

□ File No.: EXP202104929

RESOLUTION OF PUNISHMENT 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 complaining party) dated October 4, 2021

filed a claim with the Spanish Data Protection Agency. The

claim is directed against GENERAL TREASURY OF SOCIAL SECURITY

with NIF Q2827003A (hereinafter, TGSS). The grounds on which the claim is based

are the following:

On 05/27/2020, the claimant was the victim of a robbery in which his

ID, driver's license and credit cards. Subsequently, the stolen DNI was

used to supplant their identity and generate various economic damages.

On 06/03/2021 the claimant tried to access his Social Security profile,

not being able to carry it out when the aforementioned administration informs you that your data is not

they were correct. Subsequently, he accessed through his CL@VE PIN and verified that

someone had modified your data (address, telephone and e-mail) without your

consent. The modification was carried out through a TA-1 form,

providing a copy of the DNI together with it.

On 06/04/2021 he expanded the complaint made to the police on 05/27/2020 describing

the happened. According to him, the impersonator accessed his Social Security profile and

his working life was unloaded. With the data obtained from the aforementioned document and with the

The stolen DNI was requested and the offender was given a credit card from a

banking entity, being used to generate various debts.

The impersonator opened several false accounts in the name of the claimant in three entities

banking.

The complaining party considers that the TGSS should have notified him of the changes and suspicious activities carried out in your profile, since its mismanagement caused the improper access to the data that has caused so much damage.

Along with the claim, provide a certificate of registration, emails exchanged with the TGSS, and the complaint filed with the police together with his extensions and documentation of the banking entities to which the impersonator is directed to request various financial products on his behalf.

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5 December, of Protection of Personal Data and guarantee of digital rights (in hereinafter LOPDGDD), said claim was transferred to the TGSS, so that proceed to its analysis and inform this Agency within a month of the actions carried out to adapt to the requirements set forth in the regulations of Data Protection.

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The transfer, which was carried out in accordance with the regulations established in Law 39/2015, of October 1, of the Common Administrative Procedure of the Administrations Public (hereinafter, LPACAP), was collected on 11/26/2021 as recorded in the acknowledgment of receipt that works in the file. On 12/23/2021 it is received in this Agency written response.

THIRD: On January 4, 2022, in accordance with article 65 of the LOPDGDD, the claim filed by the claimant was admitted for processing.

FOURTH: The General Subdirectorate for Data Inspection proceeded to carry out of previous investigative actions to clarify the facts in question, 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 RGPD), and in accordance with the provisions of Title VII, Chapter I, Second Section, of the LOPDGDD, having knowledge of the following extremes:

Facts according to statements by the claimant:

On 05/27/2020 he was the victim of a robbery in which his identification document was stolen.

identity (DNI), driver's license and credit cards. On 06/03/2021 tried to access to your profile in Social Security, not being able to because your data is not correct.

Later he accessed through CL@VE and verified that someone had modified your data (address, telephone and e-mail) without your consent. Indicates that the modification was carried out by means of a TA-1 form incorrectly completed in the that not only all the possible options were marked (affiliation to the SS, obtaining a of affiliation and change the data, being the first two invalid since it is affiliated since 2011), but that basic fields such as the date, nationality, what were the data to change or the reason for the form.

In addition to these obvious errors, no supporting documentation was attached (Padrón, invoices, etc.), only the copy of the DNI that was stolen and a signature were attached. that the claimant indicates that it is not a fluid line, but a carbon copy of her DNI. He states that Despite all these inconsistencies, the TGSS approved the incorrectly completed form and without providing the necessary documentation.

According to him, these changes allowed the impersonator to access his profile on the Social Security and discharge his working life, which he used with the stolen DNI to apply for credit cards and open bank accounts in the name of the claimant in three

Bank entities. The complainant considers that the mismanagement of the administration public caused improper access to data causing damage.

Date on which the claimed events took place: June 12, 2020 (date of the modification of the data, facilitated by the TGSS).

Relevant documentation provided by the complaining party: complaint made before the police and its extensions, which include a response from the TGSS with a copy of the TA-1 form submitted and a copy of the DNI provided in the application.

INVESTIGATED ENTITY

During these proceedings, the following entity has been investigated:

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GENERAL TREASURY OF THE SOCIAL SECURITY with NIF Q2827003A with address at CALLE DE LOS ASTROS, 5-7 - 28007 MADRID (MADRID).

