



Procedure No.: PS/00480/2020

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### BACKGROUND

FIRST: D.A.A.A. (hereinafter, the claimant) dated 08/14/2020, filed

claim before the Spanish Agency for Data Protection that is directed against

SACRAMENTAL AND PENITENTIAL BROTHERHOOD OF OUR FATHER JESUS

SACRAMENTED AND MOST HOLY MARY OF PIETY, PROTECTION OF THE LEONESE,

with CIF G24294787 (hereinafter, the claimed one). The grounds on which the claim is based

are that he is a member of the claimed Brotherhood and “his consent has never been obtained

for the processing of your data”, “nor have you been informed of the rights that assist you”.

It also indicates that the data of your e-mail is exposed in the communications made

for the one claimed to its members, by sending the emails without a blind copy.

Provide a copy of two e-mails in which you can see the emails of the recipients,

03/18, and 09/29/2019. In most of the mails its denomination is that of name and

surnames, including that of the claimant.

In the September report, which has an attached pdf file called "communiqué", it is reported

among other aspects, of the matters agreed upon at the Governing Board held on

09/28/2019 and the changes of the Governing Board.

In both emails there is an informative literal on personal data, indicating:

“Personal data including your e-mail are treated in accordance with the provisions of the

GDPR”

“The purpose of this treatment will be the management of the usual business activity through

of communication systems with all stakeholders.”

“We inform you that the data has been obtained by consent of the interested party by derived from a contractual obligation, by a legitimate transfer or from a source of public access”

The possibility of exercising rights is offered.

SECOND: In view of the facts denounced and the documents provided by the complainant of which this Agency has become aware, the General Subdirectorato of Ins-Data inspection proceeded to carry out actions to clarify the facts guys in question.

On 09/28/2020, the claim filed was transferred to the respondent for analysis and communication and communicate the decision adopted in this regard. Likewise, it was required

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

2/14

so that within a month it could send the Agency certain information:

- Copy of the communications, of the decision adopted that has sent the claim regarding the transfer of this claim, and proof that the claim-mante has received the communication of that decision.
- Report on the causes that have motivated the incidence that has originated the claim.mation.
- Report on the measures adopted to prevent the occurrence of incidents si-thousands.
- Any other that you consider relevant.

The respondent did not respond to the request made.

THIRD: On 12/15/2020, in accordance with article 65 of Organic Law 3/2018, of 5/12, Protection of Personal Data and guarantee of digital rights (hereinafter LOPDGDD), the Director of the Spanish Data Protection Agency agreed to admit process the claim filed by the claimant against the claimed.

FOURTH: On 01/25/2021, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure of warning the claimed, for the pre-alleged violations of articles 5.1.f), 13 and 32.1 of the RGPD, sanctioned in accordance with the provided in articles 83.5.a), 83.5.b) and 83.4.a) of the aforementioned RGPD.

FIFTH: Notified of the initiation agreement, the claimant on 03/01/2021, submitted a written allegations, stating:

-Indeed, the mistake was made of sending an email to members of the Brotherhood in which all recipients could see everyone else's email. The day 09/30/2019, the incident was communicated to all interested parties. Provide a copy of the document THREE with the wording of 09/30/2019 of communication of the error to the members.

-It points out that with the tool "\*\*\* TOOL.1" after 09/29/2019 they have been se-Guido sent emails to the claimant without incident. Provide a copy of document FOUR, figuring your e-mail, "contact added on 01/12/2020" "last activity 02/14/2020", "twelve e emails delivered, eleven opened". Add the list of e-mails sent, dates, which go from 03/13/2020 to 09/7/2020, and if they have been opened, delivered, or "clicked".

-The members of the Brotherhood were informed that "in order to prepare the identity card of the Brotherhood it is necessary to update the data and the data protection policy through a data update form-link to GOOGLE FORMS-"a copy of the form is not provided-mulatto

"In the aforementioned email it can be seen that any recipient can cancel at any time. subscription to that list of communications from the Brotherhood at any time. "All co-communications include in its final part an extract of the treatment that is given to the data of the

recipient of the communication, the rights they have and the way to exercise them, as required.

ge the RGPD”.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

3/14

Provides document FIVE entitled "information of interest and form", dated 10/13/2020, in the that informs that an "identification card" is going to be drawn up, being mandatory "to fill in the

following informative literal, thus also accepting the update of the protection policy

data tion. \*\*\*URL.1”. The informative literal is the same as the emails of March 2019 and

09/29/2019 reflected in the first fact. The option “PRESS HERE TO CAN-

CELAR THE SUBSCRIPTION” “if you proceed to cancel the subscription, you will stop receiving

notifications in relation to the Brotherhood, this being the only means of official information cial”.

