not only be extremely urgent -due to said nature of the period of exercise of rights included in the data protection regulations-, but also that it is infallible. And if,

In case of not having it, a disciplinary file would be opened against

The organization, despite having appropriate measures for said channels, does not specially dedicated to the exercise of rights". But in this case, you can't

refuse that by sending an email to the customer service address

customer service-de@contact.opodo.com,

the complaining party could wait

reasonably that your request was attended by EDREAMS.

In this sense, in section 53 of the aforementioned Directives 01/2022 on the rights of data subjects- Right of access, the EDPB "...encourages data subjects to data controllers to provide the most appropriate communication channels suitable and easy to use, in accordance with article 12(2) and the

Article 25, to allow the interested party to make an effective request. Nevertheless, if the interested party makes a request through a communication channel provided by the controller that is different from that indicated as

preferable, the request will generally be considered effective and the person responsible for the processing shall process such request accordingly (see examples below).

continuation). Data controllers must make every effort reasonable to ensure that the exercise of the rights of the user is facilitated.

interested (for example, in the event that the interested party sends the data of the request to a employee who is on leave, an automatic message informing the interested party about an alternative communication channel for your request could be an effort reasonable)."

In this regard, this Agency insists that the attention email address to the client is a perfectly valid address to request the exercise of the rights recognized in the GDPR by the interested parties, since it is the preferred email address for customers to communicate with with the company for any matter (regardless of whether a notice is provided at the footer of the emails that are sent, an issue that is not the subject of of the procedure, as indicated above). It is also considered to be EDREAMS obligation to arbitrate the necessary internal mechanisms so that this request for rights was redirected internally to the team that the company determined as the most suitable to give due response.

In this sense, this Agency wishes to refer to the first example of the section 56 of the aforementioned Guidelines in which "a data controller X provides, on its website and in its privacy policy, two emails – the email

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general email address of the data controller: contacto@X.com and email address of the data protection contact point of the data controller treatment: requests@X.com. Additionally, the data controller X indicates on its website that to send any query or request regarding the processing of personal data, you should contact the contact point of data protection to the indicated email. However, the interested party sends a request to the general email of the data controller: contact@X.com. In this case, the data controller must carry out all reasonable efforts to make your services aware of the request, which was made through general email, so that it can be redirected to the point data protection contact information and is answered within the period established by the GDPR. Moreover, the data controller cannot extend the period for respond to the request, solely because the interested party has sent a request to the general email of the data controller and not to the contact point of Data Protection."

In this regard, this Agency understands that this first example would be the assumption that gave in the present case. The complaining party has sent its request to exercise rights to a customer service email address provided by the company you are targeting. Therefore, the data controller (EDREAMS) should have made all "reasonable efforts to make your services aware of the request, which was made through general email, so that can be redirected to the data protection contact point and is answered within of the term established by the RGPD", as indicated in the aforementioned Guidelines, of in such a way that it was redirected to the data protection contact point that correspond, in order to be able to attend to it within the period established by the GDPR. By Therefore, this Agency considers that the complaining party could "expect

reasonably" that your request was met by sending it to the address customer

service-de@contact.opodo.com.

Furthermore, this Agency wishes to point out that section 56 of the aforementioned

Guidelines provide that "However, CEPD recommends, as a good

practice, that data controllers introduce, where possible,

mechanisms to improve internal communication between employees about the

requests received by those who are not competent to deal with those

requests. To facilitate the exercise of rights of the interested parties".

In this sense, it is not unreasonable (neither impractical nor an effort

disproportionate) that the data controller must implement the

necessary internal mechanisms so that, at least as regards the

customer service email addresses, where you expect to receive

requests of all kinds (including, for the exercise of rights that the GDPR recognizes

to the interested parties), said requests are redirected internally as soon as possible to the team

intended for this purpose, so that they are answered within the period established by the

GDPR (and which the Guidelines themselves indicate cannot be extended for the mere fact

sent to a generic email address). As for the

measures for which EDREAMS asks for it, it would suffice in this case, for

example, by forwarding the email requesting the right to

email address of the team provided by EDREAMS for this purpose.

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The fact that in the present case all requests for GDPR rights

should go to a specific point of contact, it is a matter outside the concerned, which is solely the responsibility of the organization that EDREAMS deemed convenient and these interested parties cannot be forced to know the organization of EDREAMS or impose a certain contact point on them to exercise their rights, although this Agency (and the aforementioned Guidelines) recognize the possibility of that data controllers provide a preferred method for processing exercise of these rights.

