Procedure No.: PS/00188/2019

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00188/2019, instructed by the Spanish Agency for Data Protection, to the entity MADRILEÑA RED DE GAS S.A.U., (hereinafter, “claimed entity”), having regard to the complaint filed by Ms. A.A.A., (hereinafter, “the claimant"), and based on the following,

BACKGROUND

FIRST: Dated 08/28/18, you have entered this Agency in writing, submitted by the claimant, in which it states, among others, the following: “In relation to the contract of gas supply with Madrileña de Gas, of which I am the sole holder of contract no. *** CONTRACT.1 and not having granted any representation to third parties, the company has provided the tenant of the property of my property, located in ***ADDRESS.1 information about my data and consumption history, giving me the tenant transfer of this, through an image via WhatsApp, on 08/11/18”. I know provide a copy of the message received via WhatsApp.

SECOND: In view of the facts set forth in the claim and the documents provided by the claimant, the General Subdirectorate for Data Inspection proceeded to carry out actions for its clarification, under the powers of investigation granted to the control authorities in article 57.1 of the Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter RGPD). A) Yes, dated 10/10/18, 10/25/18 and 01/15/19, information requests are directed to the entity MADRILEÑA SUMINISTRO DE GAS, S.L. located at: c/ Anabel Segura 16 Edif. Vega Norte I 28108 Alcobendas (Madrid).

THIRD:

On 01/15/19, a request for information is addressed to the

claimant, to submit information to this Agency, about the contract of

lease of the property object of the claim and copy, where appropriate, of the contract

of extension until the moment of the presentation of the claim. Bliss

Documentation is sent to this Agency dated 01/21/19.

In said contract, signed on 09/16/17, it is stated that the rented house is

located at ***ADDRESS.1. The owner of the same is, Ms. A.A.A. with

email address for notification purposes ***EMAIL.1 and tenants

son, D.B.B.B. and Dª C.C.C., with email address for the purposes of

notification ***EMAIL.2

FOURTH: On 02/07/19, the Subdirectorate General for Data Inspection

proceeded to make an information request to the entity MADRILEÑA RED DE GAS,

SAU located at c/ Virgilio 2, B, Building 1, Arco Business Center; 28223 Well of

Alarcón, (Madrid), requesting that he submit information regarding the claim

submitted by the claimant as a result of the communication of data from her

contract to third parties.

FIFTH: On 02/15/19, the entity MADRILEÑA RED DE GAS SAU, sends to

this Agency written informing, among others, that: “Madrileña Red de Gas is a

gas distribution company, which among other tasks. handle requests for

commissioning processed by the Marketing Companies. As a result

of a gas supply contract that these companies manage with the

end users. Therefore, Madrileña Red de Gas cannot provide them with a copy of the supply contract, understanding that said document must be provided by the marketing company with which the user has processed the contracting of the supply.

For the CUPS provisioning point from which information is requested in the call referenced in the following point, at the time of said call, there was no no contract in force since 2013, the date on which the contract was terminated previous. Therefore. said point was available in the system for new contracts and was not associated with any owner. Secondly. the holder of previous contract already discharged that appears in our records, is a third person who does not coincide with the claimant reflected in his letter of Requirement of information. Finally. trying to find out some information that would clarify this query. We did not locate records related to the interested party

Regarding the procedure used to identify the person who presented the request for information records in our system the registration of a call to our telephone platform made on 04/13/18 by the user Ms. D.D.D.. where requested the Universal Code of the Supply Point located at ***ADDRESS.2. on which he wanted to contract gas service, which appeared in the system as available to be hired and, therefore. not associated with any owner. For provide the CUPS code. the telephone agent asked the user to identify herself providing name and ID, at which time he proceeded to provide said information.

No type of personal data was provided since, as has been explaining, said supply point was available in the system for new hires and was not associated with any incumbent."

SIXTH: On 02/20/19, the General Subdirectorate for Data Inspection directs communicated to the entity MADRILEÑA RED DE GAS SAU, upon detecting in the writing

received on 02/15/19, an alteration in the data provided. Thus, on 03/06/19, the

entity claimed sends a letter to this Agency, informing that:

“After reviewing the code that they provide us with numbering ***REFERENCE.1 we have

found a record associated with a supply point. in which the owner of

contract was Ms. A.A.A. until 10/22/18 and the system records the registration of a

email received in the attention.usuarios@madrilena.es mailbox, in April 2018

requesting consumption information from a supply point. Specifically, said

The request referred to the history of readings of Ms. AAA, indicating that the DNI of the

applicant was ***NIF.1. After verifying that the person who claimed to request the

information, he actually had an active contract that corresponded to the DNI

informed, only the requested consumption data is sent to you.