RESULT OF THE INVESTIGATION ACTIONS

. In the actions of transfer of claim the

PRELIMINARY CONSIDERATIONS

TGSS informs that the request that gave rise to the modification of data was made on 06/12/2020 through the Administration Mailbox No. 28/25 of the Provincial Directorate of the TGSS of Madrid. The application included a signed TA-1 form and a photocopy of the DNI of the owner of the data. They report that at the time of the petition, these procedures were carried out by said Mailbox, since the presentation of requests through of "We Help You" was not operational. They have reported that the official who carried out the change of the aforementioned data did not appreciate falsification in the signature of the TA-1 attached to

application.

Previously, the representatives of the TGSS have stated the following about the situation on the date of the events:

"The facts denounced, specifically the modification of personal data carried out in the Administration of Fuenlabrada (Administration 28/25), must be framed within a home confinement of the Spanish population, regulated by Royal Decree 463/2020, of March 14, which declares the state of alarm for the management of the health crisis situation caused by the COVID-19.

This first confinement lasted 100 days, between March 15 and June 21, 2020. Taking place suddenly and without time for the Administrations of the General Treasury of the Social Security could design and organize in a generalized, coordinated and planned way guidelines for action, and without margin of reaction to achieve an adequate adaptation of material means and programs and safe applications of action to face the teleworking, a modality without a significant presence in the Agency on those dates.

This within a climate of ignorance and apprehension about the situation that has occurred with Covid 19, which affected both the officials of the Organisms and the population in general and therefore the users of Social Security, who They demanded to be able to carry out their procedures urgently.

A climate of collapse was generated that increased with the passing of days and the accumulation of calls, requests for attention, procedures to be carried out, and the lack of means to respond to all of this. In many cases officials gave response to this situation with their own electronic devices and many hours of work in their homes because the Administrations were closed due to the lockdown."

. In the present research actions, it has been requested to provide a

ONE

detailed description of the procedure for dealing with requests received through

of the corporate mailbox, as of June 12, 2020, including accreditation

documentation of the procedure followed to identify the persons who

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requested procedures through said mailbox, where all the controls are recorded

established on the accreditation of the identity of the applicants as of the 12th of

June 2020, including checks on the data reflected in the

form by the applicant. It has been requested to provide a copy of the instructions provided

to the managers of the procedures in this regard.

The representatives of the TGSS have stated that by not being able to provide

face-to-face, a method by which attention was paid to a large number of users

in the Administrations, as a consequence of the state of alarm and the closure of the

offices, in a first phase applications for

procedures through the corporate Mailbox of the administrations themselves, although

always required to provide a copy of the DNI and application form of the required procedure

signed by the applicant.

They indicate that after detecting that through this route of entry they were receiving more and more

frequency requests to modify personal data of doubtful origin and

To minimize the risk of failures in verifying the identity of applicants,

made recommendations to the Provincial Directorates so that these mailboxes

corporate will be used exclusively for internal use and communication with

Official organizations.

They provide a copy of the Protocol "New Model of Attention to the Citizen" "Te

We help". It is verified that it is dated July 1, 2020 (after the events). In the,

on the verification of the user's identity is quoted:

"One of the key aspects of the new care model is user verification

as a prior step to carrying out any procedure.

Provisionally, this verification will be carried out through a series of pre-

questions easily contrasted by the official, which can ensure the identity of the applicant.

quoter.

Work is underway to find alternative authentication methods that,

in a reliable and fast way, can improve the identity verification process."

In point 5.A. Communication and variation of contact data, it is cited:

"If the citizen communicates his contact data for the first time or requests its modification,

cation, your identity will be verified. As a general verification formula, the interested

You will need to provide the original data you want to change.

Since the contact data, both mobile and home, allow access to the ob-

Keeping reports, as well as carrying out procedures in the Electronic Office, is

Special care is needed when making the change. For this reason, once

Once the previous verifications have been carried out, it will be required to send it again through the

care form, if it has not been previously sent, of documentation that

prove the accuracy of the new data. In the case of the telephone, an invoice may be required.

ra, or other document containing this information. In the case of domicile,

I could request a certificate of registration, rental contract, invoices..."

No supporting documentation is provided of the existence of instructions issued to

the managers of how to proceed to the identification for the procedures requested through

of the mailbox (at the date of the claimed events). They only provide the cited document, later date (07/01/2020) on the new citizen service model.

