

□ File No.: EXP202101318

RESOLUTION OF SANCTIONING PROCEDURE

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

BACKGROUND

FIRST: ARONA CITY COUNCIL (hereinafter, the claimant) dated 07/27/2021, transfers the complaint report to the Spanish Agency for Data Protection. The complaint is directed against A.A.A. with NIF ***NIF.1 (hereinafter, the claimed party). The reasons on which the claim is based are the following.

The claimant provides Minutes (...), dated ***DATE.1, for events that occurred at the CEIP “***CEIP.1”, ***LOCATION.1 on ***DATE.2. The minutes state:

"In response to the request of the Director of the CEIP", which informs that "on *** DATE.2, between 12:30 to 1:00 p.m., “a man had scolded and recorded the teacher and the students while they were (...) in the center courtyard.”

"That the Director facilitates the recording that had been published on the FACEBOOK of the author of the facts, this withdrawal being 11 hours after its publication on the aforementioned social network.

That without a doubt the author of the recording and publication is the same person, being recognized by several teachers, especially when on the same FACEBOOK with a recording recriminates that the masks were not used (...), where their face". In the same report, the Police details that "data is collected from the register of inhabitants” “turning out to be the author of the recordings D.A.A.A.”, indicating their data, including the address and the NIE.

"A recording capture is attached where the minors can be seen, leaving the video deposited, in police stations in case it was required by the AEPD”.

It provides a detail of two images, in black and white snapshot, of the capture of

FACEBOOK recording in which in the first one an image of boys and girls is seen seated in front, and an adult with short pants on his back. In the second image, another different adult in sportswear and cap. In both photos the images of faces.

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5/12, of Protection of Personal Data and guarantee of digital rights (hereinafter LOPDGDD), on 08/20/2021 the claim was transferred to the claimed party, to proceed with its analysis and inform this Agency within a month of the actions carried out to adapt to the requirements established in the regulations of Data Protection. E 8870/2021

The shipment was returned as surplus on 09/29/2021, as it was not picked up by the recipient notice having been left in the post office.

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A new attempt was made on 11/10 and 15/2021, with an unsuccessful result as absent, "it was He left a notice in the mailbox."

THIRD: On 11/25/2021, the Director of the Spanish Agency for the Protection of Datos agreed to admit for processing the claim presented by the claimant.

FOURTH: On 01/26/2022, it was agreed by the Director of the AEPD:

INITIATE SANCTIONING PROCEDURE against A.A.A., with NIF ***NIF.1, of

" FIRST:

in accordance with the provisions of article 58.2.i) of the GDPR, for the alleged infringement of the article 6.1 of the RGPD, defined in article 83.5.a) of the RGPD and in the LOPDGDD, article

72.1.b).”

"SECOND: In accordance with article 58.2 d) of the GDPR, the corrective measure that could be imposed on the defendant would consist of ORDERING him, the one who adopts the measures necessary to adapt their data collection and processing to the provisions that on the legality of the processing of personal data establishes the RGPD, in particular in the cases in which personal data (images) are collected without consent for the purpose of being exposed in any social network, measures that would have to be adopted within the period that established in the sanctioning resolution.

“FIFTH: THAT for the purposes provided in art. 64.2 b) of Law 39/2015, of 1/10, of Common Administrative Procedure of Public Administrations (hereinafter, LPACAP), the corresponding sanction would be an administrative fine of three thousand euros (3,000 euros), without prejudice to what results from the instruction "

The effective notification to the defendant of the aforementioned agreement was carried out, appearing in the "certificate of impossibility of delivery", the annotation of absent and returned to origin by remaining on 02/22/2022, with two delivery attempts on 02/10 and 02/14/2022. He agreement in the form of an extract is published in the BOE of 02/28/2022, procedure PS/00566/2021, notification supplement.

