

□ File No.: PS/00063/2022

## RESOLUTION OF SANCTIONING PROCEDURE

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

### BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) dated March 11, 2021

filed a claim with the Spanish Data Protection Agency. The

claim is directed against COMARCA DE SOBRARBE with NIF P2200135H (in

forward the Shire). The reasons on which the claim is based are the following:

The claimant states that the Region has violated the regulations for the protection of

data when publishing your personal data (name, surname, ID, telephone number

phone number, personal email address, and some of your employment information) on

various minutes of the County Council. The controversial documents are

published on the web \*\*\*URL.1, in the transparency section. Also consider

It is also questionable whether these data are not only included and published in the Minutes,

but even that they have been provided during the sessions of the Regional Council, in

public nature, to all regional councillors.

In turn, it indicates that it presented various allegations before various acts issued by the

claimed entity. According to him, it was subsequently published in the Official Gazette of the

Province of \*\*\*LOCALIDAD.1 (hereinafter BOPH) the response to their allegations,

disclosing the content of these together with your personal data.

Along with the notification is provided:

- Notarial act in which the publication on the aforementioned website of the minutes of  
sessions of the Regional Council and notifications practiced in the BOPH.

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5

December, Protection of Personal Data and guarantee of digital rights (in forward LOPDGDD), said claim was transferred to the Region, so that proceed to 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.

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 April 20, 2021 as It appears in the acknowledgment of receipt that is in the file.

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No response has been received to this letter of transfer.

THIRD: On June 22, 2021, in accordance with article 65 of the LOPDGDD, the claim presented by the claimant party was admitted for processing.

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

Facts according to statements by the claimant:

The claimant states that the claimant has violated the regulations for the protection of

data when publishing your personal data (name, surname, ID, telephone number and personal email address), as well as allegations made by her in the framework of procedures processed, both on the web page \*\*\*URL.2 of the Official Gazette of the Province of \*\*\*LOCALIDAD.1 (BOPH), as in various minutes of the Council County of the claimed. The minutes are published on the web \*\*\*URL.1, in the “transparency” section.

It also indicates that it presented various allegations before various acts issued by the claimed entity, allegations that were published, stating the claimant that its publication was not mandatory, since she was duly identified and located and had chosen communication by electronic means for the opportune notification of the resolution of the allegations in the hearing process.

Date on which the claimed events took place:

- \*\*\*DATE.1, \*\*\*DATE.2 and \*\*\*DATE.3 (BOPH publications).
- \*\*\*DATE.4, \*\*\*DATE.5 and \*\*\*DATE.6 (publications of the minutes on the page website sobarbe.com).
- The data is still published as of 09/07/2021.

Relevant documentation provided by the claimant:

- BOPH of dates \*\*\*DATE.1 and \*\*\*DATE.7.
- Notarial Act drawn up on February 26, 2021, accompanying parts of the aforementioned Acts of the Regional Council:
  - Minutes of the County Council of \*\*\*DATE.8: Pages 84 to 89, identified with the name and two surnames, D.N.I. complete, the detail of his condition of female worker in the Sobrarbe region, and data referring to work circumstances.

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- Minutes of the County Council of \*\*\*DATE.9: Pages 17 to 23, identified with the name and two surnames, part of the D.N.I. (truncated, with some digits replaced by asterisks) data referring to work circumstances as a worker on the staff of the Sobrarbe Region, in addition to also including the allegations made by the claimant.

- Minutes of the County Council of \*\*\*DATE.10: Pages 1 to 10, identified with the name and two surnames, part of the D.N.I. (truncated, with some digits replaced by asterisks), full personal mobile phone number, mailing address complete personal email, the detail of your status as a worker on the staff of the Sobrarbe Region, labor circumstances related to it and the allegations made by the claimant.

#### INVESTIGATED ENTITIES

During these proceedings, the following entity has been investigated:

SOBRARBE REGION with NIF P2200135H with address at AVENIDA ORDESA  
79 - 22340 BOLTAÑA (\*\*LOCATION.1)

#### RESULT OF INVESTIGATION ACTIONS

Publications on the website \*\*\*URL.1:

Through this Data Inspection, the following have been verified:

data releases:

#### 1. The "ACT OF THE SESSION

EXTRAORDINARY MEETING OF THE REGIONAL COUNCIL DAY \*\*\*DATE.10" with the following text on page 3:

"... On December 21, 2010, Ms. A.A.A., with DNI number \*\*\*NIF.1, worker

permanent or indefinite of the Region, who performs the position of "\*\*\*\*POSITION.1",  
filed a "complaint" brief, a more appropriate description of "allegations" in  
strict sense —although we do not discuss the nomen and legal nature— (number of  
entry \*\*\*ENTRY.1, of 12.21.2020), on the difficulty to consult the  
files exposed to public information on December 10, 2020, of the  
aforementioned credit modifications — of which he left a written record on December 10,  
December 2020, signed by Ms. A.A.A. ...”

On pages 3 and 4:

“... 5. On \*\*\*DATE.11, the Regional Administration sent Ms. A.A.AA., diverse  
documentation [answer written by the electronic system for the signature and  
custody of documents (SEFYCU) \*\*\*DOCUMENTS.1]. Three notices were addressed  
or communications through different channels: your “citizen folder” was notified; it was sent  
notice (message) to your mobile [mobile number \*\*\*PHONE.1]; and, you were notified in the  
electronic address designated as the place of electronic notifications by the  
interested [\*\*\*EMAIL.1]. A different matter is that he voluntarily did not open the

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communications until \*\*\*DATE.12, fact dependent solely on your free  
will and want...”.

On page 7:

"... 6º Notify the interested party A.A.A., electronically, of this Agreement  
to the email address indicated by her for notification purposes [\*\*\*EMAIL.1]. ...”

The full email address is reposted 6 times

in the document. The publication of the complete mobile number is repeated in 3 times in the document. The DNI Number appears 7 times always truncated in the form "\*\*\*NIF.1".

2. It is published on the aforementioned website "ACTS OF THE ORDINARY SESSION HELD BY THE REGIONAL COUNCIL ON \*\*\*DATE.9" with the following content on page 17:

"The worker A.A.A. is interested in this procedure and has presented a (...)"

And on page 19:

"Reject the six allegations presented on May 22, 2020, by Ms. A.A.A., with DNI number \*\*\*NIF.1, in the hearing process conferred in the present administrative procedure for the following reasons..."

There are no occurrences of the complete ID number in the document.

The "ACTS OF THE ORDINARY SESSION

HELD BY THE REGIONAL COUNCIL ON \*\*\*DATE.13 with the following content on page 86:

"5. The position or position of "\*\*\*\*POSITION.1" is held by the hardworking lady A.A.A. (NIF.1), by virtue of the individual permanent employment contract, full-time, of January 1, 2004, which links him to the Region, without solution of continuity, up to the present."

No more occurrences of the complete or truncated DNI number are found in the document.

The matters to which the publications refer are the budgets of the Region of Sobrarbe, the suppression and amortization of the position of permanent labor personnel called "\*\*\*\*POSITION.1" and the approval of certain tax Ordinances.

Publications in the Official Bulletin of the Province of \*\*\*LOCALIDAD.1 (BOPH):

Through this Data Inspection, the following have been verified:

data publications in the BOPH:

- BOPH of date \*\*\*DATE.1:

p. 33:

"... 3. In addition, the hearing process was conferred on the worker Mrs. A.A.A., in her condition of interested party, for carrying out the job position of \*\*\*\*POSITION.1"..."

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Page 34:

"... AGREEMENT FIRST. - Reject the six allegations presented on the 22nd of

May 2020, by Mrs. A.A.A., with DNI number \*\*\*NIF.1, in the hearing process

conferred in this administrative proceeding for the following reasons: 1st.

Allegation on the inadequacy of the revocation procedure of the administrative act

in question. The plaintiff considers that..."

"...The qualification expressed in its allegation by the interested and alleging party is free. As

reveals the alleging said qualification is linked to the criminal complaint

presented by her in the Court of First Instance and Instruction..."

Page 35:

"... THIRD.- This agreement will be published, in its entirety, for general

knowledge, in the "Official Gazette of the Province of \*\*\*LOCALIDAD.1", through

announcement of the Presidency of the Region and will be notified by the Secretariat-Intervention

to the interested party A.A.A. ..."

- BOPH of date \*\*\*DATE.7:

p. 68:

"... 3. Ms. A.A.A., with DNI number \*\*\*NIF.1, permanent or permanent worker of the Comarca, who holds the position of \*\*\*\*POSITION.1", presented on December 10 of 2020..."

"... 4. On \*\*\*DATE.11, the county administration sent Ms. A.A.A., diverse documentation ... Three notices or communications were addressed to him through different channels: He notified his "citizen folder"; notice (message) was sent to your mobile]; And I will notified at the electronic address indicated as the place of electronic notifications by the interested party [\*\*\*EMAIL.1]. A different matter is that he voluntarily did not open communications until \*\*\*DATE.12, fact dependent solely on your free will and will."

The same information of the claimant is repeated (name and surname, or two surnames, truncated ID number, or truncated email address) on the pages 69, 70, 75, 76, 79, 80 and 81 of the aforementioned BOPH.

- BOPH of date \*\*\*DATE.14:

p. 12:

"... On December 21, 2010, Mrs. A.A.A., with DNI number \*\*\*NIF.1, worker permanent or indefinite of the Region, who performs the position of \*\*\*\*POSITION.1", filed a "complaint" document, a more appropriate description of "allegations" in Strict sense..."

p. 16:

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"... 6º Notify the interested party A.A.A., electronically, of this Agreement



to the electronic address indicated by her for notification purposes [\*\*\*EMAIL.1].