In any case, this Agency considers that the email address customer service-de@contact.opodo.com cannot be understood as an address "random or incorrect, not provided directly by the data controller", nor "any communication channel that is clearly not intended to receive requests related to the rights of the interested party", in the terms outlined in Directives 01/2022 of the European Committee for Data Protection, without prejudice to that EDREAMS had foreseen a different preferential method of contact.

In the present case, this Agency considers that by sending an email to the address customer service-de@contact.opodo.com the complaining party could wait reasonably that your request was granted. And that, in any case, it was an obligation to EDREAMS will forward said request internally to the team designated for this purpose.

Lastly, EDREAMS alleges that it wishes to record and demonstrate that the measures in force at the time of the alleged infringement complied with the most rigorous norms, guidelines, standards and recommendations to be able to face the risks and that they were adequate and suitable taking into account the state of the art, the application costs, and the nature, scope, context and purposes of the processing, as well as risks of variable probability and severity for the rights and freedoms of natural persons. And transfers to the AEPD the acceptance of any type of proposal for improvement or recommendation on your part in relation to compliance with the

normative.

In this regard, this Agency wishes to point out that it has not been demonstrated in the file that "the measures in force at the time of the alleged infringement complied with with the most rigorous norms, guidelines, standards and recommendations to be able to face the risks and that they were appropriate and suitable taking into account the state of the art, implementation costs, and the nature, scope, context and the purposes of the treatment, as well as risks of variable probability and severity for the rights and freedoms of natural persons", since it is not the object of the this matter proceeds.

Therefore, for all the above, this Agency rejects everything indicated in the present allegation.

IV.

Right of erasure

Article 17 "Right to erasure ("the right to be forgotten")" of the GDPR establishes:

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"1. The interested party shall have the right to obtain without undue delay from the person responsible for the treatment the deletion of personal data that concerns you, which will be obliged to delete without undue delay the personal data when any of the following circumstances:

a) the personal data is no longer necessary in relation to the purposes for which those that were collected or otherwise treated;

b) the interested party withdraws the consent on which the treatment of

in accordance with Article 6(1)(a) or Article 9(2),

letter a), and this is not based on another legal basis;

c) the data subject opposes the processing in accordance with article 21, paragraph 1,

and no other legitimate reasons for the treatment prevail, or the interested party

object to the processing pursuant to Article 21(2);

d) the personal data have been unlawfully processed;

e) the personal data must be deleted for the fulfillment of a

legal obligation established in the Law of the Union or of the States

members that applies to the data controller;

f) the personal data have been obtained in connection with the offer of services

of the information society mentioned in article 8, paragraph 1.

(...)

3. Sections 1 and 2 will not apply when the treatment is necessary:

a) to exercise the right to freedom of expression and information;

b) for compliance with a legal obligation that requires data processing

imposed by the law of the Union or of the Member States that applies to the

responsible for the treatment, or for the fulfillment of a mission carried out in the interest

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

c) for reasons of public interest in the field of public health in accordance with

Article 9, paragraph 2, letters h) and i), and paragraph 3;

d) for archiving purposes in the public interest, scientific or historical research purposes or

statistical purposes, in accordance with Article 89(1), to the extent that

the right indicated in paragraph 1 could make it impossible or hinder

seriously impair the achievement of the objectives of such treatment, or

e) for the formulation, exercise or defense of claims.”

In the present case, it is clear that the complaining party had requested EDREAMS the

deletion of your personal data on numerous occasions by email

customer service-de@contact.opodo.com, the first on October 28, 2020 and the last on November 27, 2020.

Exercise of the rights of the interested party

V

Article 12 "Transparency of information, communication and modalities of

exercise of the rights of the interested party" of the GDPR establishes:

"1. The person in charge of the treatment will take the appropriate measures to facilitate the

interested all information indicated in articles 13 and 14, as well as any

communication pursuant to articles 15 to 22 and 34 relating to processing, in the form

concise, transparent, intelligible and easily accessible, with clear and simple language, in

particular any information directed specifically to a child. Information

shall be provided in writing or by other means, including, if applicable, by

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electronics. When requested by the interested party, the information may be provided

verbally as long as the identity of the interested party is proven by other means.