FIFTH: On 05/05/2022, the test practice period begins, assuming incorporated into the procedure the documentation sent by the (...). In addition, it is decided practice the following:

1) To (...), which refers to this AEPD the denunciation Act, after reading the facts reflected in the minutes of *** DATE.1, *** MINUTES.1, you are requested to report the following aspects:

to. Date and time on which they receive the "requirement from the director of the CEIP" and date on which the events that are related to them happened (taking pictures of students, exhibition in Facebook page). and the date the document is signed. Indicate if the delivery of the

minutes to A.A.A..

b. Send this AEPD a copy of the recording published on FACEBOOK, indicating who is, if the person who captures the images appeared in the image. recording is required among other extremes, in order to appreciate if the faces of the people captured are recognizable.

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c. Sending a copy or printing of a document that proves that the video or images

They were on the FACEBOOK of the author of the recording. Recording connection and page.

d. Description of the way to identify A.A.A. as the author of the collection of images of the video.

and. Reasons or meaning of what appears in the "denounced fact" box" Do not make available provision....

F. If the same address of A.A.A. that appeared in the minutes or there is another, sending it to continue processing the matter.

No response is received despite the notification being received.

1) To the director of the CEIP:

a) If when you give the recording to the Police, the FACEBOOK video had already been withdrawn.

On 05/24/2022, a letter is received in which it responds that "The causal event occurred on Tuesday, ***DATE.2, the Police being informed that they went to the center. It was explained to him what had happened The local police decided to go around the town several times to see if could identify it, with the description that had been offered, but at that time they did not was located. When the news reached us and the publication of these videos on Facebook, we

again notified the Police of the existence of this material, which had already been verified.”

b) How did you find out that it was exposed on FACEBOOK?

He responds: "Several families from the center sent us the image and video material to different tutors so that we could verify the information and alert them to the fact.”

c) Accreditation of the time that the video source of your claim was exposed before

Local Police, happened on ***DATE.2, if they knew the identity of this person and if they

He entered into a conversation with himself, while collecting the images or expressing his purposes. That day the events of the collection of the images happened and what day the publication begins of the video. How did you find out about the post on FACEBOOK?

Answer: "There is evidence of a screenshot at 00:28 at night of the day

following that the videos were "hung" on Facebook for 11 hours. HE

The exact time of the withdrawal is unknown. Even that 49 people had

reacted to your post. This person did not belong to the educational community,

ignoring their identity at the time of the event with the minors and the teachers

teaching the class. Subsequently, in the images provided to the Center, the

identity, being A.A.A.. At no time was there a conversation with this person

previously mentioned, but it was decided to abandon the sports field and move

the class to the classroom, and report the fact. The event occurred on Tuesday ***DATE.2 between

11.15 and 12.00. As per screenshot, as mentioned above,

the images are collected at 00:28 the following day and it is clear that they have been published

about 11 hours. He sent us the material of images and videos, several families

from the center to different tutors so that we could verify the information and alert them to the fact.”

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c) Why do you consider that the author of the recording and publication on FACEBOOK of the images is the same person.?

Answer that "Because there are 2 videos. One in which the direct recording to the interior consists of the Educational Center (minors and teachers), and another that records himself commenting and "reporting" what he had just recorded. In addition, by posting it on your Facebook, you identify yourself said images with your profile photo and your name and surname. Existing evidence in the Educational Center: 2 videos, 5 screenshots and a pdf with news content (...)."

On 05/27/2022, a new letter is sent to you, requesting:

In reference to your response received in this AEPD with entry 05/24/2022 and the purpose of complete the documentation available to them during the testing period, they are requested to provide or report:

- 1) About the videos taken at the College that is the object of the claim. If both, two videos, copies were given to the police
- a) Copy of the direct recording video of the interior of the center, teachers and teachers.
- b) Copy of the video commenting and denouncing what has just been recorded.