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They report that following the protocol could not prevent some cases of identity theft in which, providing a photocopy of a stolen DNI or obtained in any other way, the alleged impersonator requested by mail electronic modification of your personal data, as has happened in the present alleged object of claim: a person sent to the corporate mailbox of the Administration of Fuenlabrada of this TGSS an email accompanied by two files “JPG” that contained the TA1 application model and the copy of the DNI.

They declare that within the established procedure, if any discrepancy or inaccuracy in the documents provided, the official would contact contact with the applicant either by phone call or by email, as indicate occurred in this case. It is verified that they provide a copy of an email email dated 06/12/2020 addressed to the applicant requesting clarification of the requested procedure. The text of the email reads: "Good morning, after trying to get in contact by phone several times and not answering, I require clear details of the address, town and postal code, as well as what you are requesting (you already have a of affiliation).

They insist that it was an exceptional situation that caused difficulties maximum for the processing of the variations of data communicated by the citizens who did not have the face-to-face channel to be served and neither did they have a

digital certificate to interact directly with the administration from your computer. The objective of this measure was to be able to solve the multitude of applications submitted by electronic means without identification through Certificate Digital or Cl@ve, in view of the fact that many citizens still did not have them and They had a very difficult time obtaining it due to the state of alarm and confinement. They state that in this initial period (March 14 to June 30) they carried out, in the cases in which it was considered necessary, a series of easily contrasted questions for the official in view of the data available to him to verify the identity of the applicant, subsequently the obligation to verify the identity of the applicant was introduced. applicant in any case and more preventive control measures were implemented, such as how not to allow the request for variation of personal data through the Mailboxes corporate, being necessary to process it through the mailbox of the queries of the website and forms.

They refer in this regard to point 2.3 "Entrance routes of the request for care" of the cited document "New Model of Attention to the Citizen" "We Help You" dated July 1, 2020, whose copy they provide. It is verified that in point 2.3.3. is quoted:

"As has been pointed out in different communications, it is not recommended publicize provincial mailboxes as a means of entry for requests for attention, prioritizing the use of the Te service attention form

We help, which will be received in the mailboxes that have been communicated for the different categories by the Provincial Directorate." It is found that the procedure "Communication and variation of contact data / Address" is found in the path of "We Help You Service Attention Form" entry.

. A copy of the application received on June 12, 2020, which had TWO

entry through the Administration Mailbox No. 28/25, in the name of the affected party. I know

ask for all the documentation that was provided, including a copy of the TA-1 form

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signed and a copy of the photocopy of the DNI, as well as a print that certifies the detail of the the procedures carried out as a result of said request, both the modification of the data cited, as in your case the provision of documents to the applicant (work life, etc.) and supporting documentation detailing the specific checks on the identity of the applicant that were made in this case.

They provide a copy of the documents that were provided by the applicant for the changes, (form TA-1 signed and copy of the DNI). As has been indicated, the representatives of the TGSS state that it was not appreciated by the official who resolves discrepancy between the signatures of both, and that he tried on several occasions contact the interested party by phone and sent her an email already mentioned asking clarifications of the requested procedure. They inform that finally the user of the Administration of Fuenlabrada noted in the General Affiliation File the requested modification of data, which is reflected in the report provided by the Social Security Computer Management in which the values are detailed modified – including the mobile number – and the date and time of the modification whose copy they provide.

. When verifying by this Data Inspection the TA-1 form

THREE

available on the Internet (website www.seg-social.es) and the information regarding the standards of completion and required documentation, it is verified that the

information provided on data protection refers to the Organic Law

15/1999, of December 13, on the Protection of Personal Data, therefore

it has been required to provide the established information procedure on Protection

of Data to applicants for procedures, who use forms such as the

TA-1 that was used in this case.

The representatives of the TGSS recognize in this respect that there are models and

forms in which the update has not yet been implemented

basic information regarding the processing of personal data affected in each

process. They indicate that for the TGSS, as responsible for an appreciable number

of treatments, it is proving costly to adopt the opportune formula since there are

procedures and services in hybrid electronic headquarters that are affected or affect

to more than one treatment of personal data. They also indicate that this is not the case

the "TA" models that affect the "AFFILIATION" treatment and there would be no problem for

have proceeded to an update with the correct formula of basic information, in

follow-up of the guide published by that Agency. For this reason they have once again requested

the units responsible for the respective procedures and web services the

immediate update of the forms that, as they rightly point out, contain some

mention of the repealed regulations on data protection and do not adapt to

the criteria reflected in its Guide for compliance with the duty to inform.