2. The person responsible for the treatment will facilitate the exercise of their rights by the interested party.

under articles 15 to 22. In the cases referred to in article 11, paragraph

2, the person in charge will not refuse to act at the request of the interested party in order to exercise

your rights under articles 15 to 22, unless you can show that you do not

is in a position to identify the interested party.

3. The person responsible for the treatment will provide the interested party with information regarding their

proceedings on the basis of a request under articles 15 to 22, without undue delay and, in any case, within one month of receipt of the request. This period may be extended by another two months if necessary, taking into account the complexity and number of requests. The responsible will inform the interested party of any of said extensions within a period of one month from receipt of the request, indicating the reasons for the delay. when the interested party submits the application by electronic means, the information will be provided by electronic means when possible, unless the interested party requests that it be facilitated otherwise.

4. If the person responsible for the treatment does not process the request of the interested party, he will inform without delay, and no later than one month after receipt of the application, the reasons for not acting and the possibility of presenting a claim before a control authority and take legal action. (...)”

In the present case, it is clear that the complaining party requested the deletion of his account and your personal data up to 5 times. The last one on the 27th of November 2020. However, it was not until March 19, 2021 that EDREAMS duly attended to said request, after receiving a request for information from part of this Agency, together with the corresponding claim.

Therefore, in accordance with the evidence available at this time resolution of the disciplinary procedure, it is considered that the known facts constitute an infringement, attributable to EDREAMS, for violation of the Article 12 of the GDPR, in conjunction with Article 17 of the GDPR.

Classification of the infringement of article 12 of the GDPR

SAW

The aforementioned infringement of article 12 of the GDPR supposes the commission of the infringements typified in article 83.5 of the GDPR that under 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:

(...)

b) the rights of the interested parties in accordance with articles 12 to 22; (...)

In this regard, the LOPDGDD, in its article 71 "Infractions" establishes that:

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"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 74 "Infringements considered minor" of the LOPDGDD indicates:

"The remaining infractions of a legal nature are considered minor and will prescribe after a year.

merely formal of the articles mentioned in sections 4 and 5 of article 83 of Regulation (EU) 2016/679 and, in particular, the following:

(...)

c) Failure to respond to requests to exercise the rights established in the Articles 15 to 22 of Regulation (EU) 2016/679, unless it results from application of the provisions of article 72.1.k) of this organic law".

Penalty for violation of article 12 of the GDPR

VII

Without prejudice to the provisions of article 83 of the GDPR, the aforementioned Regulation provides in section 2.b) of article 58 "Powers" the following:

"Each control authority will have all the following corrective powers indicated below:

(...)

b) send a warning to any person in charge or person in charge of the treatment when the processing operations have infringed the provisions of the this Regulation; (...)"

For its part, recital 148 of the GDPR indicates:

"In the event of a minor infraction, or if the fine likely to be imposed constitutes a disproportionate burden on a natural person, rather than penalty by means of a fine, a warning may be imposed. should however special attention should be paid to the nature, seriousness and duration of the infringement, to its intentional nature, to the measures taken to alleviate the damages suffered, to the degree of responsibility or any relevant prior infringement, to the manner in which that the supervisory authority has become aware of the infringement, to compliance of measures ordered against the person in charge or in charge, to adherence to codes of conduct and any other aggravating or mitigating circumstances."

According to the evidence available at the present time of disciplinary procedure resolution, it is considered that the offense in question is slight for the purposes of article 83.2 of the GDPR given that in the present case, taking into account that there was no record in this EDREAMS Agency for not having duly attended to a right of deletion, to the circumstances so exceptional circumstances that were the cause of such request not having been duly

addressed and that, as soon as it became aware of the claim, EDREAMS proceeded to respond to the request for deletion of the personal data of the complaining party and to that it adopted measures tending to mitigate the risk that a situation such as that of the

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this proceeding occurs again, all of which allows us to consider a reduction of guilt in the facts, it is considered in accordance with the Law not to impose sanction consisting of an administrative fine and replace it by directing a warning to EDREAMS.

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: ADDRESS VACACIONES EDREAMS, S.L., with NIF B61965778, for a infringement of Article 12 of the GDPR, typified in Article 83.5 of the GDPR, a warning.

SECOND: NOTIFY this resolution to VACACIONES EDREAMS, S.L.

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

Resolution will be made public once the interested parties have been notified.

In accordance with the provisions of article 60.7 of the GDPR, this information will be resolution, once it is final, to the control authorities concerned and to the Committee European Data Protection.

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 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-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

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