A response was received on 06/13/2022 indicating "We have the two videos at the School (video 01 and video 02) referring to the exposed matter. Both videos were delivered to the Police, but we cannot send them as attachments because HiperReg does not accept the format of video. If you want these two videos to be sent to you, give us an email email or other alternative means through which we can send it to you.

-Provide a copy of the article published in the newspaper of "(...), ***DATE.3 "(...)". In the images spread by FACEBOOK, (...)" There is an image of the patio with the text "(...)".

The shot is from outside the College, far away, and it is not identified nor are they identifiable in that capture the minors. The news indicates that "(...), images that were disseminated later through FACEBOOK", and reproduces the verbatim of what he says in voice

high on the masks, addressing minors.

2) Send a copy of the screenshots of the five screens you have, explaining what they are treat each one. If it were possible to understand the exhibition screen on FACEBOOK.

Provide in your response of 06/13/2022, copies of graphic images.

-image 01: color frame of the video, total duration, 56 seconds, fixed at the second

11. It can be seen as a background, the students sitting, with a mask, five, children who could be identifiable four of them who are seen from the front, and in front of the children, an adult, located from behind in the image, on the right side, with a blue tracksuit jacket, short pants, being as detailed, the gym monitor, who talks to them.

in the case of "captures of the video that was recorded inside" as specified in the

"Explanatory document of what is required". At the bottom are the "like" tabs

"comment" "share" and number 5, to "reactions".

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-Image 02: It is the image of the video that shows an adult in sportswear and a cap, in the inside, as they explain, is a teacher who is next to the group.

-Image 03 and 04: There are two shots of the video, close-up portrait, close-up, of a person, adult, you can see his face, the same one, which is part of the video. On the bottom there are tabs "likes" "comment" "share" and number 6, to "reactions". According to They explain, are "screenshots of the second video that this person posted, where they observe the duration of it, 2.21, and the people who had reacted to it, and who It is part of the FACEBOOK dissemination medium".

It also provides an impression of a screen image, states that from FACEBOOK,

with the name "A.A.A.", where there are two images from two videos. The first is the view of the schoolyard from the outside, (coincides with the shot that appears in the news). You can see bars, and the schoolyard, being a sports field, and seeing the group of children from the front and the monitor, from a distant shot. The other video, from the right, is a video of a person, seeing his face close-up.

It is seen in a screen print. At the top left "0:28", below the name, "11h", and under the "I like/comment/share", two emoticons, and next to it, the number 49.

According to the claimant, it is a "screenshot of the person identified as A.A.A., with a profile picture, the two videos he had recorded and still posted on that time 0:28 a.m. since about 11 hours. In addition, it can be observed that 49 people They had reacted to this particular post. The word Facebook is not identified but the frame is that of that means of diffusion, in addition to emoticons and reactions such as "like" "comment" "share".

3) They state that "The material of images and videos was sent to us by several families of the center to different tutors so that we can verify the information and alert them to the fact." requests that they provide a copy of the document if they had the one in which they receive the information or documents, some, detailing the entry routes.

Identifies a person, "mother who wrote to her daughter's guardian" attaching the link to Access to the FACEBOOK page to report the situation.

4) The claimant is sent a copy of the initiation agreement and is asked the reason for who posted the video on his FACEBOOK and the reason why he removed it. In which network or networks? social the video was exposed.

The shipment resulted in "absent", notice is left in the mailbox, and returned to origin by surplus, not withdrawn in office, 05/25/2022.

In order to prove the effective exposure on FACEBOOK, and that effectively the

children's faces respond to identifiable people, on 07/07/2022, a written submission is made to

CEIP del tenor: "Regarding the two videos about the events that are part of the

claim and who stated that they cannot attach to the electronic record, they were

informs that if they can be sent if the format were mp4, so they can try in that

Format. If this is not possible, please send it on an encrypted USB support

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through postal mail to this headquarters. Additionally, they must send the key for its

reading."