The transferred data is limited to the consumption of the supply point linked to the DNI

and in the name of the applicant, A.A.A., in the period 12/31/10 to 09/15/12. Bliss

information is sent by email to the same email from which the

information request, ***EMAIL.3. We enclose a copy of said email with the

information".

SEVENTH: On 06/24/19, the Director of the Spanish Agency for the Protection of

Data agreed to initiate sanctioning proceedings against the claimed entity, by virtue of

the powers established in article 58.2 of the RGPD and in articles 47, 64.2 and

68.1 of Organic Law 3/2018, of December 5, on Data Protection

Personal and Guarantee of Digital Rights (LOPDGDD), for the infringement of the

article 5.1.f) of the RGPD typified in article 83.5.a) of the RGPD and considered very

serious, for prescription purposes, in article 72.1.a) of the LOPDGDD, argued

in the same as: it has been verified that, the reference number of the query that

figure in the complaint is associated with a supply point owned by the

claimant until 10/22/18. The query, nº ***REFERENCE.1 was made by mail

email to the address atencion.usuarios@madrilena.es, in April 2018,

indicating as the DNI of the applicant, that of the holder of the contract.

Although the claimed entity provides the reply email to request no.

***REFERENCE.1 and states that it is the same as that of the sender of the request,

verifies that the data does not correspond to that of the owner of the contract of

supply, since in said address E.E.E. appears as recipient. < ***EMAIL.3

>. Nor does it provide the email through which the information is requested and in which

supposedly the data of the claimant was indicated.

EIGHTH: Once the initiation agreement was notified, the claimed entity, MADRILEÑA RED DE

GAS (MRG), in a letter dated 07/10/19, formulated, in summary, the allegations

already set out in the motion for a resolution.

NINTH: On 08/09/19, the test practice period began,

remembering: a).- to consider reproduced for evidentiary purposes the complaint filed

by the complainant and her documentation, the documents obtained and generated that

are part of file E/00242/2019 and b).- consider reproduced for purposes

evidence, the allegations to the initiation agreement of PS/00188/2019, presented by

the reported entity.

: On 09/02/19, the sanctioning resolution proposal is notified

TENTH

consisting in that by the Director of the Spanish Agency for the Protection of

Data is sanctioned to the entity claimed for infringement of art 5.1.f) of the RGPD,

typified in article 83.5.a) of said regulation and considered "very serious" for the purposes of prescription, in art. 72.1.a) of the LOPDGDD, basing it on the fact that, according to the existing documentation in the file follows: “from the email ***EMAIL.2, belonging to the tenants of the house located at ***ADDRESS.1, from September 2017, an email was sent, using the data personal data of the owner of the home, (your name and ID number), to the email address of the entity, MADRILEÑA RED DE GAS SAU, atencion.usuarios@madrileña.es, to request the gas consumption made in the home during the years 2011 and 2012.

The entity complained against, considering that the requestor of said information was duly identified with the data provided, forwarded to the email address electronic data of the tenants the consumption data of the dwelling in the years 2011 and 2012 of the owner of the house.

The lack of diligence in the accreditation of the identity of the applicant by the entity, since it did not require sufficient evidence for the correct identification as a client, even more so, when in the "sender" field, of the e-mail of the request, another person appeared different from that of the holder of the contract, shows that the entity does not guarantee compliance with the RGPD at the time to verify that the data of the person who contacts them is the one who says to be

It must be reiterated that this sanctioning procedure opened against MADRILEÑA RED

DE GAS SAU, refers to the processing of personal data that

manages the company and the lack of diligence in taking appropriate measures

that guarantee compliance with the RGPD, in this case, in relation to the

misappropriation of customer identities and the fraud that this may give rise to, without

enter to assess here, that the data offered later by the company were or were not

protected by the RGPD (article 4 and recital 30)".

