

□ File No.: PS/00327/2021

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: An agent from the Main Post of *** LOCATION.1, of the Civil Guard,
dated June 7 and 14, 2021, transfers to the Spanish Agency for the Protection of
Data some facts, in case they violate data protection regulations.

The facts are as follows:

On May 20, 2021, Mrs. A.A.A., in her capacity as Director of the C.E.I.P.

***CEIP.1, located in ***LOCALIDAD.1, filed a complaint because a mother, whose
children study at the center, he has made a video montage, humiliating three people from
black race from the same family unit; and has widely distributed the video through
from his Instagram profile and by whatsapp.

The complaint is directed against B.B.B. with NIF ***NIF.1 (hereinafter, the claimed one).

As a result of the complaint, police proceedings have been initiated for
alleged criminal offense against the dignity of persons (insults/vexation
with advertising). Proceedings sent to the Investigating Court No. 1 of
***LOCATION.2 (A Coruña), and in whose content the special
vulnerability of the people incarcerated according to risk factors, such as their
little roots in Spain, ignorance of the language, or the recent schooling of
one of the minors in the school.

A copy of the recorded video is delivered in case it incurs in violation of the Law
Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of
digital rights (hereinafter LOPDGDD), by not having your consent;

and even if the child under 9 years of age had given it, it would not be valid.

In the montage of the video you can hear these lyrics of a song:

"Black cats come out at night and go looking for trouble, woe for trouble,

black cats come out at night and go looking for trouble"

This is the transcript of the written message contained in the montage:

"THE GIRL IS GORGEOUS BUT HER BROTHER'S FACE KILLS ME. III

XXXXXXX SORRY MY LIFE. HAHAAHA HE GETS UP AND EVERYTHING IS GOING TO HIT ME

ME AND MY CHALLENGE HAHAAHAHAHAHAHA LAUGH CHILD I MAKE YOU FAMOUS"

SECOND: In view of the facts denounced in the claim and the documents

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data provided by the Civil Guard, prior to admission for processing, it was found

the next:

The quality of the captures does not allow a 100% assurance of identifying the profile, which

appears to be ***PROFILE.1. It is verified that this profile is currently a private profile.

do (with nearly 1,000 followers and 47 posts). It is unknown if the video is still active.

currently available or if it was published as a Story, with publication limited to 24h.

Subsequently, it is verified that if it is the indicated profile to which the

complaint.

THIRD: On June 22, 2021, the claim was admitted for processing by

the Director of the Spanish Data Protection Agency.

FOURTH: On July 12, 2021, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure 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 the Public Administrations (in hereinafter, LPACAP), for the alleged violation of Article 6 of the RGD, typified in the article 83.5 of the RGD.

Notified of the aforementioned start-up agreement, on July 30, 2021, the claimed has not presented allegations to the same.

FIFTH: On July 21, 2021, the Investigating Court No. 1 of

***LOCATION.1, of the initiation of this sanctioning procedure, requesting that communicate to this Agency their criteria on the existence of subject identity, fact and basis between the alleged administrative offense and the criminal offense that could correspond, to proceed, where appropriate, to the immediate suspension of the procedure initiated, by virtue of the provisions of article 22 of Law 39/2015, of October 1, of the Common Administrative Procedure of the Administrations Public, for which purpose a copy of the resolution agreeing to the initiation of sanctioning procedure and documentation sent by B.B.B.

SIXTH: On September 10, 2021, the Director of the Spanish Agency for Data Protection agrees to suspend this sanctioning procedure until the court proceedings are completed.

SEVENTH: On October 6, 2021, the Investigating Court No. 1 of

***LOCALIDAD.2 communicates the provisional dismissal of the proceedings by not appear duly justified the perpetration of the crime that motivated the formation of the cause.

On December 15, 2021, the suspension of the procedure and proceedings continue.