On ***DATE.4, a letter was received from the CEIP in which it forwards the parts of video 1 in

four mp4 files and video 2.

In video 2, lasting 1 minute 7 seconds, you can see the video in which he focuses from the

outside the school facilities (there is a metal fence), towards the inner courtyard, and

he hears the same voice with an Italian accent as in video 1. While recording he speaks. The taking of

images in the video fluctuate from a distant shot at the beginning, which blurs and does not

recognizable to people. After a few seconds, he begins to speak:

"Look here at the new society, doing sports with a mask", while changing the

Focus on the children who are sitting with a mask and sportswear. is seen at

monitor (blue jacket) shorts, who initially had his back turned and gives the

back, and the recorder says: "What a good teacher you are, playing sports with

mask, poisoning the children!", "I am recording this, gentlemen, take off your

mask, which is for sports is useless, you are breathing your anhydride

carbon dioxide, remember children, do not listen to these people", while it has been a long time since he has been

focusing on children. A little after the middle of the video, it is seen that the children they leave the patio, and the person continues talking. When the children march, it is possible that there is a distance with the children of four or five meters, and they go sideways with what they are not at that moment identifiable, in addition to focusing on the lower part, not the face. Of the total duration of the video, one minute seven seconds, it can be indicated that not all the time focus is kept on the children's face so you do them every time identifiable, also considering the distance at which it is located, despite the zoom that uses, and the masks, appreciating that this situation of identifiability, goes from the second 10 to 16.

In video 1, first part, you can see a person who matches the one in the image on the screen print provided by the claimant, a face in close-up, the claimant and the person who took the video, expressing their opinion on the use of masks and more specifically about children doing sports with the mask, starting, with an accent Italian: "I'm going to record this video because I didn't like this situation at all" and in the rest of the parts of the video, ask someone who knows, to tell you if it is normal and good to do an hour of sports with a mask on, depending on the effort and the oxygen need. No image of another person is visible.

SIXTH: On 08/23/2022, a resolution proposal is made with the literal:

"That the Director of the Spanish Agency for Data Protection sanctions A.A.A., with NIF ***NIF.1, for a violation of article 6.1 of the GDPR, typified in article 83.5 a) of the GDPR and for the purposes of prescription in article 72.1.a of the LOPDGDD, with a fine of 3,000 euros."

The shipment sent by postal notification resulted in, according to the certificate, a only delivery attempt on 09/2/2022, appearing absent, and was returned to origin for surplus-not withdrawn in the office-, on 09/13/2022.

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Another delivery attempt is made through private messaging, appearing on the certificate issued by SEUR as absent on 09/21 and 22/2022.

On 10/10/2022, its publication appears in the BOE without any allegations having been received.

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

PROVEN FACTS

- 1) At CEIP “***CEIP.1” ***LOCATION.1, on the morning of ***DATE.2, two teachers and several students were in the courtyard in physical education class. between 12:30 a.m. to 1:00 p.m. hours, and a person from the outside reproaches that the masks were used in the physical education class for being harmful, scolding the group while recording and saying it in out loud "I'm recording it", moving the camera, and capturing for a moment the group of students and the teacher who stands in front of them, with his back to the camera. These facts and images are contained in video number 2 sent by the address of the CEIP in evidence on ***DATE.4, which was the one that also filed a complaint with the Local Police indicating that They exposed themselves on the social network FACEBOOK, and this is stated in the police report of ***DATE.1.
- 2) The Director also declared and it is recorded in the minutes, that the recording was withdrawn "after 11 hours of its publication. In evidence of this procedure, he stated that there is evidence of the exhibition on FACEBOOK, for a screenshot of the night of the following day showing 00:28 hours.
- 3) The Local Police identified the defendant in the record of ***DATE.1.
- 4) The police report states that the Director of the CEIP facilitates the recording, and that the author of the recording and publication is the same person, being recognized by various teachers, and "in the

same FACEBOOK, that person reproaches that the masks were not used in the physical education class, where his face can be seen".