As a result of this Data Inspection, the TA-1 model available in the

web www.seg-social.es downloading in PDF format that is incorporated through

diligence to these inspection actions, including their instructions for

completion, checking that the following informative legend of

data protection as of 03/31/2022 and 04/27/2022:

"DATA PROTECTION.- For the purposes provided in article 5 of the Law

Organic 15/1999, of December 13 (BOE of 12-14-1999), of Protection of

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Personal Data, you are informed that the data contained in this model will be incorporated into the General Affiliation File, regulated by the Order of 07-27-1994. Regarding the aforementioned data, you may exercise your rights of access, rectification and cancellation, in the terms provided in the aforementioned Organic Law 15/1999.”

It is verified that it is indicated, in the instructions to fill in the model, that the documentation that must be provided with the application is the Document ID: D.N.I., Foreigner Card or Passport and, if applicable, certificate accreditation of the degree of disability. It is verified that there are some boxes empty in the TA-1 model itself where up to 6 documents can be entered attachments, not finding more information or instructions on the documents that must be attached for each procedure, nor specifically for the change procedure phone number or address.

CONCLUSIONS

The events occurred on 06/12/2020, during the state of alarm (03/14/2020 – 06/21/2020). The representatives of the TGSS allege (in summary) that the events must be framed within a home confinement of the Spanish population, sudden, without time for adaptation, the administrations closed and with collapse in their procedures with urgent demand. In this framework, requests from citizens received in the mailboxes were processed. corporate, including that of the alleged impersonator of the claimant. The controls

established for the identification of people who requested procedures through said mailbox, on the date of the events, were the contribution of the signed form (in this case the TA-1 model), provision of a copy of the identity document and if observed any discrepancy or inaccuracy in the documents provided, the official contacted the applicant either by phone call or by email.

email.

The TGSS recognizes that cases of identity theft could not be avoided when a copy of the DNI was provided, as in the present case. Subsequently implemented more preventive control measures, such as not allowing the request variation of personal data through corporate Mailboxes.

Documentary accreditation of the procedure followed for the identification of the people who requested procedures through the corporate mailbox, not having been provided. Nor is there any supporting documentation of the existence of instructions given to managers on how to proceed with the identification for the procedures requested through the mailbox (as of the date of the claimed events). They only provide a document, of a later date (07/01/2020), with the new model of attention to the citizen.

The information on data protection in the TA-1 form refers to the Organic Law 15/1999, of December 13, on the Protection of Character Data Staff, as of 04/27/2022.

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FIFTH: On June 7, 2022, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the TGSS, for the alleged infringement of Article 32 of the RGPD, typified in Article 83.4 of the RGPD.

SIXTH: On 06/08/2022, the aforementioned initial agreement is notified, in accordance with the rules established in Law 39/2015, of October 1, on the Procedure

Common Administrative of Public Administrations (hereinafter, LPACAP) and

Once the period granted for the formulation of allegations has elapsed, it has been verified that no allegation has been received by the TGSS.

Article 64.2.f) of the LPACAP - provision of which the TGSS was informed in the

agreement to open the procedure- establishes that if no allegations are made

within the term established on the content of the initiation agreement, when it

contains a precise statement about the imputed responsibility, it may

be considered a motion for a resolution. In the present case, the agreement to initiate the

sanctioning file determined the facts in which the

imputation, the infringement of the RGPD attributed to the TGSS and the sanction that could

prevail. Therefore, taking into consideration that the TGSS has not formulated

allegations to the agreement of initiation of the file and in attention to what is established in the

Article 64.2.f) of the LPACAP, the aforementioned initiation agreement is considered in the

present case proposed resolution.

In view of everything that has been done, by the Spanish Data Protection Agency

In this proceeding, the following are considered proven facts:

PROVEN FACTS

FIRST: It is proven that on 05/27/2020, the complaining party denounced

having been the victim of a robbery in which his ID card, driver's license was stolen

and credit cards. The complaint was filed with the General Directorate of Police.

of the Department of the Interior of the Generalitat of Catalonia.

SECOND: It is accredited that, on June 12, 2020, he had entry to

through the Mailbox of the Administration No. 28/25 of the Provincial Directorate of the TGSS of Madrid, a request to change the mobile phone, email and address of the complaining party, together with the signed TA-1 form and its photocopy of the DNI.