EIGHTH: On December 27, 2021, the instructor of the procedure agreed perform the following tests:

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1. The claim filed by

CIVIL GUARD - POSITION P. OF ***LOCALITY.1 and their documentation, the documents obtained and generated during the admission phase of the application claim, and the report of previous investigation actions that are part of the procedure E/07025/2021.

2. Likewise, it is considered reproduced for evidentiary purposes, the communications of the Investigating Court number 1 of ***LOCATION.2.

3. B.B.B. to report whether you have removed the video subject to claim of your Instagram and has ceased its dissemination.

NINTH: The proposed resolution is signed by the instructor of the procedure in dated February 2, 2022. The proposal was notified on February 14, 2022, as stated in the Receipt Notice. The motion for a resolution was made in the following terms:

“That by the Director of the Spanish Data Protection Agency, sanction B.B.B., with NIF ***NIF.1, for an infringement of Article 6 of the RGPD, typified in Article 83.5 of the RGPD, with a fine of 10,000 euros (ten thousand euros)”.

No allegations have been received.

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

PROVEN FACTS

FIRST: Ms. A.A.A., as Director of the C.E.I.P. CEIP.1, located at

***LOCALIDAD.1, filed a complaint because a mother, whose children study at the center, has made a video montage, humiliating three black people in a same family unit; and has widely disseminated the video through his profile Instagram and whatsapp.

SECOND: The complaint is directed against B.B.B. with NIF ***NIF.1 (hereinafter, the reclaimed).

THIRD: A copy of the recorded video was presented. In the montage of the video listen to these lyrics of a song:

"Black cats come out at night and go looking for trouble, woe for trouble, black cats come out at night and go looking for trouble"

This is the transcript of the written message contained in the montage:

"THE GIRL IS GORGEOUS BUT HER BROTHER'S FACE KILLS ME. III

XXXXXXX SORRY MY LIFE. HAHAAHA HE GETS UP AND EVERYTHING IS GOING TO HIT ME ME AND MY CHALLENGE HAHAAHAHAHAHAHA LAUGH CHILD I MAKE YOU FAMOUS".

FOURTH: The Investigating Court No. 1 of ***LOCALITY.2 (A Coruña) initiated

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criminal proceedings against the person responsible for the recording and dissemination of the video; communicating the provisional dismissal of the proceedings due to not appearing duly justified the perpetration of the crime that motivated the formation of the cause.

FOUNDATIONS OF LAW

Yo

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679

(General Data Protection Regulation, hereinafter RGPD), grants each control authority and as established in articles 47 and 48.1 of the Law Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions of Regulation (EU) 2016/679, in this organic law, by the regulatory provisions issued in its development and, insofar as they are not contradict, in the alternative, by the general rules on the administrative procedures."

II

The physical image of a person, in accordance with article 4.1 of the RGPD, is a personnel and their protection, therefore, is the subject of said Regulation. In article 4.2 of the RGPD defines the concept of "treatment" of personal data.

It is, therefore, pertinent to analyze whether the processing of personal data (image of natural persons) carried out through the capturing in the video denounced

It is in accordance with the provisions of the RGPD.

III

In the first place, it should be noted that the fact that the denounced action does not constitute a crime or it has not been possible to prove its perpetration does not imply that is not punishable by administrative means.

In reference to the publication of the images indicated in the background by the claimed party, article 6.1 of the RGPD, establishes the assumptions that allow consider the processing of personal data lawful:

"1. The treatment will only be lawful if it meets at least one of the following

conditions:

a) the interested party gave their consent for the processing of their data

personal for one or more specific purposes;

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

interested party is a party or for the application at the request of the latter of measures

pre-contractual;

c) the treatment is necessary for the fulfillment of a legal obligation

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applicable to the data controller;

d) the treatment is necessary to protect the vital interests of the interested party or of

another natural person.

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

public interest or in the exercise of public powers vested in the person responsible for the

treatment;

f) the treatment is necessary for the satisfaction of legitimate interests

pursued by the controller or by a third party, provided that on

such interests do not override the interests or rights and freedoms

fundamental data of the interested party that require the protection of personal data, in

particularly when the interested party is a child.