-Provide a copy of other informative emails, reiterating the completion of the form, and containing the same informative literal with the same option to “unsubscribe”.

-Adds that the claimant's personal data was collected in the registration application, not having received since then communication from him that he would like to exercise none of the rights recognized in the previous legislation and in the current one.

Provides a copy of the "Application to enter the Brotherhood" of the claimant with their data, including going e-mail address, registration date 07/05/2011.

The informative data collection literal indicates:

-The purpose of data processing is the "maintenance of the relationship as a person belonging to the Brotherhood, with the specific purposes established in the Statutes”.

-Furthermore, “this data may be used to send you information of interest to you as well

as well as on activities of the Brotherhood”.

-An explanation of the exercise of rights is offered and the option "if you have any questions you can send an email to..."

SIXTH: On 03/12/2021, a period of practice tests began, agreeing the following

Consider reproduced for evidentiary purposes:

- The claim filed by the claimant and its documentation, the documents obtained

two and generated by the Inspection Services that are part of the file E/ 07622/2020.

- The allegations to the initiation agreement PS/00480/2020 presented by the respondent and the two documentation that accompanies them.

- The respondent is requested to report and, in any case, provide proof of the technical measures and/or organizational measures adopted in order to prevent incidents such as those have given rise to the opening of this proceeding.

No response was received within the given period.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

4/14

SEVENTH: On 04/23/2021, the change of Instructor was agreed, notifying the re-claimed with the result of being returned due to surplus as the shipment was not withdrawn, crediting the The file.

EIGHTH: On 05/04/2021 a letter is received from the respondent, which responds to the petition tion carried out in tests.

- On 01/10/2020 a new email system was contracted that offers

“web page” and “webmail email system” with the “e mail marketing” system.

ting”, which is a system used for email marketing strategy,

adapted to the needs of the claimant and its members. It involves the delivery of a message

immediate and personal message via email to the group of people that make up the

same. Provide a copy of part of the contract in document 1.

“Messages are sent directly to the inbox of the recipients they receive.

taking them in a particular and individual way”. “Priorly the contacts have to

accept or consent to receive emails.” Consent must be given explicitly

imprisoned in the application for entry or registration in the Brotherhood.”

-Provide in document 2, a copy of the "registration sheet" where, among others, the

e-mail data, the purpose of the treatment is informed: “the management of the activity

normal business life through communication systems with all stakeholders”,

and the way to exercise the rights. There is no information directly related to the e

mails, nor the explanation of the purpose of said treatment with the option of not granting the

consent in that specific aspect, and its consequences.

-Details how the sending of emails is managed, starting from the creation of a series of

contact lists with emails. When sending an email, it is made

a template with the information to send to members, including a link to sign up

short. The template published in the system allows adding recipients with the name

of the list, without having to access the data of each of the contacts. They attach in do-

Document FIVE, the defined steps of shipping. “Once the mail sent from

the Brotherhood, no recipient has any access to the email addresses to which they have

such information has also been sent.” Document SIX states that it is attached two

document sent from the Brotherhood as we would see any of the senders established

blecidos, but is not provided.

NINTH: On 08/02/2021, a resolution proposal is issued with the literal:

“That by the Director of the Spanish Agency for Data Protection, it is sanctioned with aper-

welcome to SACRAMENTAL AND PENITENTIAL BROTHERHOOD OF NUESTRO PADRE JESÚS

SACRAMENTED AND MOST HOLY MARY OF PIETY, PROTECTION OF THE LEONESE,

with CIF G24294787, for violation of articles 13, 5.1.f) and 32.1 of the RGPD, in accordance with

accordance with the provisions of articles 83.5.b), 83.5.a) and 83.4.a) of the RGPD.

“The execution aimed at the correct computer adaptation is carried out by the claimed

goes from the e-mail of the members to the use of the sending of e-mails”

No claims were received.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

5/14

## PROVEN FACTS

1) The claimant is a cofrade of the claimed since he submitted his "Application for entry into la Cofradía" (registration 07/05/2011) which included, among other data, his e-mail address. the verbatim information on data collection indicated that the purpose of data processing is the "maintenance of the relationship as a person belonging to the Brotherhood, with the purposes specific established in the Statutes "“this data may be used to send you information of your interest as well as about activities of the Brotherhood”.