ELEVEN: Once the proposed resolution has been notified, the entity claimed submits

allegations to the proposal in the period granted for this purpose, based on

essence, the following:

"In the FIRST point of the PROVEN FACTS section of the letter of the

PROPOSAL, a rental contract is collected between the claimant Ms. A.A.A. and its

tenants D. B.B.B. and Ms. C.C.C.. Said contract establishes a link between

tenants and mail ***EMAIL.2. However, MRG is not aware of

any type of the existence of such a contract, much less of the data of the

tenants, so you cannot link said email to a third person in a

that she is aware that it is not an email of the contract holder that she is using

to communicate with MRG. From our point of view, what shows said

contract is the following: a) That the holder provides his personal data to his

tenant for the purpose of managing the contractual relationship between the parties,

relationship demonstrated by said contract. Therefore. tenants have the

information necessary to identify themselves on behalf of the holders of the contract of

gas supply. Whether or not this use is improper, we cannot determine by not

know the terms of the contract or what was agreed between the parties. b) remains

demonstrated that, as MRG argued in the response to the sanction proposal dated

06/27/19, Ms. A.A.A. breached its obligations by not making a transfer of its

gas contract to the tenant or formally communicate it to MRG. By not complying with this

requirement, MRG cannot in any way be aware of said situation.

In addition, since the tenant has the identification data of the owner. made in

practice very complicated to reliably identify the information requester

as the contract holder.

We insist that, according to article 21, 1, c) of Royal Decree 1434/2002 that regulates

activities of transport, distribution, marketing. supply and

procedures for the authorization of natural gas installations, the

obligation to the owner of the supply point, in this case to the claimant, "That the gas

natural resource is destined for its own use", a legal obligation that is infringing the

claimant by allowing the gas to be used by a different person. in this case the

tenant.

In addition, article 36.2 of this Royal Decree 1434/2002 establishes that: 2. The

The supply contract is personal, and its owner must be the actual user of the

fuel, which may not be used in a place other than the one for which it was contracted, nor

give it up, nor sell it to fear. Being able to be transferred to third parties under the conditions

established in art. 39. 1 of said Royal Decree 1434/2002: 1. For a point of

supply, the consumer who is up to date with payment may transfer his contract to

another consumer who is going to make use of it, under identical conditions. The owner the

will inform the distribution company by means of a communication that

allows for proof for the purpose of issuing the new contract.

In point 2 of the PROVEN FACTS, it is stated that the emails requesting the

Consumption information is made from ***EMAIL.2. The same is stated in

the FOUNDATIONS OF LAW. However, this is not correct. How I know

can check in the emails that were provided to the file, the emails are addressed

from the account ***EMAIL.3 which does not seem to be the one that appears in the contract between

the owner and his tenant. We want to point out that this error is not the first to be

produced in the processing of this procedure.

Previously, in the first communication addressed to MRG. was requested by

part of the AEPD information about a supply point that was not

related to this case. Subsequently, and as explained by the AEPD in its own

written sanction proposal and includes in its ANNEX, have been sent

communications notifying this file to MADRILENA SUMINISTRO DE GAS,

totally unrelated company MRG, on several occasions. In this regard, in his previous

writing it was implied that MRG had not replied to the communications of the

AEPD when, in reality, those notifications were addressed to another recipient

improperly by the AEPD itself, not correctly identifying the

addressee. In the response to the Proposal for a sanctioning initiation agreement sent

Previously, MRG tried to provide as evidence a recording of a call

where the caller is identified as A.A.A., provides the contact email

***EMAIL.2 and a meter reading is provided. However, the system

implemented by the AEPD does not allow attaching voice files, so it could not be

make the shipment. When the response to the AEPD was registered, this information was reported.

circumstance requesting an alternative channel to send this file. we want to leave

proof that MRG has not received a response from the AEPD so far, for

so this document could not be sent. We believe that this call brings

information on how in communications with MRG, the owner of the contract,

reports the user's email ***EMAIL.2 as communication email with MRG.

The operator consults various data from the file to identify the owner. If the

caller is misusing the data, it cannot be attributed to

MRG this responsibility, even more so when in our opinion, this situation comes

motivated by the breach of the owner in the change of the contract and allow

there is a holder other than the consumer. A copy of the

document through which a communication channel is requested from the AEPD

alternative for this voice file and a transcript of the conversation contained

in this voice file.