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

treatment carried out by public authorities in the exercise of their functions.

On this question of the legality of the treatment, it also affects the

Recital 40 of the aforementioned RGPD, when it states that "For the processing is lawful, personal data must be processed with the consent of the interested party or on any other legitimate basis established in accordance with Law, either either in this Regulation or by virtue of other law of the Union or of the Member States covered by this Regulation, including the need to comply with the legal obligation applicable to the data controller or the need to to execute a contract to which the interested party is a party or in order to take measures at the request of the interested party prior to the conclusion of a contract.»

In relation to the above, it is considered that there is evidence that the treatment of data of the people that appear in the images object of this claim has been made without legitimizing cause of those included in article 6 of the GDPR.

The GDPR applies to personal data, which is defined as "data personal" means any information about an identified or identifiable natural person ("the interested"); An identifiable natural person shall be deemed to be any person whose identity can be determined, directly or indirectly, in particular by means of an identifier, such as a name, an identification number, location data, a online identifier or one or more elements of physical identity, physiological, genetic, psychic, economic, cultural or social of said person.

Article 7 of the LOPDGDD establishes the following:

"1. The treatment of the personal data of a minor only may be based on your consent when you are over fourteen years of age.

The cases in which the law requires the assistance of the holders of the parental authority or guardianship for the celebration of the act or legal business in which context consent is obtained for the treatment.

2. The treatment of the data of minors under fourteen years of age, based on the

consent, it will only be lawful if the consent of the holder of parental authority or guardianship is recorded, with the scope determined by the holders of parental authority or guardianship.”

Minors whose data has been processed by the respondent are perfectly

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identifiable and that their identity can be determined, directly or indirectly.

IV

The facts denounced are based on the presumed illegality of the recording of a montage video, humiliating three black people from the same unit family; and its wide dissemination of the video through the Instagram profile of the defendant and through whatsapp.

As proof of this, a Civil Guard agent from the main post of

***LOCATION.1 accompanied a copy of the video, as indicated in the section on "Background", first of them.

The initiation agreement was received by the respondent, as stated in the Notice of receipt, without any response having been received that could indicate the reasons of the recording and dissemination of the video and the legitimizing causes of that concrete treatment.

The corrective powers of the Spanish Protection Agency of Data, as a control authority, are established in article 58.2 of the RGPD.

Among them are the power to impose an administrative fine with in accordance with article 83 of the RGPD -article 58.2 i)-, or the power to order the responsible or in charge of the treatment that the treatment operations are

conform to the provisions of the GDPR, where appropriate, in a certain way and within a specified period -article 58. 2 d)-.

In accordance with the available evidence, it is considered that the exposed facts do not comply with the provisions of articles 6.1 of the RGPD, so could involve the commission of an infringement typified in article 83.5 of the RGPD, which provides the following:

"Infringements of the following provisions shall be sanctioned, in accordance with paragraph 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the global total annual turnover of the previous financial year, opting for the largest amount:

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

For the purposes of the limitation period of the infraction, the infraction indicated in the previous paragraph is considered very serious and prescribes after three years, in accordance with Article 72.1 of the LOPDGDD, which establishes that:

"According to the provisions of article 83.5 of Regulation (EU) 2016/679 are considered very serious and will prescribe after three years the infractions that suppose a substantial violation of the articles mentioned therein and, in particular, the following:

b) The processing of personal data without the concurrence of any of the conditions legality of the treatment established in article 6 of the Regulation (EU) 2016/679."

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In order to determine the administrative fine to be imposed, the precautions

visions of articles 83.1 and 83.2 of the RGPD, precepts that indicate:

“Each control authority will guarantee that the imposition of the administrative fines

proceedings under this Article for infringements of this Regulation

indicated in sections 4, 9 and 6 are in each individual case effective, proportionate

nothing and dissuasive.”