2) On 08/14/2020, the claimant's claim is entered in the AEPD stating that it is member of the claimed Brotherhood, and received two e-mails without a blind copy, being able to see all two recipients the addresses of all, including yours. The couriers carried fe- from 03/18 and 09/29/2019. The claim recognizes shipments without a blind copy. The literal in-training associated with those two emails noted:

“Personal data including your e-mail are treated in accordance with the provisions of the

GDPR”

“The purpose of this treatment will be the management of the usual business activity through of communication systems with all stakeholders.”

“We inform you that the data has been obtained by consent of the interested party by derived from a contractual obligation, by a legitimate transfer or from a source of public access”.

The emails sent did not contain the literal that makes it possible to stop receiving these emails.

3) A difference stands out in information on the legitimizing base, when data are collected data, which indicates the associative relationship as the purpose of the data, and WHAT MAY BE used to "send you information of your interest as well as about activities of the Brotherhood" and the information that is contained in the sending of the e-mails, with the citation in the body of the en- Sending email from various legitimating bases.

4) The reception of communications through e-mail from the claimed party is not mandatory, existing in emails dated after the dates of the denounced shipments, the option of "cancel the subscription", not existing properly accredited subscription by the Brothers. When the claimant is registered in the Brotherhood, the use is not configured by it. of the e-mail to have information about the Brotherhood, nor is the option not to use it offered, or consent to such use.

5) After 09/29/2019, emails have been sent to the claimant, providing copies, which They go from 03/13/2020 to 09/7/2020, without incident.

6) As of 01/10/2020, the respondent contracted a new email system in which “Previously, the contacts have to accept or consent to receive the emails.” “The Consent must be given expressly in the application for entry or registration.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)



tion in the Brotherhood.” It does not provide the informative literal to verify the form and content create of the implemented information that could be related to the sending of email to informative effects of the Brotherhood.

The claimed provided, among others, emails sent after those who have been the subject of claims- tion, with this new system. In one of 10/13/2020, entitled: "information of interest and training it is communicated that an "identification card" is going to be drawn up, being obligatory to "fill in nar the following informative literal also accepting the update of the policy of

Data Protection. \*\*\*URL.1” (the aforementioned form is not provided). However, the literal informs

The date of the mail of 10/13/2020 is the same as the mails of March 2019 and 09/29/2019, with the addition of the option “CLICK HERE TO CANCEL THE SUBSCRIPTION” “if

After the cancellation of the subscription, you will stop receiving notifications in relation to the co- brotherhood, this being the only official means of information”.

## FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RGPD recognizes to each control authority, control, and according to the provisions of articles 47 and 48 of the LOPDGDD, the Director of the Agency The Spanish Data Protection Agency is competent to initiate and resolve this procedure. ment.

II

An infringement of article 13 of the RGPD, which determines the information information that must be provided to the interested party at the time of collecting their data, setting the following:

"1. When personal data relating to him or her is obtained from an interested party, the person responsible responsible for the treatment, at the time these are obtained, will provide you with all the information

tion indicated below:

a) the identity and contact details of the person in charge and, where appropriate, of their representative.

tant;

b) the contact details of the data protection delegate, if applicable;

c) the purposes of the treatment to which the personal data is destined and the legal basis of the treatment;

d) when the treatment is based on article 6, paragraph 1, letter f), the legal interests

Legítimos of the person in charge or of a third party;

e) the recipients or the categories of recipients of the personal data, in their case;

f) where appropriate, the intention of the controller to transfer personal data to a third party country or international organization and the existence or absence of a decision of adequacy

Commission, or, in the case of transfers indicated in articles

46 or 47 or article 49, section 1, second paragraph, reference to the adequate guarantees

adequate or appropriate and the means to obtain a copy of them or the fact of

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

7/14

that have been borrowed.

2. In addition to the information mentioned in section 1, the data controller

The processing will provide the interested party, at the time the personal data is obtained, the following information necessary to ensure fair and transparent data processing:

a) the period during which the personal data will be kept or, when this is not possible,

possible, the criteria used to determine this term;

b) the existence of the right to request from the data controller access to the personal data relating to the interested party, and its rectification or deletion, or the limitation of its treatment, or to oppose the treatment, as well as the right to portability of the data;

c) when the treatment is based on article 6, paragraph 1, letter a), or article 9, paragraph 2, letter a), the existence of the right to withdraw consent in any any time, without affecting the legality of the treatment based on consent.

lien prior to withdrawal;

d) the right to file a claim with a supervisory authority;

e) if the communication of personal data is a legal or contractual requirement, or a re-necessary requirement to sign a contract, and if the interested party is obliged to provide personal data and is informed of the possible consequences of not providing limit such data;

f) the existence of automated decisions, including profiling, to which referred to in article 22, sections 1 and 4, and, at least in such cases, information following informative about applied logic, as well as the importance and pre-consequences views of said treatment for the interested party.