5) The CEIP provided evidence, in addition to the images of two videos, an impression of screen that corresponds to the profile of the claimant on FACEBOOK, including his name which coincides with that obtained by the Police in the minutes, and the two videos. In the video image on the left you can see the schoolyard and the children, and the image of video 2 shows a face, that of the defendant according to the claimants.

It is seen in the screen print: on the top left "0:28", below the name, "11h", and under the "I like/comment/share", two emoticons, and next to it, the number 49.

6) Once the videos have been provided on ***DATE.4 and viewed, in video 1, first part, you see a person, which matches the image of the screen print provided by the CEIP management, a face in the foreground, the defendant recognized by the claimants and the person who took the video, expressing their opinion on the use of the masks and more specifically about children doing sports with the mask, starting, with an Italian accent: "I'm going to record this video because I didn't like this situation at all" and in the rest of the parts of the video, ask someone who knows, to tell you if it is normal and

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good to do an hour of sports with a mask on, depending on the effort and the oxygen need. No image of another person is visible.

In video 2, lasting 1 minute 7 seconds, you can see the video in which he focuses from the outside the school facilities (there is a metal fence), towards the inner courtyard, and he hears the same voice with an Italian accent as the one in video 1. While recording, he speaks. The taking of

images in the video fluctuate from a distant shot at the beginning, which blurs and does not recognizable to people. After a few seconds he begins to speak showing his disagreement with doing sports with masks, scolding the teachers. meanwhile, change the focus on children who are sitting with a mask and sportswear, being identified and identifiable. You can see the teacher-monitor (blue jacket) shorts, which in At first his back was turned and he turned around, and the defendant continued to rebuke him. past a short period of time, he is no longer focusing on the children. A little after the middle of video, it is seen that the children leave the patio, and the person continues talking. Of the duration of the video, it can be indicated that not all the time the focus is maintained on the face of children in a way that makes them identifiable at all times, despite the masks, minors can be identified, a situation that goes from the second 10 to the 16th.

FUNDAMENTALS OF LAW

Yo

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (Regulation General Data Protection, hereinafter GDPR), grants each control authority and as established in articles 47 and 48.1 of Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), the Director of the Spanish Data Protection Agency.

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

II

The GDPR defines data processing in article 4.2 of the GDPR:

“any operation or set of operations carried out on personal data or

sets of personal data, whether by automated procedures or not, such as the

collection, registration, organization, structuring, conservation, adaptation or modification,

extraction, consultation, use, communication by transmission, diffusion or any other form

authorization of access, comparison or interconnection, limitation, deletion or destruction”

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The treatment of images, in this case on video, must have a basis of legitimacy,

of some listed in article 6.1 of the GDPR.

For having images of students and teachers, taken without their knowledge or

consent, which are exposed and disseminated on FACEBOOK of the defendant, it is considered that

there is no legitimate basis for it, and the defendant is accused of committing an alleged

infringement of article 6.1 of the GDPR which indicates:

“1. Processing will only be lawful if at least one of the following conditions is met:

a) the interested party gave his consent for the processing of his personal data for one

or various specific purposes;

b) the treatment is necessary for the execution of a contract in which the interested party is

party or for the application at his request of pre-contractual measures;

c) the processing is necessary for compliance with a legal obligation applicable to the

responsible for the treatment;

d) the processing is necessary to protect vital interests of the data subject or of another

Physical person;

e) the treatment is necessary for the fulfillment of a mission carried out in the interest

public or in the exercise of public powers conferred on the data controller;

f) the treatment is necessary for the satisfaction of legitimate interests pursued by the user.

responsible for the treatment or by a third party, provided that such interests are not

the interests or fundamental rights and freedoms of the data subject prevail

require the protection of

personal data, in particular when the data subject is a child.

The provisions of letter f) of the first paragraph shall not apply to the treatment carried out

by public authorities in the exercise of their functions.”