The TGSS official acting in the change of the aforementioned identification data does not appreciated forgery in the signature of the TA1 attached to the request, for which he proceeded to requested change.

THIRD: It is accredited that on June 15, 2020, through the Headquarters Electronic Social Security, the report of working life of the party was accessed. claimant.

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 5.1.f) of the RGPD

The TGSS is accused of committing an infringement of article 5.1.f) of the RGPD.

Article 5.1.f) “Principles related to treatment” of the RGPD establishes:

“1. The personal data will be:

(...)

f) processed in such a way as to ensure adequate security of the data

including protection against unauthorized or unlawful processing and against

its loss, destruction or accidental damage, through the application of technical measures

or appropriate organizational structures (“integrity and confidentiality”).”

In the present case, it is stated that the personal data of the complaining party,

in the TGSS database, were unduly exposed to a third party, since

that, by being able to download the work life document, he was aware of the

themselves proceeding to alter some of them, such as the email address

email and phone number, replacing them with others.

Classification of the infringement of article 5.1.f) of the RGPD

III

Article 83.5 of the RGPD under the heading “General conditions for the imposition of

administrative fines” provides:

“The infractions of the following dispositions will be sanctioned, in accordance with the

paragraph 2, with administrative fines of a maximum of EUR 20,000,000 or,

in the case of a company, an amount equivalent to a maximum of 4% of the

global total annual turnover of the previous financial year, opting for

the largest amount:

a) the basic principles for the treatment, including the conditions for the

consent under articles 5, 6, 7 and 9; (...)"

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

"The acts and behaviors referred to in sections 4,

5 and 6 of article 83 of Regulation (EU) 2016/679, as well as those that result

contrary to this organic law.

For the purposes of the limitation period, article 72 "Infringements considered very

serious" of the LOPDGDD indicates:

"1. Based on the provisions of article 83.5 of Regulation (EU) 2016/679,

considered very serious and will prescribe after three years the infractions that suppose

a substantial violation of the articles mentioned therein and, in particular, the

following:

a) The processing of personal data violating the principles and guarantees

established in article 5 of Regulation (EU) 2016/679. (...)"

Sanction for the infringement of article 5.1.f) of the RGPD

IV

Without prejudice to the provisions of article 83.5 of the RGPD, the aforementioned article provides in

its section 7 the following:

"7. Without prejudice to the corrective powers of the control authorities under the

Article 58(2), each Member State may lay down rules on whether

can, and to what extent, impose administrative fines on authorities and organizations

public authorities established in that Member State.

For its part, article 77 “Regime applicable to certain categories of responsible or in charge of the treatment” of the LOPDGDD provides the following:

"1. The regime established in this article will be applicable to the treatment of who are responsible or in charge:

c) The General Administration of the State, the Administrations of the autonomous communities and the entities that make up the Local Administration.

2. When those responsible or in charge listed in section 1 committed any of the infractions referred to in articles 72 to 74 of this law organic, the data protection authority that is competent will dictate resolution sanctioning them with a warning. The resolution will establish also the measures that should be adopted to stop the behavior or correct it. the effects of the infraction that had been committed.

(...)

5. They will be communicated to the Ombudsman or, where appropriate, to similar institutions of the autonomous communities the actions carried out and the resolutions issued under this article. (...)"

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Article 32 of the GDPR

The TGSS is accused of committing an infringement of article 32 of the RGPD

Article 32 “Security of treatment” of the RGPD establishes:

"1. Taking into account the state of the art, the application costs, 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 individuals physical, the person in charge and the person in charge of the treatment will apply technical measures and appropriate organizational measures to guarantee a level of security appropriate to the risk, which in your case includes, among others:

- a) pseudonymization and encryption of personal data;
- b) the ability to ensure the confidentiality, integrity, availability and permanent resilience of treatment systems and services;
- c) the ability to restore availability and access to data quickly in the event of a physical or technical incident;
- d) a process of regular verification, evaluation and evaluation of the effectiveness technical and organizational measures to guarantee the security of the treatment.

2. When evaluating the adequacy of the security level, particular account shall be taken of takes into account the risks presented by the processing of data, in particular as consequence of the accidental or unlawful destruction, loss or alteration of data data transmitted, stored or otherwise processed, or the communication or unauthorized access to said data.