3. When the data controller plans further data processing

personal data for a purpose other than that for which they were collected, will provide the interest prior to such further processing, information about that other purpose and any additional relevant information pursuant to paragraph 2.

4. The provisions of sections 1, 2 and 3 shall not apply when and to the extent provided that the interested party already has the information”.

In general, the legitimate basis for data processing would be related to the scheme provided for in article 6.1b), the treatment is necessary for the execution of a contract or agreement in which the interested party is a party or for the application at the request of the latter of

pre-contractual measures.

Now, in this case what it is about is the use of e-mail and the link in the

data collection, use and purpose.

The facts denounced materialize initially in the absence of information about

of the processing of personal data, especially e-mail, if it is mandatory to pro-

vide the e-mail to receive the information, or if you can, I will not consent to it, giving the option

tion if so, or detailing the consequences of not providing such data. Furthermore, the base

Legal treatment of sending emails by e-mail must specify a legal basis

of treatment.

The collection of data that occurs when entering the Brotherhood must be distinguished, and contains

some data and information that were given, including the e-mail, indicating that

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

8/14

will be used "for the maintenance of the relationship", adding that: "Furthermore, these data

may be used to send you information of interest, as well as about activities of

the Brotherhood", which is what is done by sending e-mails. This option of being

formed, which, it can be deduced, is voluntary as it contains the option to "cancel your subscription".

tion", is not related to the maintenance of the relationship, it is not completed with the option

at the time of data collection to opt out of receiving information of interest or

Brotherhood activities.

Likewise, the information contained in the e-mails does not succeed in establishing the legal base

swindler of these shipments, mixing diverse, different and contradictory reasons.

Examining the information that is given in the discharge of the members, it is reported in a way

general that the purpose of data processing is the "maintenance of the relationship as a person belonging to the Brotherhood, with the specific purposes established in the Statutes"

The emails stated:

The purpose of this treatment will be the management of the usual business activity through of communication systems with all stakeholders."

The purpose of the collection must be clearly and specifically identified: it must be sufficiently detailed to determine what type of treatment is or is not included in specified purpose, and to enable compliance with the law to be assessed and apply data protection safeguards. Any purpose must be specified, that is, define enough to be explicit. The target must be sufficiently unequivocal and clearly expressed.

The requirement that the purposes be specified 'explicitly' contributes to transparency and predictability. It allows an unequivocal identification of the limits of the way in which controllers may use the personal data collected, in order to protect the in-interested.

Each treatment goal should be separate and specific. The maintenance or fulfillment of the associative relationship is one goal, information would be another.

The treatment information and the legitimate basis for the use and purpose of the treatment of the e-mail offered is confusing in the wording:

"We inform you that the data has been obtained by consent of the interested party by derived from a contractual obligation, by a legitimate transfer or from a source of public access"

When registering members, it is indicated that the data is for the maintenance of the relationship, not requiring consent. Even less, consent can be made derive from "a contractual obligation, by a legitimate transfer or from a source of

public access” as reported in the emails.

Originally, in registrations such as Cofrades, the affected party was not given the option, so that the purpose of maintaining the contractual relationship differs from that of being informed

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

9/14

do, being different. For the maintenance of the relationship it is not necessary to send the emails.

mails to associates, which is a voluntary addition, by offering the possibility of canceling the subscription.

It corresponds to the claimed party to prove compliance with the provisions of article 13 of the GDPR. Therefore, it has been proven that, at the time of the claimant's discharge, no produces adequate information in the collection and use of data from the e-mail address and purpose of information to members. Circumstance that remains and is accredited with the sending of the e-mails object of the claim, and that lasts with the current configuration of e-mails, which have not changed.

Should the respondent reassess the associative purposes of the activity of the respondent, of which the intrinsic acceptance of the Statutes would form part, which is the basis original legitimizing of the personal data of the members of the Brotherhood, and distinguish it from your use of emails to members.

The claimed must take into account the treatment of other data under another legitimate basis that does not obey the relationship, in this statutory case between its members and the claimed. To do this, you must take into account the elements that make up the consent informed: “for one or several specific purposes”, and the freedom to grant or withdraw it without suffer any damage, as well as the possibility of revoking it at any time with the

same effects.