In the BASIS OF LAW it is stated that 'the lack of

diligence, in the accreditation of the identity of the applicant by the entity

claimed, since it did not require sufficient evidence for the correct identification

as a customer. As well as, later in the same section, it says. “lack of diligence

in the adoption of adequate measures that guarantee compliance with the RGPD, in

this case, with regard to usurpation of customer identities and fraud

that this may give rise to". The point of the RGPD for which it is proposed to sanction MRG

is the one collected in Article 5.1.f) 1. Personal data will be: treated in such a way

manner that ensures adequate security of personal data, including the

protection against unauthorized or unlawful processing and against loss, destruction

or accidental damage, through the application of technical, organizational

appropriate (integrity and confidentiality).

In light of that article. we understand that MRG must take steps to identify

to the applicant within the existing possibilities, as it has done in the present

case. but that it falls to MRG to prevent in any way an usurpation of

identity or avoid damage, when it is the complainant herself who fails to comply with her

obligations established in the legislation (cited) on the supply of natural gas and

provides your personal identification data to third parties so that they can usurp your

identity, we consider that it exceeds the provisions of the mentioned article. Nope

we can agree that MRG has not exercised due diligence to

prove the identification of the information requestor. On the contrary. have been requested

the identification data necessary to see that the request came from the owner.

In the BASIS OF LAW it says 'in the "sender" field of the email

e-mail of the request appeared another person other than the holder of the contract. A

In this regard, we want to clarify that the name that appears related to a

email address, in no case can it be taken as an identifying data. The

changing that name on the account is trivial. simply with the holder of a

account edit your profile you can put the text you prefer, identifying yourself,

a third party, or with any text. This change can also be done in

any moment. not only when the account is designed. In fact, the name

displayed in the mail is E.E.E., not D.B.B.B. nor Dª C.C.C.. Therefore, the mail

electronic, when its function is to establish a channel of communication, it cannot be

a piece of information to consider to identify the applicant since there are no guarantees that

certify neither their ownership nor their use by the interested party. Therefore, the suspicions

should have awakened the E.E.E. mail, according to the interpretation of the Proposal

of Sanction, is a little objective criterion.

It should also be taken into consideration that the distribution companies and

gas marketers are obliged by Royal Decree 1434/2002 to maintain

a telephone channel available to customers. Identification through these channels

It must be done by contrasting identifying data, since at this time there is no technology to make a more secure identification. require another type of identifications (verification of telephones, emails, passwords) at this time, by the consumer profile and socially extended technical means, would carry with it the inability to provide the service. As we explained in the previous writing, in the Resolution of April 12, 2011, of the General Directorate of Energy Policy and Minas, which approves the framework procedure for telephone contracting, electronics and telematics for the natural gas market, the email does not appear as one of the data to identify the owner, using name and DNI to identify the person. The email channel, in this sense. It is similar to telephone. I know can verify that the sender presents the necessary identification data (Name and DNI), but others, such as email, we have already verified that they do not It can be an identifying data due to the null guarantees it offers. Require a holder addressed MRG always from the same email would be as much as forcing always be called from the same phone number and that it was the one that had registered the distribution company to be able to serve the user. we want to leave proof that MRG has always acted in good faith, considering that the applicant was duly identified with the data of the holder (Name, Surnames

and ID). If the tenant, or another person, has misused the data of the holder of the point of supply (data that has NOT been provided by MRG), supposedly impersonating it without its authorisation, Madrileña Red de Gas is NOT, nor can it be,

responsible for the inadequate and illegal behavior of this person, and

which the claimant, as the owner of the supply point, has had to provide its

identification data (name, surname and ID).

However, the claimant has not complied with its obligations to notify the

distributor the change of contract when formalizing the lease, which leaves MRG in a

situation of defenselessness since it provides its data to a tenant but MRG does not

You can find out about this situation. In accordance with the regulations set forth, it turns out that MRG

If I request all the identification data of the owner of the supply point to

ensure adequate security of personal data before facilitating the

consumption information; the data of the owner of the supply point (Name.

Surnames and DNI), to verify the identity of the petitioner, in a way that

ensure adequate security and confidentiality of personal data,

including to prevent unauthorized access or use of such data and equipment

used in the treatment, so it has NOT violated recital (39) of the

RGPD, nor has it breached any precept of the RGPD, nor has it incurred any infraction

of the RGPD, nor of article 5.1.f), nor of any other, so it is inadmissible

any penalty.