...“

The same information of the claimant is repeated (name and surname, or two surnames, truncated ID number, or truncated email address) on the pages

13, 14 and 15 of the mentioned BOPH.

Requested information and documentation from the claimant, a response is received with the following manifestations:

1 On the authorization held or legal basis for the publication of the data of the claimant in the minutes of the County Council and its publication on the web page \*\*\*URL.1.

"The publications made in the Transparency Portal of the Comarca de Sobrarbe located on its website \*\*\*URL.1 are intended to comply with the established in Law 19/2013, of December 9, on transparency, access to public information and good governance whose purpose is to broaden and reinforce transparency of public activity, regulate and guarantee the right of access to information relative to that activity and establish the obligations of good governance that must be comply with public officials as well as the consequences derived from their non-compliance (ex art. 1 Law 19/2013).

In this regard, it is necessary to underline that the provisions of TITLE I

"Transparency of public activity" of Law 19/2013 are applicable to this Local Entity as established in article 2 of the aforementioned Law that includes the scope application subjective.

The information that this Local Entity must publish within the scope of its competences is expressly established in article 7 of Law 19/2013, in concrete:

«Article 7. Information of legal relevance.

Public Administrations, within the scope of their powers, will publish:

a) The guidelines, instructions, agreements, circulars or responses to inquiries raised by individuals or other bodies to the extent that they imply an interpretation of the law or have legal effects.

(...))»

Likewise, the Region of Sobrarbe to make publications in the terms indicated, its action protocol takes into account what is indicated in article 15 of the Law 19/2013 in relation to the protection of personal data:

«Article 15. Protection of personal data.

1. If the requested information contains personal data that reveals the ideology, trade union affiliation, religion or belief, access may only be authorized in the event that the express written consent of the affected party is obtained,

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unless said affected party had manifestly made the data public with prior to requesting access. If the information included data personal information that refers to racial origin, health or sexual life, includes genetic or biometric data or contains data relating to the commission of criminal or administrative offenses that do not entail public reprimand to the infringing party, access can only be authorized in case of having the express consent of the affected party or if it is protected by a norm with the force of law.

2. In general, and unless in the specific case the protection of

personal data or other constitutionally protected rights on the interest

public in the disclosure that prevents it, access will be granted to information that

contains merely identifying data related to the organization,

operation or public activity of the body.

(...)»

In short, in direct connection with the aforementioned legal precepts, the criterion

legitimizing for the publication of the information object of the present is that "the

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

responsible for the treatment" (ex art.6 .1.c) GDPR), since the information object

of publication is not information of a personal nature that reveals the ethnic origin or

race, political opinions, religious or philosophical convictions, or affiliation

union, and the processing of genetic data, biometric data aimed at identifying

unequivocally to a natural person, data relating to health or data relating to

the sexual life or sexual orientation of a natural person."

1. On the authorization held or legal basis for the publication of the

allegations and personal data of the claimant in the Official Gazette of the

Province.

"In the same line as in Section 1 of this Report, the authorization held by

or legal basis for the publication of the allegations included in an adopted Agreement

by the County Council in the Official Gazette of the Province of \*\*\*LOCALIDAD.1 [...],

is that "the treatment is necessary for compliance with a legal obligation

applicable to the controller" (ex art.6 .1.c) GDPR).

In this sense, (in accordance with the provisions of Law 19/2013, of December 9,

of transparency, access to public information and good governance, as well as in the Law

7/1985, of April 2, Regulating the Bases of the Local Regime, Law 39/2015, of 1

October, of the Common Administrative Procedure of Public Administrations,

and Law 5/2002, of April 4, regulating the Official Gazettes of the Provinces),

the agreements adopted by this Local Entity must be published in the Bulletin

Official of the Province.

They attach the aforementioned Agreement adopted by the County Council in the Official Gazette of

the Province of \*\*\*LOCATION.1.

On the causes that have motivated the incidence that has originated the

1.

claim. Decision adopted regarding this claim.

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"In order to comply with the provisions of Law 19/2013, of 9

December, of transparency, access to public information and good governance and with

spirit of expanding and reinforcing the transparency of public activity, as well as regulating and

guarantee the right of access to information related to that activity and

establish the obligations of good governance that those responsible must comply with

public, the Sobrarbe Region has created a Transparency Portal in its own

web page, and which is available to citizens through the link

(\*\*\*URL.1).

In the aforementioned Portal of Transparency of the Sobrarbe Region and in the Official Gazette of

the Province of \*\*\*LOCALIDAD.1 the publications of the information are made to the

which is bound both by Law 19/2013, of December 9, of

transparency, access to public information and good governance, as per the Law

7/1985, of April 2, Regulating the Bases of the Local Regime.

In this context, the Sobrarbe Region has published the Agreement adopted by the Regional Council in its session of \*\*\* DATE.10, in accordance with the competence attributed by article 15, in relation to article 11 of the Aragonese Law 5/2003, of February 26, of creation of the Region of Sobrarbe.

In relation to the publication made in the Transparency Portal, this Entity Local has considered it appropriate to act accordingly (in addition to what is established in the Law 19/2013) with what is published by the Spanish Data Protection Agency in its guide "DATA PROTECTION AND LOCAL ADMINISTRATION", specifically, what is indicated in section 3.2. PLENARY AND COUNCILORS Can you publish on the Internet the minutes of the municipal plenary sessions?: «Based on the fact that the publication of data, including on the Internet, from the point of view of data protection it is considered a communication of the same, the publication of the minutes of the plenary sessions Municipal authorities will be in accordance with the aforementioned regulations when:

- Containing personal data refer to acts debated in plenary or to provisions object of publication in the corresponding Official Gazette (without prejudice to of the exercise of the right of opposition or cancellation of those affected);
- In all other cases, to publish the minutes containing data of a personal nature, the prior consent of those affected will be necessary.

It will not be published in those cases in which the Corporation has made use of the power to declare the debate and voting secret for affecting the honor and privacy of citizens.

The publication that gave rise to the Information Requirement refers to a Agreement adopted by the County Council being published in the Bulletin Official of the corresponding Province, and the debate not being declared secret and vote for affecting the honor and privacy of citizens. Likewise, it turns out

It is necessary to place special emphasis on the fact that no data has been published that reveals the

ethnic or racial origin, political opinions, religious or philosophical convictions, or union affiliation, and the processing of genetic data, biometric data aimed at uniquely identify a natural person, data relating to health or data relating to the sexual life or sexual orientations of a natural person.

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The second publication to which the interested party refers, that is, the publication made in the Official Gazette of the Province of \*\*\*LOCALIDAD.1, as we have previously indicated, this Local Entity has complied with a legal obligation.

However, as can be seen in the Official Gazette itself, its publication the criteria established in Additional Provision 7 of the Organic Law have been applied 3/2018, of December 5, Protection of Personal Data and guarantee of the digital rights:

"When it is necessary to publish an administrative act that contains data personal information of the affected party, it will be identified by his name and surname, adding four random numerical digits of the national identity document, foreigner identity number, passport or equivalent document»

Specifically, the publication made was the following: «On December 21, 2010, Mrs. A.A.A., with DNI number \*\*\*NIF.1, permanent or indefinite worker of the Region, who holds the position of "\*\*\*\*POSITION.1", submitted a "complaint" document, more appropriate qualification of "allegations" in the strict sense - although not we discuss the nomen and legal nature— (entry number \*\*\*ENTRY.1, from 12.21.2020), on the difficulty to consult the files exposed to

public information on December 10, 2020, of the aforementioned modifications of credit — which was recorded in writing on December 10, 2020, signed by Mrs. A.A.A. and [...] (entry number \*\*\*ENTRY.2, dated 10.12.2020)— . His writing does not contain any allegation, material or substantive, about the modifications loans initially approved on November 24, 2020. Only requested".

Additionally, the digits related to the mobile phone number were eliminated.

of the interested party, as well as the characters of their email: «On \*\*\* DATE.11,

In addition, the regional administration sent the various documentation [brief of

answer by the electronic system for the signature and custody of documents

(SEFYCU) \*\*\*DOCUMENTS.1]. Three notices or communications were addressed to him by

different ways: his “citizen folder” was notified; notice (message) was sent to your

mobile [mobile number \*\*\*PHONE.1]; and, you were notified at the email address

designated as the place of electronic notifications by the interested party [\*\*\*EMAIL.1].

A different matter is that she voluntarily did not open the communications until the

\*\*\* DATE.12, fact dependent solely on his free will and will.

In this way, the interested party, far from seeking an extra-administrative resolution, has

adopted from the beginning an attitude conducive to the unavoidable

"administrative" of the same, contrary to the spirit of conciliation and the

use of alternative means to the administrative resolution of incidents that it recommends

the current regulatory framework for the protection of personal data, claiming not to be

no explanation is admissible and resorting directly to the Agency itself

Spanish Data Protection.

Finally, it is necessary to indicate that at no time has the interested party affected

exercised your right of opposition or cancellation, nor have you requested any information

on the motivation of the publications made”

3. Regarding the measures adopted in your case to prevent them from occurring similar incidents, implementation dates and controls carried out to check its effectiveness.