3. Adherence to an approved code of conduct under article 40 or to a certification mechanism approved under article 42 may serve as an element to demonstrate compliance with the requirements established in section 1 of the present article.

4. The person in charge and the person in charge of the treatment will take measures to guarantee that any person acting under the authority of the person in charge or the person in charge and has access to personal data can only process said data following

instructions of the person in charge, unless it is obliged to do so by virtue of the Right of the Union or the Member States.

In the present case, at the time the breach occurred, the TGSS did not have appropriate measures to prevent the occurrence of an incident such as the one examined in this file, given that by not being able to provide face-to-face attention, method by which attention was paid to a large number of users in the Administrations, as a result of the state of alarm and the closure of offices, In a first phase, requests for procedures were provisionally admitted to through the corporate Mailbox of the administrations themselves.

Classification of the infringement of article 32 of the RGPD

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Article 83.4 of the RGPD under the heading "General conditions for the imposition of administrative fines" provides:

"The infractions of the following dispositions will be sanctioned, in accordance with the paragraph 2, with administrative fines of a maximum of EUR 10,000,000 or, in the case of a company, an amount equivalent to a maximum of 2% of the global total annual turnover of the previous financial year, opting for the largest amount:

a) the obligations of the person in charge and the person in charge pursuant to articles 8, 11, 25 to 39, 42 and 43; (...)"

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

“The acts and behaviors referred to in sections 4, 5 and 6 of article 83 of Regulation (EU) 2016/679, as well as those that result contrary to this organic law.

For the purposes of the limitation period, article 73 “Infringements considered serious” of the LOPDGDD indicates:

“Based on the provisions of article 83.4 of Regulation (EU) 2016/679, considered serious and will prescribe after two years the infractions that suppose a substantial violation of the articles mentioned therein and, in particular, the following:

(...)

f) The lack of adoption of those technical and organizational measures that are appropriate to guarantee a level of security appropriate to the risk of the treatment, in the terms required by article 32.1 of the Regulation (EU) 2016/679.

g) The violation, as a consequence of the lack of due diligence, of the technical and organizational measures that have been implemented in accordance to what is required by article 32.1 of Regulation (EU) 2016/679”. (...)

Sanction for the infringement of article 32 of the RGPD

7th

Article 83 section 7 of the RGPD provides the following:

“7. Without prejudice to the corrective powers of the control authorities under the Article 58(2), each Member State may lay down rules on whether can, and to what extent, impose administrative fines on authorities and organizations public authorities established in that Member State.

For its part, article 77 “Regime applicable to certain categories of responsible or in charge of the treatment” of the LOPDGDD provides the following:

"1. The regime established in this article will be applicable to the treatment of
who are responsible or in charge:

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c) The General Administration of the State, the Administrations of the
autonomous communities and the entities that make up the Local Administration.

2. When those responsible or in charge listed in section 1 committed
any of the infractions referred to in articles 72 to 74 of this law
organic, the data protection authority that is competent will dictate
resolution sanctioning them with a warning. The resolution will establish
also the measures that should be adopted to stop the behavior or correct it.
the effects of the infraction that had been committed.

(...)

5. They will be communicated to the Ombudsman or, where appropriate, to similar institutions
of the autonomous communities the actions carried out and the resolutions issued
under this article. (...)"

Therefore, in accordance with the applicable legislation and having assessed the criteria for
graduation of sanctions whose existence has been proven,
the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE the GENERAL TREASURY OF THE SOCIAL SECURITY, with
NIF Q2827003A, for an infringement of Article 5.1.f) of the RGPD, typified in the
Article 83.5 of the RGPD, a sanction of warning.

IMPOSE the GENERAL TREASURY OF THE SOCIAL SECURITY, with NIF

Q2827003A, for an infringement of Article 32 of the RGPD, typified in Article 83.4

of the RGPD, a sanction of warning.

SECOND: NOTIFY this resolution to the GENERAL TREASURY OF THE SOCIAL SECURITY.

THIRD: COMMUNICATE this resolution to the Ombudsman,

in accordance with the provisions of article 77.5 of the LOPDGDD.

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 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 reconsideration before the

Director of the Spanish Agency for Data Protection within a month from

counting 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 in article 46.1 of the

aforementioned Law.

Finally, it is pointed out 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

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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 by writing addressed to the Spanish Agency for Data Protection, presenting it through Electronic Register of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other registers 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 within a period of two months from the day following the notification of this resolution would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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