We also believe that it should be taken into consideration that MRG has in this

At the moment 906,912 active customers, a high percentage of whom carry out transactions. so much

by phone as well as by email. However, this is the first case of a

claim for improper identification of the interested party. We believe this supports

than the procedures followed, always susceptible to error and improvement. are

adequate and achieve the adequate identification of the interested parties. On the other hand. Y

having proven that, in violation of the regulations set forth, the claimant

maintains ownership of the supply point in its name, although it is intended for the

use of third parties, such as the lessee, is also not accredited that the

consumption data provided by the gas distributor MRG correspond to the

claimant or any other third party, for example, tenants. that they use the

Property. This situation. by itself, renders this file without purpose,

proceeding to remember your file. 7) Regarding the data provided by MRG,

as is accredited in the file, they ONLY refer to gas consumption

natural in a given period for a given supply point, without

further details or additional information. so it is not accredited that

have revealed personal data of the holder not already known by the applicant of the

information. 8) In the Sanctioning Procedure, there is no answer to the answer that

was given to consideration as an aggravating circumstance of the fact of not having notified

proactive advocacy by Madrileña Red de Gas. We insist on this

that MRG was not aware of the situation until it received the request for

information from the AEPD, and that, in any case, Madrileña Red de Gas was subject to

deception to obtain this information. if you really didn't ask for it

claimant, since otherwise it would not have been sent. 9) Finally, we understand

that. in case the Sanction Resolution is maintained for not taking into account the

arguments of MRG, the fact that the owner of the

contract has not fulfilled its obligations to change the owner at the time

of renting the house, as this creates the identification problems seen in

this case.

We understand this assumption to be adjusted to what is included in the LOPD in its Art 76.2 d) Art

76. Sanctions and corrective measures. 2. In accordance with the provisions of article 83.2.k)

of Regulation (EU) 2016/679 may also be taken into account: d) The possibility

that the conduct of the affected party could have led to the commission of the offence.

In any case, MRG is going to study whether the identification of the holder can be reinforced

of the point of supply in requests for information. expanding the information

contribute by the applicant without violating his intimate and personal sphere. For all the above, and

NOT having violated MRG the recital (39) of the RGPD, nor breached any

GDPR provision. nor incurred in any violation of the RGPD. nor of art 5.1.f), nor of

any other, any sanction is inadmissible and the AEPD is requested to agree on the

archive of this sanctioning procedure".

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

In this proceeding, the following are considered proven facts:

PROVEN FACTS

Of the actions carried out in this procedure, of the information and

documentation presented by the parties, the following have been accredited:

1º In the lease contract presented by the claimant, it is appreciated that the

It is celebrated on 09/16/17. The rented house is located in the

***ADDRESS 1. The owner of the same is, Ms. A.A.A. with DNI ***NIF.1 and the

tenants are, D. B.B.B. and Mrs. C.C.C.

It is also noted that, in the twentieth point of the contract, "Notifications",

indicates as email of the tenant for the purposes of notifications,

"***EMAIL.2" and telephone number ***TELEFONO.1.

2º With dates April 4, 6, and 7, 2018, three emails are sent from the

address: E.E.E., ***EMAIL.3 (Apple email used when using a

device of this company), to the address: atencion.usuarios@madrileña.es, with

Subject: "A.A.A Reading History." and with the text: "Good afternoon, with DNI ***NIF.1,

I request consumption history from 12/31/10 to 09/15/12. Sent from my iPhone

5.

3º On 04/13/18 an email is sent from the address

atencion.usuarios@madrileña.es to the address E.E.E., ***EMAIL.3 with Subject:

A.A.A. Reading History, and with the message: “Thank you for contacting Madrileña

Gas network. In response to your reference request ***REFERENCE.1 we detail

the requested readings…”

The information is then divided into three columns: the first column indicates the

“registration date”, with 15 readings, ranging from 12/31/10 to 11/08/12; In the

second column details the "consumption in cubic meters" and the third column

indicates the “type of reading”, if it has been estimated, facilitated or real.

FOUNDATIONS OF LAW

By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of

control, and as established in art. 47 of the LOPDGDD, the Director of the Agency

Spanish Data Protection is competent to initiate and resolve this

process.

Yo

The joint assessment of the documentary evidence in the procedure brings to

knowledge of the AEPD a vision of the performance of the claimed entity, which has

reflected in the facts declared proven.