"The Region of Sobrarbe, as a result of the request for information made by the Spanish Agency for Data Protection, considers that it is an opportunity to improve the global approach to regulatory compliance in this Local Entity, helping to mitigate possible risks for the interested parties and to improve the technical and organizational security mechanisms within the framework of the culture of data protection that should govern all departments and services that are responsible. In this regard, the Sobrarbe Region has adopted the following measures to prevent similar incidents from occurring:

1. Appointment of a DPO.

The Sobrarbe Region has appointed a Data Protection Delegate taking as a reference the "Guidelines on data protection officers (DPD)" adopted by the Working Group on Data Protection of Article 29 guided by the following criteria:

- a) Independence and absence of conflict of interest of the data protection delegate data.
- b) Accessibility and location of the data protection officer.
- c) Level of knowledge of the data protection officer.
- d) Integrity and level of professional ethics of the data protection officer.



e) Professional qualities and knowledge of the sector of the data protection delegate data.

After the pertinent verifications, the entity AUDIDAT 3.0 has been contracted, S.L.U. the external service of Data Protection Officer on 07/21/2021, naming Mrs. B.B.B. as a "DPD Contact Person" because it is a certified professional according to the Certification Scheme for Delegates of Data Protection of the Spanish Agency for Data Protection (Scheme AEPD-DPD) Certificate No. \*\*\*CERTIFICATE.1.

The appointment of the Data Protection Officer has been communicated immediately to the Spanish Data Protection Agency, with Registration No.: \*\*\*REGISTRATION.1 and Registration Date: 07/23/2021 [...].

On the occasion of the designation, an informative communication is sent, through the email, to all the personnel of the Region about the designated figure, their main functions and contact details [...]. Similarly, to comply to the duty of transparency and information, the contact information of the Delegate will be included

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of Data Protection in all the informative documents in the terms provided for in articles 12 et seq. of Regulation (EU) 2016/679.

## 2. Appointment of a Transparency Manager.

[...]

The objective is clear: designate a person who can act as a point of contact with the Data Protection Delegate thus helping to improve the management of the

Transparency Portal, as well as the publications that the Region must make.

### 3. Training for employees on data protection.

A training workshop will be held for employees of the Sobrarbe Region with access to data, in order to raise awareness about the importance of guaranteeing the fundamental right to the protection of personal data.”

They attach a copy of the communication of the appointment of the DPD sent to the AEPD as well as an informative communication, sent via email, to the entire Comarca staff on the appointment of the DPD.

They attach the document proposing the appointment of a Responsible for Transparency.

They attach the poster that is being used to disseminate within the Comarca de Sobrarbe, as well as its index.

FIFTH: On June 7, 2022, the Director of the Spanish Agency for Data Protection agreed to initiate disciplinary proceedings against the claimed party, in accordance with the provisions of articles 63 and 64 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations, by the alleged violation of Article 5.1.c) of the GDPR and Article 32 of the GDPR, classified as respectively in Article 83.5 of the GDPR and Article 83.4 of the GDPR.

SIXTH: Notified the aforementioned start agreement in accordance with the rules established in Law 39/2015, of October 1, on the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP), on June 21, 2022, the receives in this Agency, in due time and form, a letter from the Region in which it alleges allegations to the initiation agreement, stating, in summary, that:

1. Regarding the publication of the personal data of the claimant contained in the proceedings

of the County Council on the web page \*\*\*URL.1.

The Region points out that, as they already indicated to this Agency in the letter of response to the information request, the publications made on the Portal of Transparency of the Region of Sobrarbe located on its web page \*\*\*URL.1 are intended to comply with the provisions of Law 19/2013, of December 9, of transparency, access to public information and good governance, whose purpose is to broaden and reinforce the transparency of public activity, regulate and guarantee the right of access to information related to that activity and establish the obligations of

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good governance that public officials must comply with as well as the consequences derived from its non-compliance (ex art. 1 Law 19/2013).

The information that this Local Entity must publish within the scope of its competences is expressly established in article 7 of Law 19/2013, in concrete:

“Article 7. Information of legal relevance.

Public Administrations, within the scope of their powers, will publish:

a) The guidelines, instructions, agreements, circulars or responses to inquiries raised by individuals or other bodies to the extent that they involve a interpretation of the law or have legal effects.

(...)”

The Region adds that, upon receipt of the information request issued by the Spanish Agency for Data Protection dated July 14, 2021,

They saw it as an opportunity to improve the overall approach to

regulatory compliance in the entity, helping to mitigate eventual risks for the stakeholders and improve the mechanisms for compliance with the obligations derived from Law 19/2013, of December 9, respecting the fundamental right to the protection of personal data. For this reason, they are aware that they must take all necessary corrective or complementary measures to avoid that this incident will be reproduced in the future.

Consequently, the local entity indicates that it adopted the measures indicated in the letter of response to the letter of request for information:

#### 1. Appointment of a DPO.

After the pertinent verifications, the Region has contracted the entity AUDIDAT

3.0, S.L.U. the external service of Data Protection Officer on date

07/21/2021, naming Mrs. B.B.B. as "DPD Contact Person" by

be a certified professional according to the Certification Scheme of

Data Protection Delegates of the Spanish Agency for Data Protection

(AEPD-DPD Scheme) Certificate No. \*\*\*CERTIFICATE.1.

The appointment of the Data Protection Officer has been communicated

immediately to the Spanish Data Protection Agency, with Registration No.:

\*\*\*REGISTRATION.1 and Registration Date: 07/23/2021.

On the occasion of the designation, an informative communication was sent, through the mail

email, to all the personnel of the Region on the designated figure, their

main functions and contact details. Similarly, to comply with the

duty of transparency and information, the contact information of the Delegate has been included

of Data Protection in all the informative documents in the terms

provided for in articles 12 et seq. of Regulation (EU) 2016/679.

#### 2. Appointment of a Transparency Officer.

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Appointment of a Transparency Officer with a clear objective, to designate a

person who can act as a point of contact with the Data Protection Delegate

Data thus helping to improve the management of the Transparency Portal, as well as

the publications that the Region must carry out.

3. Training for employees on data protection.

The Region indicates that a training workshop was held for the employees of the Region

of Sobrarbe with access to data, in order to raise awareness about the importance

to guarantee the fundamental right to the protection of personal data.

Likewise, as a result of the appointment of the data protection officer, the

Region that has proceeded to review its action protocol for the publication of

information on the transparency portal of the web \*\*\*URL.1, and that, for this purpose, it has been

prepared and disseminated a document with the guidelines for the creation of a portal of

transparency that includes the limits to the publication of information whose content

collects personal data (ANNEX No. 1).

Likewise, it affirms that they have reviewed all the documentation published on its website

transparency by following the indications provided by your DPO, specifically,

applying the pseudonymization and anonymization measures necessary to respect

the rights of the interested parties, such as the fundamental right to the protection of

data, privacy or honor.

In short, in relation to the published documents relating to the claimant,

applying the principle of data minimization, indicates the Region that has proceeded to

removing data that was not adequate, relevant and limited to what necessary in relation to the purposes for which they are processed, eliminating all data not related to the condition or position of the claimant, as well as the allegations web publication object \*\*\*URL.1.

2. Publication of the personal data of the claimant on the website of the Bulletin

Official

of the Province of \*\*\*LOCATION.1 (BOPH)

The Region points out that the legal basis or criteria for the publication of information in the Official Bulletin of the Province of \*\*\*LOCALIDAD.1, is the one included in the article 6.1.c) of Regulation (EU) 2016/679, that is, that "the treatment is necessary to compliance with a legal obligation applicable to the data controller".

In this sense, the local entity points out that (in accordance with the provisions of the Law 19/2013, of December 9, on transparency, access to public information and good government, as well as in Law 7/1985, of April 2, Regulating the Bases of the Local Regime, Law 39/2015, of October 1, on Administrative Procedure Common of Public Administrations, and Law 5/2002, of April 4, regulating the Official Gazettes of the Provinces), the agreements adopted by it must be published in the Official Gazette of the Province.

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The Region indicates that the Spanish Agency for Data Protection in its document of Agreement to initiate disciplinary proceedings establishes that "it is not put into doubt that there is a legal obligation regarding the publication of certain acts in

the corresponding Official Gazettes. However, once there is a database of legality for data processing (in this case, article 6.1.c) of the GDPR, this does not mean that the treatment (in this case, the publication) of any way and with any scope, since it is necessary to comply with the rest of the obligations of the GDPR, especially the principles of treatment established in its article 5”.

And that as can be seen in the Official Gazette itself, in its publication has applied the criteria established in Additional Provision 7 of the Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of the digital rights: "When the publication of an administrative act is necessary that contained personal data of the affected party, it will be identified by means of its name and surname, adding four random numerical figures from the document national identity card, foreigner identity number, passport or document equivalent"

\*\*\*NIF.1

Specifically, the publication made has been the following: "On December 21, 2010,

Ms. A.A.A., with ID number

, permanent or indefinite worker of the Region,

who holds the position of «\*\*\*POSITION.1», submitted a “complaint” document,

more appropriate qualification of “allegations” in the strict sense —although not

we discuss the nomen and legal nature— (entry number \*\*\*ENTRY.1, from

12.21.2020), on the difficulty to consult the files exposed to

public information on December 10, 2020, of the aforementioned modifications of

credit — which was recorded in writing on December 10, 2020, signed

by Mrs. A.A.A. and Mr. C.C.C., lawyer (entry number \*\*\*ENTRADA.2, of

10.12.2020)— . Your brief does not contain any allegation, material or substantive, about

credit modifications initially approved on November 24, 2020.