Once the positive fact of the treatment has been accredited, it corresponds to prove the fulfillment of the

requirements to the claimant. In this sense, it has not proven that its collection and subsequent exhibition

public view of the video on FACEBOOK will have some of the legitimizing bases indicated by the

article 6 of the RGPD, being accredited the commission of the imputed infraction.

Section i) of article 58.2 of the GDPR provides the following:

"2 Each control authority will have all the following corrective powers

indicated below:

II

“i) impose an administrative fine in accordance with article 83, in addition to or instead of the

measures mentioned in this section, according to the circumstances of each case

particular;”

The infringement is typified in article 83.5 b) of the GDPR, which considers as such:

"5. Violations of the following provisions will be penalized, in accordance with the

section 2, with administrative fines of a maximum of 20,000,000 EUR or, in the case of

a company, of an amount equivalent to a maximum of 4% of the total turnover

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annual global of the previous financial year, opting for the one with the highest amount:

a) The basic principles for treatment, including the conditions for consent.

according to articles 5,6,7 and 9.”

Organic Law 3/2018, Protection of Personal Data and Guarantee of Rights

Digitales (LOPDGDD) in its article 72, under the heading "Infractions considered very serious" provides:

"1. Based on what is established in article 83.5 of Regulation (U.E.) 2016/679,

are 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 without the fulfillment of any of the legal conditions of the treatment established in article 6 of Regulation (EU) 2016/679.”

IV.

The documentation in the file offers evidence that the defendant has a page on FACEBOOK where the video containing the images was posted obtained without the consent of their owners, minors and teachers-monitors in the courtyard of the school.

In the video of the schoolyard several can be identified and are identifiable. students, despite the masks, even for a short time, it is a video and it is can save, stop, replay multiple times, increment, dealing with data personal of students and of the two teachers-monitors.

Well, the defendant violated article 6.1 of the GDPR, since he published having collected before, the images without having any legitimacy for it.

V

The fine imposed must be, in each individual case, effective, proportionate and

dissuasive, in accordance with the provisions of article 83.1 of the GDPR. In order to determine the administrative fine to be imposed, the provisions of article 83, paragraph 2 of the GDPR, which states:

"2. Administrative fines will be imposed, depending on the circumstances of each case.

individually, in addition to or in lieu of the measures contemplated in article 58, section 2, letters a) to h) and j). When deciding to impose an administrative fine and its amount in each individual case shall be duly taken into account:

a) the nature, seriousness and duration of the offence, taking into account the nature, scope or purpose of the processing operation in question as well as the number of affected stakeholders and the level of damages they have suffered;

b) intentionality or negligence in the infringement;

c) any measure taken by the controller or processor to alleviate the

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damages suffered by the interested parties;

d) the degree of responsibility of the data controller or processor, given account of the technical or organizational measures that they have applied under articles 25 and 32;

e) any previous infringement committed by the controller or processor;

f) the degree of cooperation with the supervisory authority in order to remedy the infringement and mitigate the possible adverse effects of the infringement;

g) the categories of personal data affected by the infringement;

h) the way in which the supervisory authority became aware of the infringement, in particular if

the controller or processor reported the infringement and, if so, to what extent;

i) when the measures indicated in article 58, paragraph 2, have been ordered

previously against the person in charge or the person in charge in relation to the same

matter, compliance with said measures;

j) adherence to codes of conduct under article 40 or to mechanisms of

certification approved in accordance with article 42, and

k) any other aggravating or mitigating factor applicable to the circumstances of the case, such as

financial benefits obtained or losses avoided, directly or indirectly, through

through the offence."

For its part, in relation to letter k) of article 83.2 of the GDPR, the LOPDGDD, in its

Article 76, "Sanctions and corrective measures", establishes:

"1. The sanctions provided for in sections 4, 5 and 6 of article 83 of Regulation (EU)

2016/679 will be applied taking into account the graduation criteria established in the

section 2 of said article.