In accordance with article 58.2 of the RGPD:

“ 2. Each control authority will have all of the following corrective powers

indicated below: d) order the person in charge or in charge of the treatment that the

processing operations comply with the provisions of this Regulation, when

appropriate, in a certain way and within a specified period;”

The claimed party must prove the inclusion of the pertinent and adequate information to the

treatment of the data derived from the email with informative use to its members, and inform

of the modality and form by which it would be carried out.

Article 83.5 b) of the RGPD, considers that the infringement of “the rights of the interested parties

under articles 12 to 22” is punishable, “with administrative fines of

€20,000,000 maximum or, in the case of a company, an amount equivalent to 4%

as a maximum of the global total annual turnover of the previous financial year,

opting for the highest amount.

III

Regarding the dissemination given to the e-mails object of the claim, article 5 of the RGPD is-

establishes the principles that must govern the processing of personal data and mentions in-

among them that of “integrity and confidentiality”.

The cited article states that:

“1. The personal data will be:

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

10/14

(...)

f) processed in such a way as to guarantee adequate security of the personal data.

personal data, including protection against unauthorized or unlawful processing and against their loss.

damage, destruction or accidental damage, through the application of technical or organizational measures.

appropriate procedures ("integrity and confidentiality").

(...)

Article 5, duty of confidentiality, of Organic Law 3/2018, of 5/12, on Protection of Personal Data and guarantee of digital rights (hereinafter LOPDGDD), indicating which:

"1. Those responsible and in charge of data processing, as well as all the persons involved in any phase of this will be subject to the duty of confidentiality. referred to in article 5.1.f) of Regulation (EU) 2016/679.

2. The general obligation indicated in the previous section will be complementary to the duties of professional secrecy in accordance with its applicable regulations.

3. The obligations established in the previous sections will be maintained even when the relationship of the obligor with the controller or processor has ended.

I lie".

The documentation in the file offers clear indications that the claimed, violated article 5.1.f) of the RGPD, principle related to treatment, in relation to the article 5 of the LOPGDD, duty of confidentiality, when sending emails without using the blind copy option.

This duty of confidentiality, or duty of secrecy, must be understood to have the purpose of to prevent leaks of data not consented to by the holders of the data.

themselves, in this case, the e-mail addresses of the members.

Therefore, this duty of confidentiality is an obligation that falls not only on the person responsible, responsible and in charge of the treatment but to anyone who intervenes in any phase of the treatment. treatment and complementary to the duty of professional secrecy.



The same respondent has indicated that the incident that gave rise to the claim was motivated by due to the incorrect sending of emails to the members of the Brotherhood, because the person who managed it in an involuntary and accidental way must have sent as "BCC" (where each recipient cannot see the other recipients), in instead of "To" (where each recipient can see all other recipients).

Article 83.5 a) of the RGPD, considers that the infringement of "the basic principles for the treatment, including the conditions for consent under articles 5, 6, 7 and 9" is punishable, in accordance with section 5 of the aforementioned article 83 of the aforementioned GDPR, "with administrative fines of a maximum of €20,000,000 or, in the case of a company dam, of an amount equivalent to a maximum of 4% of the total annual turnover of the previous financial year, opting for the highest amount.

On the other hand, the LOPDGDD, for prescription purposes, in its article 72 indicates:

"Infringements considered very serious:

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

11/14

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 violation substantial alteration of the articles mentioned therein and, in particular, the following:

a) The processing of personal data violating the principles and guarantees established two in article 5 of Regulation (EU) 2016/679.

(...)"

IV

Also the conduct of sending emails to third parties incurs an infringement of article 32

of the RGPD "Security of treatment", which establishes:

"1. Taking into account the state of the art, the application costs, and the nature

nature, scope, context and purposes of the treatment, as well as risks of probability and

variable seriousness for the rights and freedoms of natural persons, the person in charge and

The person in charge of the treatment will apply appropriate technical and organizational measures to

guarantee a level of security appropriate to the risk, which, where appropriate, includes, among others:

a) pseudonymization and encryption of personal data;

b) the ability to guarantee confidentiality, integrity, availability and resilience

permanent access to treatment systems and services;

c) the ability to restore the availability and access to the personal data of

quickly in the event of a physical or technical incident;

d) a process of regular verification, evaluation and assessment of the effectiveness of the

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

take into account the risks presented by the processing of data, in particular as a consequence

of the accidental or unlawful destruction, loss or alteration of transmitted personal data,

stored or otherwise processed, or unauthorized communication or access to such

data.