I was just asking."

Additionally, the digits related to the mobile phone number were eliminated.

of the interested party, as well as the characters of their email: "On \*\*\*DATE.11,

In addition, the regional administration sent the various documentation [brief of

answer by the electronic system for the signature and custody of documents

(SEFYCU) \*\*\*DOCUMENTS.1]. Three notices or communications were addressed to him by

different ways: his "citizen folder" was notified; notice (message) was sent to your

mobile [mobile number

]; and, you were notified at the email address

designated as the place of electronic notifications by the interested party [\*\*\*EMAIL.1].

A different matter is that she voluntarily did not open the communications until the

\*\*\* DATE.12, made dependent solely on his free will and desire".

\*\*\*TELEPHONE 1

However, the Spanish Agency for Data Protection in this regard has

pronounced indicating that, "Article 6.1 of the GDPR, establishes the assumptions that

allow the processing of personal data to be considered lawful, and although there may be

authorization for the treatment of the data of the claimant as interested in a

procedure in which you have presented allegations, this will always be within the

appropriate and proper legal framework, not being pertinent or appropriate to send to a

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official journal of the complete data that identifies her (her name and surname) together with



information associated with it (allegations).

Therefore, the publication made has been made with an excessive exposure of data

personal information not limited to what is necessary in relation to the purposes for which they are treated".

In this sense, the local entity indicates that it is not understandable the conclusion of not having applied the principle of data minimization in the publication made in the BOPH, despite having applied the criteria contained in the additional provision seventh of Organic Law 3/2018, of December 5, on Data Protection

Personal and guarantee of digital rights.

In short, the Region understands this scenario as an opportunity for the Spanish Data Protection Agency clarify the interpretation of the provision additional seventh of the Organic Law 3/2018 and its application in the acts in which notifications by means of announcements and publications of administrative acts, and of In this way, not incur in possible actions that could derive in a breach of current regulations on the protection of personal data.

3. On the possible infringement of article 32 of Regulation (EU) 2016/679.

Indicates the local entity that of the written Agreement to start the procedure disciplinary measure, it is inferred that the alleged action carried out by the Comarca de Sobrarbe implies a possible breach of article 32 of Regulation (EU) 2016/679 since "it is evident that the Region proceeds to the publication of its acts and agreements both on its transparency portal and in the corresponding bulletin without previously taking into account if they contain personal data and if the treatment of these is in accordance with both the limits established by the regulations of transparency - precisely for the protection of personal data, as for the rest applicable regulations, such as the limits and safeguards of the

LPACAP and the regulations on data protection (RGPD and LOPDGDD).

Likewise, it has been revealed that it lacked a Delegate for the Protection of Data, despite being obliged to do so since the GDPR is mandatory compliance -on May 25, 2018-, in accordance with its article 37.1a) that determines that the person responsible for the treatment will designate one whenever the processing is carried out by a public authority or body.

And it is not until the transfer of the claim is received and required to information by this Agency, the defendant has proceeded to designate a Delegate of Data Protection (notifying it of his appointment on July 23, 2021), propose the appointment of a person responsible for transparency, as well as propose holding a training workshop for employees of the Region with access to personal data, revealing inadequate awareness/training of staff on how personal data should be treated, as well as the lack of overview of appropriate organizational measures to ensure a level of safety appropriate to the risk of treatment.

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As a direct consequence of this conclusion, the Region understands that all Failure to comply with current regulations on data protection would imply a breach of article 32 of Regulation (EU) 2016/679.

However, the Region points out that, as a result of the incident with the claimant, it considers that this is an opportunity to improve the overall approach to compliance

normative in that Local Entity, helping to mitigate eventual risks for the interested parties and improve the technical and organizational security mechanisms in the framework of the data protection culture that should govern all departments and competing services.

In this sense, the Region indicates that it has adopted the following measures, in addition to the measures mentioned as a result of the request for information, to avoid produce similar incidents:

1. Adoption of technical and organizational measures.

Attached as ANNEX No. 2, a document prepared under the responsibility of Comarca de Sobrarbe, which, as data controller, undertakes to adopt the appropriate technical and organizational measures to guarantee a level of security appropriate to the risk, taking into account the state of the art, the costs of application, and the nature, scope, context and purposes of the processing, as well as as risks of variable probability and severity for the rights and freedoms of natural persons.

2. Instructions on access to urban information

In order to continue improving our action protocol in relation to the compliance with the obligations derived from Law 19/2013, of December 9, on transparency, access to public information and good governance, have been documented instructions on access to urban information to disseminate it to the persons authorized to manage requests for access to public information (ANNEX No. 3).

The objective of this document, therefore, is to establish instructions that can be used by the public employees of the Comarca de Sobrarbe to solve those issues in which a subject requests access to information planning that contains data of a personal nature, all from the respect for the

fundamental rights and freedoms that correspond to any citizen.

### 3. Data protection system.

Attached as ANNEX No. 4 is a copy of our data protection system that includes a whole series of protocols and procedures tending to guarantee the regulatory compliance necessary for the absolute respect of the fundamental right to the protection of personal data.

For all of the above, the Region requests that this file be filed disciplinary procedure file

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SEVENTH: On December 23, 2022, a resolution proposal was formulated, in which proposes that the Director of the AEPD sanction the COMARCA DE SUPERB:

-for an infringement of Article 5.1.c) of the GDPR typified in Article 83.5 of the GDPR, with WARNING

-for a violation of Article 32 of the GDPR, typified in Article 83.4 of the GDPR, with WARNING.

This proposed resolution, which was notified to the COMARCA DE SOBRARBE in accordance with the rules established in Law 39/2015, of October 1, on the Procedure Administrative Committee of Public Administrations (LPACAP), was collected in dated December 28, 2022, as stated in the acknowledgment of receipt that is in the proceedings.

There is no record of the presentation of allegations to the resolution proposal.

Of the actions carried out in this procedure and of the documentation

in the file, the following have been accredited:

#### PROVEN FACTS

FIRST: The publication on the web "URL.1" has been verified, in the section

"transparency", various minutes of the sessions of the Regional Council in which,

depending on the case, the following personal data of the claimant appears:

- Name and surname or both surnames
- Complete ID number in one case, truncated in the rest
- Complete mobile number
- Personal email address
- Criminal complaint filed by the claimant, indicating the date of presentation, number of proceedings and Court before which it has been presented.
- Details of the claimant's lawyer (name and two surnames)
- Allegations formulated by the same as interested in a procedure administration and response to them.
- Data and information on notifications made to the claimant: place, form and date of the same, vicissitudes regarding their reception, etc.

SECOND: As of December 23, 2022, many of these data are verified

personal information of the claimant are still published on the URL.1 website, in the section on

"Transparency". Specifically, randomly and as a sample, it has been verified

in the Minutes of the extraordinary Regional Council of DATE.15

THIRD: the publication in the Official Gazette of the Province of

LOCALIDAD.1 (BOPH), of various Agreements of the Region, in which, according to the

cases, the following personal data of the claimant appear:

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- Name and surname or both surnames
- Allegations formulated by the same as interested in a procedure administration and response to them.
- Details of the claimant's lawyer (name and two surnames)
- Allegations formulated by the same as interested in a procedure administration and response to them.
- Criminal complaint filed by the claimant, indicating the date of presentation, number of proceedings and Court before which it has been presented
- Data and information on notifications made to the claimant: place, form and date of the same, vicissitudes regarding their reception, etc.

## FUNDAMENTALS OF LAW

Competition and applicable regulations

Yo

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter GDPR), grants each control authority and as established in articles 47, 48.1, 64.2 and 68.1 of the Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Protection Agency of data.

Likewise, article 63.2 of the LOPDGDD determines that: "Procedures processed by the Spanish Data Protection Agency will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions

regulations dictated in its development and, insofar as they do not contradict them, with character subsidiary, by the general rules on administrative procedures.”

II

previous questions

In the present case, in accordance with the provisions of article 4.1 of the GDPR, there is the processing of personal data, since the Region performs, among other treatments, the collection, conservation, use, communication, publication and access of the following personal data of natural persons such such as: name and surname, identification number, telephone number, address.

La Comarca carries out this activity in its capacity as data controller, given that it is the one who determines the ends and means of such activity, by virtue of article 4.7 of the GDPR.

II

Allegations adduced

In response to the allegations presented by the respondent entity to the Agreement of Start, the following is stated:

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1. Regarding the publication of the personal data of the claimant contained in the

Minutes of the County Council on the web page \*\*\*URL.1:

In this regard, the Region reiterates what was indicated in its response to the information requirement made by this Agency, consisting of the fact that the

Publications made on its Transparency Portal are intended to comply with

the obligation imposed by Law 19/2013, of December 9, on transparency, access to public information and good governance (LTAIBG), specifically in its article 7.

In this regard, the record shows the publication on the website of the local entity the aforementioned minutes in which it appears, along with the name and surname of the claimant, their ID (completed on at least one occasion) their email address personal email and mobile number, as well as allegations made by her, the identification with name and surname of your lawyer and even the fact that you have filed a criminal complaint, indicating the date, the judicial body and the number of corresponding court proceeding.

All these personal data and information were published on the internet, on the portal of transparency of the local entity, and suppose a violation of the regulation of data protection, specifically as required by article 5.1 c) of the GDPR, for result in excessive treatment (publication), neither relevant nor necessary for the achievement of the aim of transparency pursued, as already indicated clearly and in detail in the Initiation Agreement of this sanctioning procedure and which is transcribed again in the Fundamentals of Law IV of this Proposal, at that, in order to avoid unnecessary reiterations, it should be referred.