2. In accordance with the provisions of article 83.2.k) of Regulation (EU) 2016/679 also

may be taken into account:

a) The continuing nature of the offence.

b) Linking the offender's activity with data processing

personal.

c) The benefits obtained as a consequence of the commission of the infraction.

d) The possibility that the conduct of the affected party could have led to the commission of the

infringement.

e) The existence of a merger by absorption process subsequent to the commission of the

violation, which cannot be attributed to the absorbing entity.

f) The affectation of the rights of minors.

g) Have, when it is not mandatory, a data protection delegate.

h) Submission by the person responsible or in charge, on a voluntary basis, to

alternative conflict resolution mechanisms, in those cases in which

there are controversies between those and any interested party".

In accordance with the precepts transcribed, for the purpose of setting the amount of the fine

to be imposed in the present case for the infringement typified in article 83.5.a) of the GDPR, of

which the defendant is held responsible, are considered concurrent as aggravating circumstances

following factors that reveal greater unlawfulness and/or culpability in the conduct of the

reclaimed:

--Article 83.2.a) GDPR: "Nature, seriousness and duration of the infringement taking into account

account the nature, scope or purpose of the processing operation in question as well

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such as the number of interested parties affected and the level of damages that have

suffered."

The taking of images and their exposure on social networks goes directly against the right

of their owners at the disposal of their data, exposing their data-images-in a way that is not

expected, that in this case data from a group of minors and

teacher.

-Article 83.2.b) GDPR. "Intentionality or negligence in the infraction": In the conduct

there is a clear intentionality in the two acts, data collection and also exposure

of data in a social network.

As a mitigation:

-Article 83.2.c) "any measure taken by the controller or processor

to alleviate the damages and losses suffered by the interested parties". It is considered that once committed the infraction, the video containing the images was deleted from its page of FACEBOOK, without extending the effects of the infringement.

Considering the exposed factors, the value reached by the fine for the infraction is 3,000 euros.

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

FIRST: IMPOSE A.A.A., with NIF ***NIF.1, for a violation of article 6.1 of the GDPR, typified in article 83.5 a) of the GDPR, and for the purposes of prescription of the infringement in article 72.1.a) of the LOPDGDD, a fine of 3,000 euros.

SECOND: NOTIFY this resolution to A.A.A..

THIRD: Warn the penalized person that they must make the imposed sanction effective once that this resolution be enforceable, in accordance with the provisions of art. 98.1.b) of the LPACAP, within the voluntary payment period established in art. 68 of the Regulation General Collection, approved by Royal Decree 939/2005, of 29/07, in relation to the art. 62 of Law 58/2003, of 12/17, through its entry, indicating the NIF of the sanctioned and the procedure number that appears in the heading of this document, in the restricted account no. ES00 0000 0000 0000 0000 0000, opened in the name of the Agency Spanish Data Protection Agency at the bank CAIXABANK, S.A.. In the event Otherwise, it will proceed to its collection in the executive period.

Once the notification has been received and once executed, if the execution date is between the 1st and 15th of each month, both inclusive, the term to make the payment voluntary will be until the 20th day of the following or immediately following business month, and if between the 16th and the last day of each month, both inclusive, the payment term It will be until the 5th of the second following or immediately following business month.

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

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

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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 07/13, 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-](https://sedeagpd.gob.es/sede-electronica-web/)

[web/](https://sedeagpd.gob.es/sede-electronica-web/)], or through any of the other registries provided for in art. 16.4 of the

mentioned LPCAP. You must also transfer to the Agency the documentation that accredits

the effective filing of the contentious-administrative appeal. If the agency does not
was aware of the filing of the contentious-administrative appeal in the
period of two months from the day following the notification of this resolution,
would terminate the injunction.

Mar Spain Marti

Director of the Spanish Data Protection Agency

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