II

However, in the present case, regarding the arguments presented by the

entity claimed to the resolution proposal, clarify that, when in the proposal

of resolution, in the section of "proven facts", it is indicated that, "of the actions

practiced in this procedure, of the information and documentation

presented by the parties, the following have been accredited "... , it is indicated that

The facts listed below are asserted as a result of the

investigations carried out by this Agency, and for the documentation provided by the

parts. These are facts that the Agency takes as true to make the proposal for

resolution. Thus, in point 1 of the proven facts, it has been verified, from the

lease contract that the tenants of the property in question have as

email ***EMAIL.2 (or “@icloud.com” account, when using systems

iOS or macOS operating systems, on Apple-branded devices). Mail address

email, from which they contacted the MRG entity to request

consumption data of a third person.

Regarding the call transcribed by the MRG entity, indicate that it was

performed on 08/06/18 and was to give a meter reading. The same entity,

letter sent to this Agency on 03/06/19, indicates: “(…) the system records the

registration of an email received in the mailbox atencion.usuarios@madrilena.es, in April

2018 requesting consumption information from a supply point”. Specifically,

said request referred to the history of readings of Ms. AAA, indicating that the DNI of the

applicant was ***NIF.1 (...). It follows from all this that the date on which

the facts of this file occur (April 2018), are prior (3 months),

to the call alleged by the entity. It is also verified that the telephone indicated in the

call from 08/06/18 by the person who contacts the entity

MRG, does not correspond to the telephone number of the owner of the supply, but to the number of

the tenant of the house.

When MRG states that: "(...) email, when its function is to establish

a communication channel, it cannot be a data to be considered to identify the

applicant since there are no guarantees that they certify neither their ownership nor their use by the

interested party", he is acknowledging with it, a foreseeable breach of security in his

systems, because anyone who comes into contact with them through this

medium and indicate that he is who he really is not, providing them with a minimum

identification, such as name or ID, the MRG entity considers it

as valid, thus demonstrating a clear symptom of lack of diligence in the

adoption of appropriate measures to ensure that the person who puts himself in

contact with them is who they say they are and not someone else.

For all these reasons, the documentation in the file offers clear indications

that the defendant violated article 5 of the RGPD, principles related to treatment,

in relation to article 5 of the LOPGDD, duty of confidentiality, when disclosing to a

third party the personal data of the claimant through an email

submitted by the claimant.

The claimant has provided the email sent to her by a third party in which

contains a link that leads to a summary of the claimant's purchase, displaying

said third party your data, having knowledge of the facts because that person

sent an email explaining what happened, indicating that his phone line is

associated with the data of the claimant.

The duty of confidentiality, previously the duty of secrecy, must be understood as

Its purpose is to prevent leaks of data not consented to by

their owners.

Therefore, this duty of confidentiality is an obligation that falls not only on the

responsible and in charge of the treatment but to anyone who intervenes in any

phase of the treatment and complementary to the duty of professional secrecy.

In this sense, the National High Court pronounced itself in a judgment of 01/18/02, in

whose Second Law Foundation, stated: "The duty of professional secrecy

which is incumbent on those responsible for automated files, ..., implies that the

responsible –in this case, the recurring banking entity- of the data stored

-in this case, those associated with the complainant- cannot reveal or make known their

content having the "duty to keep them, obligations that will subsist even after

to end their relations with the owner of the automated file or, where appropriate, with the

responsible for it... This duty of secrecy is essential in societies

increasingly complex, in which advances in technology place the

person in risk areas for the protection of fundamental rights, such as

intimacy or the right to data protection set forth in article 18.4 of the

EC. In effect, this precept contains an "institution to guarantee the rights to

privacy and honor and the full enjoyment of the rights of citizens who,

moreover, it is in itself a fundamental right or freedom, the right to freedom

in the face of potential attacks on the dignity and freedom of the person

from an illegitimate use of mechanized data processing (STC 292/2000)

…"

For all these reasons, the lack of diligence in the accreditation of the identity

of the applicant by the MRG entity, since it did not require sufficient evidence

for the correct identification of the person who contacted them.