2. Publication of personal data of the claimant in the Official Gazette of the Province of \*\*\*LOCATION.1 (BOPH):

The Region reiterates again that what is published is due to a legal obligation imposed by the LTAIBG, LA Law 7/1985, of April 2, Regulating the Bases of Local Regime, Law 39/2015, of October 1, on Administrative Procedure Common Law of Public Administrations (LPACAP) AND Law 5/2002, of April 4, regulation of the Official Gazettes of the Provinces, by virtue of which the Agreements adopted by the local entity must be published in the Official Gazette of



the province.

In this regard, the Region indicates that what was published in the BOPH was carried out complying with the provisions of the Seventh Additional Provision (DA7) of the LOPDGDD, that is, indicating the name and surname of the claimant, but the number of her ID truncated, appearing only part of its digits and also truncated its number mobile and your email address. It is for this reason that he requests clarification by part of this Agency on the interpretation of said DA7 and its application to the acts in the notifications through announcements and publications of the acts administrative.

In this regard, it should be noted that in various Official Gazettes of the Province of

\*\*\* LOCATION.1 various agreements/acts adopted by the

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Region. Likewise, the claimant presented allegations in the different procedures processed by the local entity. In some cases he was given a hearing as an interested party (amortization of the position of \*\*\* POSITION 1 that she occupies) and in other makes allegations in the process of public information in files related to the processing of the budgets of the Region.

By way of example, in the BOPH of \*\*\*DATE.16, the Agreement Proposal was published of \*\*\*DATE.9, of the County Council, to revoke the Agreement of \*\*\*DATE.8, of same body, of suppression and amortization of the position and job of «\*\*\*POS.1», of the Personnel Template and its modification and the Annex of personal, circumscribed to the square, containing the following:

“ ...

3. In addition, the hearing process was granted to the worker Mrs. A.A.A., (...)

\*\*\*POINT.1" ...

(...)

FIRST. - Reject the six allegations presented on May 22, 2020, for

Mrs. A.A.A., with DNI number \*\*\*NIF.1, in the hearing process granted in the

this administrative proceeding for the following reasons:

1st. Allegation on the inadequacy of the revocation procedure of the act

administration in question. The claimant considers that the Agreement of \*\*\* DATE.8, of

County Council, on suppression and amortization of the square... (below, it will be

reflect the different allegations made by the claimant and response to the

same)

(...)

5th. On the pretense of avoiding responsibilities for the Presidency and other positions

public of the region. The qualification expressed in its allegation by the interested party and

claimant is free. As the allegant shows, said classification is

linked to the criminal complaint filed by her in (...). This penal route has been

initiated by the alleging worker in defense of her rights and interests, within

their freedom of reactive choice typical of a Rule of Law. The

gratuitous affirmation contained in the corresponding allegation on "harassment towards my

person and other colleagues, and irregularities".

(...)

THIRD. - This agreement will be published, in its entirety, for general

knowledge, in the "Official Gazette of the Province of \*\*\*LOCALIDAD.1", through

announcement of the Presidency of the Region and will be notified by the Secretariat-Intervention

to the interested lady A.A.A..

In the BOPH of \*\*\* DATE.17, the Agreement of the Regional Council was published, adopted in its extraordinary session of \*\*\*DATE.18, containing the following:

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(...)

3. Mrs. A.A.A., with DNI number \*\*\*NIF.1, permanent or permanent worker of the Region,

who holds the position of \*\*\*\*POSITION.1", filed on December 10, 2020

(entry number \*\*\*ENTRY.2, of 10.12.2020) a letter dated the same day,

signed by herself and Mr. C.C.C., lawyer, about the difficulty to consult

the files whose exposure to the public had been announced on November 26,

2020, for a period of thirty business days.

4. On \*\*\*DATE.11, the County Administration sent Ms. A.A.A., diverse

documentation [answer written by the electronic system for the signature and

custody of documents (SEFYCU) \*\*\*DOCUMENTS.1]. Three notices were addressed

or communications through different channels: your "citizen folder" was notified; it was sent

notice (message) to your mobile]; and, he was notified at the electronic address indicated as

place of electronic notifications by the interested party [\*\*\*EMAIL.1]. different question is

that she voluntarily not open the communications until \*\*\*DATE.12, made

dependent solely on your free will and want.

5. On January 14, 2021 (entry number \*\*\*ENTRADA.1, of 14.1.2021) Ms.

A.A.A. presented some allegations in the period of public information, conferred by

announcement of November 25, 2020, of the Presidency of the Region, as already

we have said above. In this letter, Mrs. A.A.A. claims that... (below,

their allegations are exposed)

6. In the telematic communication that the regional administration sent to Ms.

A.A.A. on \*\*\*DATE.11 and that she “downloaded” or “opened” on \*\*\*DATE.12, were offered to her different days and hours for the consultation of the files....

In addition, he was offered the possibility of making an appointment any of the days that remaining from the public information period and at a time that suited him, without the alleged to make an appointment.

His will and desire was to allow the public information period to elapse and the last day thereof, January 14, 2021, present the allegations to which we have

referred to above, circumscribed to his subjective consideration that the practice of

The public information process had been done irregularly, in his opinion. The

The complainant does not make any material or substantive allegation regarding the modification part of the aforementioned Tax Ordinances of the Region.

In this sense, none of the Laws indicated by the Region obliges to publish these data as it has been done since said allegations should

have been resolved separately in the respective hearing procedures,

notifying the interested party (the claimant) in accordance with the LPACAP and

subsequently, where appropriate, adopt the corresponding agreement and proceed to its

publication in accordance with the applicable legislation and always respecting

the regulations on personal data protection.

However, the allegations made by the claimant were published with her

identification by name and surname, the response to them, indicating

likewise all the identifying data of a criminal proceeding initiated by it,

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as well as information regarding how notifications were made to her (where, how, when you received it, etc.), including the identification of your lawyer, with your first and last name. All of them personal data that is not applicable and was not necessary to publish to comply with the regulations that apply to the Region for the publication of its Agreements and other acts, for which reason they are not adequate, relevant or limited to what is necessary in relation to the purposes for which that are processed, thus violating the regulations on data protection personal.

In this regard, the Shire seems to understand that all data can be published personal information, together with the identification of the person to whom they refer (his name and surnames, in this case), as long as their name is obfuscated or truncated.

ID, mobile number or email address. Proceed for this, remember the definition that of personal data makes the RGPD, in its article 4, section 1:

1) "personal data" means any information about an identified natural person or identifiable ("the data subject"); Any identifiable natural person shall be considered person whose identity can be determined, directly or indirectly, in by means of an identifier, such as a name, a number identification, location data, an online identifier, or one or more elements of physical, physiological, genetic, psychological, economic, cultural or social of said person

In other words, by personal data it is not only necessary to understand the identifying data (name, surnames, ID, ...) or contact (address, telephone, email ...), but any information relating to an identified or identifiable natural person, that is, any data or information concerning a natural person (in this case,

allegations made, data and information published on the notifications that were have been sent to her, details of the criminal complaint filed by her, etc., appearing all this together with his name and surname, that is, clearly identified).

On the other hand, regarding the clarification requested on the interpretation of the Seventh Additional Provision of the LOPDGDD (DA7), seems to exist in the claimed confusion between what is a publication of the agreements, in compliance with a legal obligation (either due to transparency requirements, or because its publication in the corresponding Official Gazette), and notification of acts administrative procedures to the interested parties when it must be carried out by means of an announcement or publication of the act, in accordance with articles 44 and following of the LPACAP.

And it is in this last case when the criteria of the DA7 of the LOPDGDD, since it refers exclusively to the "Identification of the interested in notifications through announcements and publications of acts administrative", that is, how the interested parties should be identified in a procedure when the notification of the acts to them must be carried out by means of advertisements or publications, in accordance with the LPACAP. I mean, here it is necessary to identify the interested party in the aforementioned publication or announcement to understand each other the notification has been correctly carried out, at the same time that measures are foreseen to guarantee the right to the protection of your personal data. Therefore, only in these cases is it when the relative criteria and rules come into play, either to indicate name and

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surnames with truncated number of the corresponding identification document, either

indicating only the complete number of the same.

However, as has been pointed out, in the case at hand, the publication of the agreements in the BOPH was not carried out in order to proceed with the notification of acts to those interested in a procedure, in accordance with articles 44 et seq. of the LPACAP.

Once this clarification has been made, it is appropriate to refer, to avoid repetition, to all indicated and exposed in the Initiation Agreement of this disciplinary procedure and which appears transcribed again in the Foundation of Law IV of the present Resolution Proposal, specifically in section 2.

### 3. Regarding the possible infringement of article 32 of the GDPR

The Region points out that the claim has been an opportunity to improve the regulatory compliance, having adopted a series of measures, in addition to those mentioned as a result of the request for information, to avoid the occurrence of similar incidences. Thus, it provides as Annex 2 a document in which the undertakes to adopt the appropriate technical and organizational measures to guarantee a level of security appropriate to the risk, some instructions (Annex 3) addressed to employees of the Region on access to urban information and as Annex 4, a document that includes a series of protocols and procedures aimed at guaranteeing the necessary regulatory compliance for the respect of the right to the protection of personal data.