3. Adherence to a code of conduct approved in accordance with article 40 or to a

certification mechanism approved under article 42 may serve as an element to determine

show compliance with the requirements established in section 1 of this 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

access to personal data can only process said data following instructions from the res-

ponsible, unless it is obliged to do so by virtue of the Law of the Union or of the States

members".

The GDPR defines personal data security breaches as “all those breaches of security resulting in the accidental destruction, loss or alteration or illicit of personal data transmitted, conserved or treated in another way, or the communication unauthorized use or access to said data”.

From the documentation provided to the file, evidence that the defendant has violated the art.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

12/14

Article 32 of the RGPD, when a security incident occurs in your system allowing the access to personal data, email addresses, being forwarded without using the blind copy option allowing the rest of the recipients to access the addresses of the other recipients of the communication with breach of the established technical and security measures.

The defendant, on 09/30/2019, when observing the remission of the second email, immediately reported data to all recipients in order for them to be aware of said incident.

It indicates that since then no email has been sent in which they have provided personal data to other recipients.

It is proven that the respondent did not have adequate measures in place regarding the data processing in communications to associates of your entity, considering accredited commission of this offence.

The violation of article 32 of the RGPD is referenced in article 83.4.a) of the cited RGPD in the following terms:

"4. Violations of the following provisions will be sanctioned, in accordance with section 2, with administrative fines of a maximum of EUR 10,000,000 or, in the case of

of a company, of an amount equivalent to a maximum of 2% of the turnover

global annual total of the previous financial year, choosing the highest 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.

(...)"

For its part, the LOPDGDD, in its article 73, for the purposes of prescription, qualifies as "Infringement  
tions considered serious":

"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 violation

substantial modification of the articles mentioned therein and, in particular, the following:

(...)

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".

(...)"

v

The RGPD, without prejudice to the provisions of its article 83, contemplates in its article 58.2 b)

the possibility of going to the warning to correct the processing of personal data

that do not meet your expectations.

On the other hand, the following elements have also been taken into account, in particular.

- It is a small entity whose main activity is not linked to the

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

treatment of personal data.

- It is not a company and its activity is not related to obtaining profits.
- There is no recidivism, as there is no record of the commission, within a year, of more than one offense of the same nature.

Therefore, in accordance with the applicable legislation,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: DIRECT a sanction of WARNING to SACRAMENTAL AND

PENITENTIAL BROTHERHOOD OF OUR FATHER JESUS SACRAMENTATED AND MARY

SANTÍSIMA DE LA PIEDAD, AMPARO DE LOS LEONESES, with CIF G24294787, by:

- An infringement of article 32 of the RGPD, in accordance with article 83.4.a) of the RGPD.
- An infringement of article 5.1.f) of the RGPD, in accordance with article 83.5.a) of the GDPR.
- An infringement of article 13 of the RGPD, in accordance with article 83.5. b) of the RGPD.

SECOND: By virtue of article 58.2.d) of the RGPD, the claimed party is required to

correct the information and the purpose of the use of shipments through e-mails, informing

to this Agency within two months of the measures adopted. It is noted that the

Failure to comply with the request may imply the infringement provided for in article

83.6 of the GDPR.

THIRD: NOTIFY this resolution to SACRAMENTAL AND PENITENTIAL

BROTHERHOOD OF OUR SACRAMENTED JESUS FATHER AND HOLY MARY OF

PIETY, PROTECTION OF THE LEONESE

FOURTH

Resolution will be made public once it has been notified to the interested parties.

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

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 period of one month from the day following the notification of this resolution or directly contentious appeal before the Contentious-Administrative Chamber of the National High Court, with 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 two months from the day following the notification of this act, according to the provisions of 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, it may be precautionary suspension of the firm decision in administrative proceedings if the interested party expresses its intention to file a contentious-administrative appeal. If this is the case, the

The interested party must formally communicate this fact in writing addressed to the Agency Spanish Data Protection, presenting it through the Electronic Registry of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or through one of the

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](https://sedeagpd.gob.es)

14/14

remaining records provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1.

You must also transfer to the Agency the documentation that proves the filing effectiveness of the contentious-administrative appeal. If the Agency were not aware of the filing of the contentious-administrative appeal within two months from the day following the notification of this resolution, it would end the suspension precautionary

Sea Spain Marti

Director of the Spanish Data Protection Agency

938-131120

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)