Thus, the known facts are constitutive of an infraction, attributable to the

claimed, for violation Article 5.1.f) of the RGPD establishes that: "the data

personal data will be treated in such a way as to ensure adequate security,

III

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including protection against unauthorized or unlawful processing and against loss,

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

appropriate organizational

For its part, and after the evidence obtained in the preliminary investigation phase and

throughout the instruction of the procedure, it is appropriate in this case to attend to what

stipulated in article 83.2 of the RGPD, in order to set the amount of the sanction to

impose in the present case:

a).- As aggravating criteria:

-

-

-

The way in which the supervisory authority became aware of the infringement. To the

have knowledge from the claim, (section h).

b).- As mitigating criteria:

The nature, seriousness and duration of the offence, taking into account the

nature, scope or purpose of the processing operation in question,

as well as the number of interested parties affected and the level of damage and

damages they have suffered (section a).

Non-intentionality in the infraction, (paragraph b).

- There is no previous infraction committed by the person in charge or the person in charge of the

treatment (paragraph e).

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The categories of data affected by the infringement, (section g).

The non-existence of financial benefits obtained through the infringement

(section k).

On the other hand, it is considered appropriate to graduate the sanction to be imposed in accordance with

the following criteria established in article 76.2 of the LOPDGDD. as criteria

aggravating factors:

-

The link between the activity of the offender and the performance of treatment of

personal data, (section b).

The balance of the circumstances contemplated in article 83.2 of the RGPD, with

regarding the infraction committed, by violating the provisions of article 5.1.f),

allows setting a penalty of 12,000 (twelve thousand euros), considered "very serious", to

prescription effects thereof, in 72.1.a) of the LOPDGDD.

In view of the aforementioned precepts and others of general application, the Director of the Agency

Spanish Data Protection

RESOLVES:

FIRST: IMPOSE the entity MADRILEÑA RED DE GAS a fine of 12,000

euros (twelve thousand euros), for the infringement of article 5.1.f) of the RGPD.

SECOND: NOTIFY this resolution to the entity MADRILEÑA RED DE

GAS. and, according to art. 77.2 of the RGPD, INFORM the claimant about the result

of the claim.

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

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

THIRD: Warn the sanctioned party that the sanction imposed must make it effective

Once this resolution is executed, in accordance with the provisions of the

Article 98.1.b) of Law 39/2015, of October 1, on Administrative Procedure

Common to Public Administrations, within the voluntary payment period indicated in the

Article 68 of the General Collection Regulations, approved by Royal Decree

939/2005, of July 29, in relation to art. 62 of Law 58/2003, of 17

December, by depositing it in the restricted account number ES00 0000 0000 0000 0000

0000, opened in the name of the Spanish Agency for Data Protection in the Bank

CAIXABANK, S.A. or otherwise, it will be collected in the period

executive.

Received the notification and once executed, if the date of execution is

between the 1st and 15th of each month, both inclusive, the term to make the payment

voluntary will be until the 20th day of the following month or immediately after, and if

between the 16th and last day of each month, both inclusive, the payment term

It will be until the 5th of the second following month or immediately after.

In accordance with the provisions of section 2 of article 37 of the LOPD, in the

wording given by article 82 of Law 62/2003, of December 30, on measures

fiscal, administrative and social order, this Resolution will be made public, once

Once it has been notified to the interested parties. The publication will be made in accordance with

provided for in Instruction 1/2004, of December 22, of the Spanish Agency for

Data Protection on the publication of its Resolutions and in accordance with the

provided in article 116 of the regulations for the development of the LOPD approved by the

Royal Decree 1720/2007, of December 21.

Against this resolution, which puts an end to the administrative procedure (article 48.2 of the LOPD),

and in accordance with the provisions of articles 112 and 123 of Law 39/2015, of

1/10, of the Common Administrative Procedure of the Public Administrations, the

Interested parties may optionally file an appeal for reconsideration before the

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

counting from the day following the notification of this resolution, or, directly

contentious-administrative appeal before the Contentious-Administrative Chamber of the

National Court, in accordance with the provisions of article 25 and section 5 of

the fourth additional provision of Law 29/1998, of 13/07, regulating the

Contentious-administrative jurisdiction, within a period of two months from the

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

aforementioned legal text.

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

may provisionally suspend the firm resolution in administrative proceedings if the

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

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

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

of the Electronic Registry of the Agency [https://sedeagpd.gob.es/sede-electronicaweb/],

or through any of the other registers provided for in art. 16.4 of the aforementioned Law

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

that proves the effective filing of the contentious-administrative appeal. If the

Agency was not aware of the filing of the contentious appeal-

within a period of two months from the day following the notification of the

This resolution would terminate the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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