In this regard, it should be recalled that in the present case, derived from the breach of data protection regulations in the publication made by the Comarca with respect to its agreements, a lack of measures has been revealed technical and organizational (protocols, training, awareness) appropriate to guarantee a level of security appropriate to the risk to the rights and freedoms of natural persons, especially evaluating the risks presented by the treatment

of data, in particular as a consequence of the destruction, loss or alteration  
accidental or unlawful personal data transmitted, stored or otherwise processed  
form, or unauthorized communication or access to said data (article 32.1 and 32.2  
GDPR)

As regards the measures that the Region declares to have adopted, although this  
reflects a positive conduct, does not distort the verified facts and that are  
constituting the alleged infringement of article 32 of the GDPR, since its violation  
it has already been revealed.

In addition, regarding the documentation provided, note that the document (Annex  
2), relating to "safety of treatment compliance with the provisions of art. 32  
of regulation (EU) 2016/679" reflects only a mere commitment to adopt  
security measures, which are also indicated in a very generic way, for  
which does not imply the adoption/implementation of technical and organizational measures  
by the Region and established by virtue of an evaluation  
of the risks that they may pose to the rights and freedoms of the  
natural persons the specific processing that it performs of personal data.

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Lastly, in relation to what was stated by the Comarca regarding the fact that it has proceeded  
to the removal on the web \*\*\*URL.1, in the "transparency" section, of all  
data not related to the condition or position of the claimant, as well as the allegations  
object of publication, it means that said website has been accessed, verifying  
that, as of December 23, 2022, excessive data on the



claimant. Thus, randomly and as a sample, it has been verified in the Minutes of the Extraordinary County Council of \*\*\* DATE.10, published on the aforementioned website, follow appearing your name and surname, your full email address, your phone number mobile, identification of your lawyer, with name and surname, allegations presented and data and vicissitudes on the notifications made to it. Therefore, it does not turn out to be the alleged remedy is true.

For all the above, the allegations are rejected.

IV.

Article 5.1.c) of the GDPR

Article 5.1.c) "Principles relating to processing" of the GDPR establishes:

"1. Personal data will be:

(...)

c) adequate, pertinent and limited to what is necessary in relation to the purposes for which that are processed ("data minimization");

In this case, the principle of minimization of personal data has been violated in the following treatments carried out by the Region:

1.- Inclusion of personal data of the claimant in the minutes of the Regional Council and its publication on the web page \*\*\*URL.1.:

The record shows the inclusion in the aforementioned minutes together with the name and surname of the claimant, her ID (completed on at least one occasion) her personal email address and your mobile number.

In this case, it can be seen that they have been communicated to all the members that form part of the County Council personal data that have not been separated from the allegations or other circumstances that they had to deal with in the exercise of their competences, making known to the same data that it is not necessary or proportionate to transfer for the exercise of their functions, being therefore excessive and

not suitable for said purpose.

Likewise, the Region proceeded to publish the minutes of the Regional Council on the web, without previously proceeding to omit or delete such personal data, appearing new along with your name and surname, your ID, your mobile number and your address personal email. Likewise, together with his name and surnames, allegations made by it in various administrative proceedings processed by the Region. It is even published that he has presented a criminal complaint indicating the date, judicial body and procedure number correspondent.

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The Region justifies the publication of such personal data in compliance with the legal obligation imposed by Law 19/2013, of December 9, on transparency, access to public information and good governance (hereinafter LTAIBG), arguing In addition, since they do not affect the special type of data referred to in article 15.1 of the aforementioned Law, its publication is permitted in accordance with section second of the same precept.

In this regard, it is not questioned that the LTAIBG is applicable to the public activity carried out by the Region and that, by virtue of it, must be published the minutes of your County Council. However, it is not appropriate to accept the interpretation extensive and simplistic that the defendant makes in terms of the application of the limits established in article 15 of said Law.

The LTAIBG establishes a series of active publicity obligations to which

subject to the entities and organizations included in the scope of application of the standard.

However, in accordance with article 5.3, the following will apply, where appropriate.

limits to the right of access to public information provided for in article 14 and,

especially, the derivative of the protection of personal data, regulated

in article 15. In this regard, when the information contains data

specially protected, advertising will only be carried out after dissociation of

the same.

For its part, the Second Additional Provision of the LOPDGDD, relative to "Protection

of data and transparency and access to public information", establishes that The

active advertising and access to public information regulated by Title I of the

Law 19/2013, of December 9, on transparency, access to public information and

good governance, as well as the obligations of active publicity established by the

autonomic legislation, will be submitted, when the information contains data

personal, to the provisions of articles 5.3 and 15 of Law 19/2013, in the

Regulation (EU) 2016/679 and in this organic law.

Therefore, public interest in access to information is not unlimited, finding

a limit precisely in the guarantee of the rights of the interested parties whose data

personal may be affected.

The LTAIBG itself establishes the personal data protection system,

stating the following in its article 15:

1. If the requested information contains personal data that reveals the ideology,

trade union affiliation, religion or belief, access may only be authorized in

In the event that the express written consent of the affected party is obtained,

unless said affected party had manifestly made the data public with

prior to requesting access. If the information included data

personal information that refers to racial origin, health or sexual life,

includes genetic or biometric data or contains data relating to the commission of criminal or administrative offenses that do not entail public reprimand to the infringing party, access can only be authorized in case of having the express consent of the affected party or if it is protected by a norm with the force of law.

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2. In general, and unless in the specific case the protection of personal data or other constitutionally protected rights on the interest public in the disclosure that prevents it, access will be granted to information that contains merely identifying data related to the organization, operation or public activity of the body.

3. When the requested information does not contain specially protected data, the body to which the request is addressed will grant access after weighing sufficiently reasoned evidence of the public interest in the disclosure of information and rights of those affected whose data appear in the requested information, in particular their fundamental right to the protection of personal data. For the realization of the aforementioned weighting, said body will particularly take into account consideration the following criteria:

a) The minor damage to the affected parties derived from the passage of the terms established in article 57 of Law 16/1985, of June 25, on Heritage Historical Spanish.

b) The justification by the applicants of their request in the exercise of a

right or the fact that they have the status of researchers and motivate access

for historical, scientific or statistical purposes.

c) The least prejudice to the rights of those affected in the event that the

documents only contain data of a merely identifying nature of

those.

d) The greatest guarantee of the rights of those affected in the event that the

data contained in the document may affect your privacy or security, or

refer to minors.

4. The provisions of the previous sections will not be applicable if the access is made

prior dissociation of personal data in such a way as to prevent the

identification of affected people. 5. Data protection regulations

personal information will be applied to the subsequent treatment of those obtained through the

Exercise of the right of access.

For its part, the fifth additional provision of the LTAIBG establishes that the Council

of Transparency and Good Governance and the Spanish Agency for Data Protection

jointly adopt the application criteria, within their scope of action, of the

rules contained in article 15 of this Law, particularly with regard to the

consideration of the public interest in access to information and the guarantee of

rights of interested parties whose data is contained therein in accordance

with the provisions of this Law and Organic Law 15/1999, of December 13 (must

now be understood in accordance with the RGPD and the LOPDGDD, in accordance with the

established in the Second Additional Provision of this last Law)

The extensive interpretations of the cited article 15 of the LTAIBG have already been

warned by the Council of Transparency and Good Governance itself (hereinafter

CTBG), which, on June 24, 2015, adopted jointly with the

Spanish Agency for Data Protection Criterion CI/002/2015 regarding the

interpretation of the application of the limits to the right of access to information

public, in which, after analyzing the limits of article 15 of the LTAIBG, it establishes some

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successive stages or phases in the process of applying said limits, concluding

that its application will not be in any case automatic and that a

Justified and proportional application taking into account the circumstances of the specific case.

These phases would be:

First: assess whether the information requested or submitted to active advertising contains or

no personal data (understood as those defined in article 4.1

GDPR)

Second: If so, assess whether or not the data is data that reveals the

ideology, union membership, religion or belief (in which case access only

It may be authorized in the event that the express consent is obtained and by

writing of the data subject, unless said data subject had manifestly made

public data prior to access being requested) or make reference to the

racial origin, health or sexual life, including genetic or biometric data or

contains data relating to the commission of criminal or administrative offenses that

did not lead to a public reprimand of the offender (in which case access is only

may authorize in the event that the express consent of the affected party is obtained

or if it was protected by a rule with the force of law).

Third: If the personal data contained in the information were not

data of those mentioned in the previous section, assess whether or not they are exclusively

merely identifying data related to the organization, operation or the public activity of the corresponding body or entity. If so, the information will be published or provided generally, unless in the case particular the protection of personal data and other rights prevail constitutionally protected public interest in disclosure.

Fourth: If the personal data were not merely identifying and related to the organization, operation or public activity of the body or were not exclusively, carry out the weighting provided for in article 15.3 of the Law.

Regarding the merely identifying data related to the organization, operation or public activity of the body, Criterion CI/004/2015 issued by the CTBG together with the Spanish Agency for Data Protection, on the 23rd of July 2015, establishes that it would be the name, surnames, functions or positions performed, as well as the postal or electronic address, telephone and fax number professionals, expressly indicating that the DNI would not be considered data merely identifying, since it corresponds to a person of a public nature or of a person of a private nature, it is understood that knowledge of this data is not relevant for the purposes of achieving the objective of transparency that presides over the Law of Transparency.

Likewise, access to data of a merely identifying nature related to organization, operation or public activity of the body would be subject, ultimately, to the fact that in the specific case the protection does not prevail of personal data and other constitutionally protected rights on the interest public in disclosure, as stated in its Criterion CI/002/2015.

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Having established these bases, most of the personal data that has been published by the claimant are not exclusively related to the organization, operation or public activity of the body in question, that is, they have not been published due to the position that he holds or held, but for other circumstances, therefore, at the time of its dissemination, the criterion of article 15.3 of the LTAIBG should have been applied, it is that is to say, carry out a weighting between, on the one hand, the public interest in the disclosure of information and, on the other, the protection of the rights and freedoms of the owners of the data.

For these purposes, the public interest is defined in the Statement of Motives of the LTAIBG begins by recalling that "Transparency, access to information public policy and good governance standards must be the cornerstones of all political action. Only when the action of public officials is submitted to scrutiny, when citizens can learn how decisions are made that affect them, how public funds are managed or under what criteria our institutions we can talk about the beginning of a process in which the public powers begin to respond to a society that is critical, demanding and that demands participation of public authorities.

Thus, the purpose of the transparency rules as expressed in the LTAIBG – which, in any case, must be harmonized with respect for what is established by the RGPD and the LOPDGD- is to allow people to know the mechanisms that intervene in decision-making processes by public authorities, as well as as well as the use that they make of budgetary funds, guaranteeing thus the participation of citizens in public affairs through a better



knowledge of the action of the State.

Therefore, in general, it must be understood that, in terms of access to the information contributes to a better knowledge of the criteria of organization and functioning of the institutions or the allocation of resources, it will be worth considering the existence of a prevailing public interest over the rights to the protection of data and privacy in the terms and with the exceptions established by the LTAIBG. On the contrary, when the information does not contribute to a greater Knowledge of the organization and functioning of institutions or of the allocation of public resources, respect for the rights to data protection or privacy.

Applying this criterion to this case, it is considered that data were published excessive in relation to the purpose of the treatment -transparency- since the data that appear of the claimant in the various publications of the Acts of the County Council are not relevant data for the purpose of achieving the objective of transparency that presides over the LTAIBG, since it is fulfilled by omitting those. On the other hand, its knowledge by third parties could generate risks for the rights and freedoms of the claimant, such as the risk of impersonation of their identity, especially in the field of electronic transactions.

In conclusion, its publication violates the data protection regulations, specifically the data minimization principle of article 5.1 c) of the GDPR, which must be understood from the point of view of the proportionality of the treatments in

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in relation to its purpose, that is, when it is strictly necessary to

reach this one.

2.

Publication of personal data of the claimant on the website

[https://bop.dp\\*\\*\\*LOCALIDAD.1.es/](https://bop.dp***LOCALIDAD.1.es/) of the Official Gazette of the Province of

\*\*\*LOCATION.1 (BOPH)

There is evidence of the publication of various agreements of the Regional Council in the BOPH in the

that the allegations made by the claimant in various

procedures, identifying herself with her name and surname, her truncated ID

and data related to his status as \*\*\*POSITION.1. You even get to publish the

existence of a criminal complaint filed by her, with identification of the Court and

the number and identification of the criminal proceedings opened by it, as well as

the identification, with name and surname, of your lawyer.

In this regard, it should be noted that the claimant submitted allegations in different

procedures processed by the Region. In some cases he was given an audience as

interested party (amortization of the position of \*\*\* POSITION 1 that she occupies) and in other

makes allegations in the process of public information in files related to the

processing of the budgets of the Region.

The Region justifies its publication in that the agreements adopted by this Entity

Local must be published in the Official Gazette of the Province, due to the requirements of the

LTAIBG, Law 7/1985, of April 2, Regulating the Bases of the Local Regime, the

Law 39/2015, of October 1, on the Common Administrative Procedure of

Public Administrations and Law 5/2002, of April 4, regulating Bulletins

Officials of the Provinces.

In this regard, it is not questioned that there is a legal obligation with respect to

the publication of certain acts in the corresponding Official Gazettes. Yeah

However, once there is a legal basis for the treatment of the data (in

In this case, article 6.1.c) of the GDPR, this does not mean that the

treatment (in this case, publication) in any way and to any extent,

as it is necessary to comply with the rest of the obligations of the GDPR, especially

the principles of treatment established in its article 5.

And none of the Laws indicated by the Region obliges to publish this data as and

as has been done since these allegations should have been resolved

separately in the respective hearing procedures, notifying the

interested parties in accordance with the LPACAP and subsequently, where appropriate, adopt the

agreement that proceeds and proceed to its publication in accordance with the legislation that

is applicable and always respecting the regulations on data protection

personal.

The Region also adds that its publication has also been carried out as a means

of notification in accordance with Law 39/2015, of October 1, on the Procedure

Common Administrative of Public Administrations (hereinafter LPACAP),

complying with the requirements of the Seventh Additional Provision of the LOPDGDD, by

only include the name and surname together with the truncated DNI, as well as the

truncated mobile number and email address.

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In this regard, as regards notification by publication pursuant to

the LPACAP and the LOPDGDD, the seventh additional provision of the aforementioned LOPDGDD,

regarding the identification of interested parties in the notifications by means of

announcements and publications of administrative acts, determines in its section 1 what following:

1. When it is necessary to publish an administrative act that contains personal data of the affected party, it will be identified by means of its name and surname, adding four random numerical digits from the national identity document, foreigner identity number, passport or equivalent document. When the publication refers to a plurality of affected these random figures should be alternated.

In the case of notification by means of announcements, particularly in the cases referred to in article 44 of Law 39/2015, of October 1, of Common Administrative Procedure of Public Administrations, will be identified to the affected party exclusively through the full number of their national document identity card, foreigner identity number, passport or equivalent document.

When the affected party lacks any of the documents mentioned in the two previous paragraphs, the affected party will be identified solely by name and surnames. In no case should the first and last names be published together with the complete number of the national identity document, identity number of foreigner, passport or equivalent document.

2. In order to prevent risks for victims of gender violence, the Government promote the development of a collaboration protocol that defines secure procedures for publication and notification of administrative acts, with the participation of bodies with competence in the matter

For its part, the LPCAP distinguishes notification, publication, articles 44 and 45. The first regulates the cases in case of unsuccessful notification: "When the interested parties in a procedure are unknown, the place of the notification or, once this has been attempted, the notification could not have been carried out

will be made through an announcement published in the "Official State Gazette", while

Article 45 refers to the fact that "Administrative acts shall be subject to

publication when so established by the regulations of each procedure

or when advised by reasons of public interest appreciated by the body

authority", and establishes that in any case, for notification purposes,

in the following cases (none of which are applicable to this case):

a) When the act is addressed to an indeterminate plurality of

persons or when the Administration deems that the notification made to a

only interested party is insufficient to guarantee notification to all, being,

in the latter case, in addition to the one carried out individually.

b) In the case of acts that are part of a selective procedure or

competitive competition of any kind. In this case, the call of the

procedure must indicate the means where the successive

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publications, lacking validity those that are carried out in places

different.

Therefore, not having proven that the place of notification was unknown or

attempted this, it could not have been practiced, rather the opposite, since in

One of the publications indicates that the claimant did receive the notification by

electronic means in time and form and in the rest it is indicated that it will proceed to

process the notification to the claimant (for which reason it had not yet been done), no

It is necessary to justify, as claimed by the defendant, in that the notification by means of

publication was made in accordance with the provisions of the Seventh Additional Provision of the LOPDGDD, since what is required in it is based on the premise of when the publication of an administrative act. However, in the case at hand,

In accordance with the LPACAP, such notification by publication was not appropriate, but the individualized notification of the act.

But it is that even in the event that the legal circumstances had occurred and such notification had been made by publication, the one made by the entity would also fail to comply with the applicable regulations, both the procedural common administrative law such as data protection, since data were published excessive (allegations, criminal complaint, name and surname of your lawyer...). So, for notification and publication, the LPCAP provides, in article 46 referring to Indication of notifications and publications, that "If the competent body appreciates that the notification by means of announcements or the publication of an act infringes rights or legitimate interests, it will be limited to publishing in the corresponding Official Gazette a brief indication of the content of the act and the place where the interested parties may appear, within the period established, for knowledge of the full content of the aforementioned act and proof of such knowledge."

Furthermore, whatever the form of notification of the act administration to the interested parties, article 40.5 of the LPACAP establishes a prevention applicable to all types of notifications of resolutions and acts administrative procedures that must be carried out within the administrative procedure, and this, whether it is electronic notifications, on paper, or by publication in bulletin board. This section reads like this:

5. The Public Administrations may adopt the measures they deem necessary for the protection of personal data that appear in the resolutions and administrative acts, when they are addressed to more than one interested party.

The foregoing is a consequence of the right of all persons in their relations with the Administration, as established in article 13 h) of Law 39/2015, to the protection of personal data, and in particular to the security and confidentiality of the data contained in the files, systems and applications of Public Administrations, which ultimately determines the submission of the public administrations in the data processing that they carry out as prescribed the GDPR, the LOPDGDD and other applicable regulations on the matter.

The consequence of this is that said "possibility" for the Administration ("may") that establishes the art. 40 in its section 5 is not really such, but a true obligation for the administration to exhaust the measures that preserve the right to data protection of natural persons who are related to it.

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Article 6.1 of the GDPR establishes the assumptions that allow the use of treatment of personal data, and although there may be authorization for the treatment of the claimant's data as an interested party in a procedure in which she has presented allegations, this will always be within the appropriate legal framework and own, not being pertinent, nor adequate the publication in an official newspaper of the complete data that identifies her (her first and last name) linked to information about her associated (allegations, information on the notification, presentation of a criminal complaint with all your identifying information, name and surname of a lawyer, etc).

Therefore, the publication made has been made with an excessive exposure of

personal data not limited to what is necessary in relation to the purposes for which they are treated.

According to the evidence available at this time in resolution of the disciplinary procedure, it is considered that the known facts are be constitutive of an infraction, attributable to the Region, for violation of the Article 5.1.c) of the GDPR.

Classification of the infringement of article 5.1.c) of the GDPR

V

The aforementioned violation of article 5.1.c) of the GDPR supposes the commission of the offenses typified in article 83.5 of the GDPR that under the heading "Conditions rules for the imposition of administrative fines" provides:

Violations of the following provisions will be sanctioned, in accordance with the paragraph 2, with administrative fines of maximum EUR 20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the total annual global business volume of the previous financial year, opting for the highest amount:

a) the basic principles for the treatment, including the conditions for the consent under articles 5, 6, 7 and 9; (...)"

In this regard, the LOPDGDD, in its article 71 "Infracciones" 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 "Infracciones considered very serious" of the LOPDGDD indicates:

"1. Based on what is established in article 83.5 of Regulation (EU) 2016/679, are considered very serious and will prescribe after three years the infractions that



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

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

Penalty for violation of article 5.1.c) of the GDPR

SAW

Article 77 "Regime applicable to certain categories of persons responsible or treatment managers" 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 State Administration, the Administrations of the autonomous communities and the entities that make up the Local Administration.

1. When the managers or managers listed in section 1 commit any of the offenses referred to in articles 72 to 74 of this organic law, the data protection authority that results

The competent authority will issue a resolution sanctioning them with a warning.

The resolution will also establish the measures that should be adopted so that cease the conduct or correct the effects of the infraction that had occurred task.

(...)

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, once the aforementioned infringement of article 5.1.c) of the GDPR has been confirmed, it corresponds to sanction the Shire with AWARNING.

## VII

### GDPR Article 32

Article 32 "Security of treatment" of the GDPR establishes:

"1. Taking into account the state of the art, the application costs, and the nature, scope, context and purposes of processing, as well as risks of variable probability and severity for the rights and freedoms of individuals, the person in charge and the person in charge of the treatment will apply technical and appropriate organizational measures to guarantee a level of security appropriate to the risk, which may include, among others:

- a) the 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;

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- d) a process of regular verification, evaluation and assessment of effectiveness of technical and organizational measures to guarantee the safety of the treatment.

2. When evaluating the adequacy of the security level, particular consideration will be given to take into account the risks presented by data processing, in particular as consequence of the destruction, loss or accidental or illegal alteration of data personal information transmitted, preserved or processed in another way, or the communication or unauthorized access to such data.

3. Adherence to a code of conduct approved 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 controller and the processor shall take measures to ensure that any person acting under the authority of the controller or processor and have access to personal data can only process such data by following instructions of the person in charge, unless it is obliged to do so by virtue of the Law of the Union or of the Member States.

In the present case, it is evident that the Comarca proceeds to the publication of its acts and agreements both on its transparency portal and on the corresponding official bulletin without previously taking into account if they contain personal data and if the treatment of these is in accordance with both the limits established by the regulations of transparency -precisely for the protection of personal data-, as by the other regulations that are applicable, such as the limits and safeguards of the LPACAP and the regulations on data protection (RGPD and LOPDGDD).

Likewise, it has been revealed that it lacked a Delegate for the Protection of Data, despite being obliged to do so since the GDPR is mandatory compliance -on May 25, 2018-, in accordance with its article 37.1a) that determines that the person in charge of the treatment will designate one whenever the

processing is carried out by a public authority or body.

And it is not until the transfer of the claim is received and information is required

by this Agency, the defendant has proceeded to designate a Data Protection Delegate

Datos (notifying it of his appointment on July 23, 2021), propose the

designation of a person responsible for transparency, as well as proposing the realization of

a training workshop for employees of the Region with access to personal data,

revealing inadequate staff awareness/training on how to

personal data must be processed, as well as the general lack of measures

organizational measures to guarantee a level of security appropriate to the risk of the

treatment.

All of this shows that the risks to the rights and

freedoms of natural persons in the processing of their personal data and the lack

adoption of the appropriate technical and organizational measures to avoid the

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unauthorized communication or access of personal data, not guaranteeing

their confidentiality.

In accordance with the evidence available in this agreement of

initiation of the disciplinary procedure, and without prejudice to what results from the

investigation, it is considered that the known facts could constitute a

infraction, attributable to the Region, for violation of article 32 of the GDPR.

Classification of the infringement of article 32 of the GDPR

VIII

The aforementioned infringement of article 32 of the GDPR supposes the commission of the infringements typified in article 83.4 of the GDPR that under the heading "General conditions for the imposition of administrative fines" provides:

Violations of the following provisions will be sanctioned, in accordance with the paragraph 2, with administrative fines of maximum EUR 10,000,000 or, in the case of a company, an amount equivalent to a maximum of 2% of the total annual global business volume of the previous financial year, opting for the of greater amount:

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

In this regard, the LOPDGDD, in its article 71 "Infractions" 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 "Infractions considered serious" of the LOPDGDD indicates:

"Based on what is established in article 83.4 of Regulation (EU) 2016/679, are 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

Penalty for violation of article 32 of the GDPR

Article 77 "Regime applicable to certain categories of persons responsible or treatment managers" 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 State Administration, the Administrations of the autonomous communities and the entities that make up the Local Administration.

2. When the managers or managers listed in section 1 commit

any of the offenses 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

likewise, the measures that should be adopted to cease the conduct or to correct it.

the effects of the offense 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, confirmed the aforementioned infringement of article 32 of the GDPR, it corresponds sanction the Shire with AWARNING.

X

Measures

It is considered appropriate to order that he proceed to adapt the treatments object of the present procedure to the applicable regulations, in accordance with the provisions of the

cited article 58.2 d) of the GDPR, according to which each control authority may “order the person in charge or person in charge of the treatment that the operations of treatment comply with the provisions of this Regulation, where appropriate, in a certain way and within a specified period...”. the imposition of This measure is compatible with the imposition of fines, as provided in art. 83.2 of the GDPR.

The text of the resolution establishes the facts that have given lead to the violation of data protection regulations, from what is inferred with clearly what are the measures to adopt, notwithstanding that the type of specific procedures, mechanisms or instruments to implement them corresponds to the sanctioned party, since he is the one who fully knows his organization and has to decide, based on proactive responsibility and risk approach, how comply with the GDPR and the LOPDGDD.

Specifically, it is considered appropriate to order the REGION so that within a period of 30 days proceed to remove from your web page \*\*\*URL.1, all the personal data of the claimant whose publication is not lawful in accordance with the regulations of application.

It is noted that not meeting the requirements of this body could be considered as an administrative offense in accordance with the provisions of the GDPR, classified as an infraction in its article 83.5 and 83.6, being able to motivate such conduct the opening of a subsequent administrative sanctioning procedure.

Therefore, in accordance with the applicable legislation, the Director of the Agency

Spanish Data Protection RESOLVES:

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FIRST: SANCTION COMARCA DE SOBRARBE, with NIF P2200135H, for a infringement of Article 5.1.c) of the GDPR, typified in Article 83.5 of the GDPR, with WARNING.

SECOND: SANCTION COMARCA DE SOBRARBE, with NIF P2200135H, for an infringement of Article 32 of the GDPR, typified in Article 83.4 of the GDPR, with WARNING.

THIRD: ORDER COMARCA DE SOBRARBE, with NIF P2200135H, so that, within 30 days from the notification of this Resolution, certify before this AEPD that you have removed from your web page \*\*\*URL.1 all Unlawful publication of personal data of the claimant.

FOURTH: NOTIFY this resolution to the REGION OF SOBRARBE.

FIFTH: 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 the interested parties have been notified.

Against this resolution, which puts an end to the administrative process in accordance with art. 48.6 of the LOPDGDD, and in accordance with the provisions of article 123 of the LPACAP, the

Interested parties may optionally file an appeal for reversal before the Director of the Spanish Agency for Data Protection within a period of one month from count from the day following the notification of this resolution or directly contentious-administrative appeal before the Contentious-administrative Chamber of the National Court, in accordance with the provisions of article 25 and section 5 of the fourth additional provision of Law 29/1998, of July 13, regulating the Contentious-administrative jurisdiction, within a period of two months from the



day following the notification of this act, as provided for in article 46.1 of the

referred Law.

Finally, it is noted that in accordance with the provisions of art. 90.3 a) of the LPACAP,

may provisionally suspend the firm resolution in administrative proceedings if the

The interested party expresses his intention to file a contentious-administrative appeal.

If this is the case, the interested party must formally communicate this fact through

writing addressed to the Spanish Data Protection Agency, presenting it through

of the Electronic Registry of the Agency [[https://sedeagpd.gob.es/sede-electronica-](https://sedeagpd.gob.es/sede-electronica-web/)

web/], or through any of the other registries provided for in art. 16.4 of the

aforementioned Law 39/2015, of October 1. You must also transfer to the Agency the

documentation proving the effective filing of the contentious appeal-

administrative. If the Agency was not aware of the filing of the appeal

contentious-administrative proceedings within a period of two months from the day following the

Notification of this resolution would terminate the precautionary suspension.

Mar Spain Marti

Director of the Spanish Data Protection Agency

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