“Administrative fines will be imposed, depending on the circumstances of

each individual case, in addition to or as a substitute for the measures contemplated in the

Article 58, paragraph 2, letters a) to h) and j). When deciding to impose an admissible fine

and its amount in each individual case will be duly taken into account:

a) the nature, seriousness and duration of the offence, taking into account the

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

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

have suffered;

b) intentionality or negligence in the infringement;

c) any measure taken by the controller or processor to

alleviate the damages suffered by the interested parties;

d) the degree of responsibility of the person in charge or of the person in charge of the treatment,

taking into account the technical or organizational measures that they have applied under

of articles 25 and 32;

e) any previous infraction committed by the person in charge or the person in charge of the

treatment;

f) the degree of cooperation with the supervisory authority in order to put

remedying the breach and mitigating the possible adverse effects of the breach;

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

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

particular whether the person in charge or the person in charge notified the infringement and, if so, in what measure;

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

previously ordered against the person in charge or the person in charge in question in related to the same matter, compliance with said measures;

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

certification approved in accordance with article 42, and

k) any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits obtained or losses avoided, directly or indirectly, through the infringement.”

Regarding section k) of article 83.2 of the RGPD, the LOPDGDD, article 76,

“Sanctions and corrective measures”, provides:

“two. In accordance with the provisions of article 83.2.k) of Regulation (EU) 2016/679 may also be taken into account:

a) The continuing nature of the offence.

b) The link between the activity of the offender and the performance of treatments

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of personal data.

commission of the offence.

- c) The profits obtained as a result of committing the offence.
- d) The possibility that the conduct of the affected party could have induced the
- e) The existence of a merger by absorption process subsequent to the commission of the infringement, which cannot be attributed to the absorbing entity.
- f) Affectation of the rights of minors.
- g) Have, when not mandatory, a data protection officer.
- h) The submission by the person in charge or person in charge, with voluntary, to alternative conflict resolution mechanisms, in those assumptions in which there are controversies between those and any interested party.”

In this case, the following have been taken into account, in particular:

items:

Aggravating factors:

-Circumstance of article 83.2.a): the seriousness of the infraction taking into account the purpose of the processing operation.

This behavior of the respondent that qualifies as an infringement of article 6.1.

GDPR represents a very serious interference in the private sphere of people whose data is processed through the recording and dissemination of a video humiliating three black people from the same family unit, two of them minors.

- From article 83.2.b) “intentionality or negligence in the infringement”.

In compliance with its legal obligations -for what is of interest here to the principle of legality- the defendant must act with the diligence that the circumstances of the case require. In this case, the lack of diligence of the defendant should be classified as "serious". The defendant should have been particularly scrupulous in verifying your legitimacy for the treatment before taking it to cape. Affirmation that is based on the fact that the treatment in which the infringement is specified

was carried out without having previously verified if it had the necessary legitimacy and in the relevance for the privacy of people the recording and dissemination of their image humiliating them.

mitigating factors:

- That the author of the video is a natural person whose main activity

It is not linked to the processing of personal data.

Considering the exposed factors, the amount to be imposed for the imputed infraction is 10,000 euros (ten thousand euros).

The art. 69 of the LOPDGDD, states the following:

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“Article 69. Provisional measures and guarantee of rights.

1. During the performance of the preliminary investigation actions or initiated

a procedure for the exercise of sanctioning powers, the Spanish Agency

of Data Protection may agree on the necessary provisional measures.

sary and proportionate to safeguard the fundamental right to the protection of

data and, in particular, those provided for in article 66.1 of Regulation (EU) 2016/679,

the precautionary blocking of the data and the immediate obligation to attend to the right request
ted.

2. In cases where the Spanish Data Protection Agency considers

that the continuation of the processing of personal data, their communication or transfer

international reference would entail a serious impairment of the right to protection of

personal data, you can order those responsible or in charge of the treatments

the blocking of the data and the cessation of its treatment and, in case of non-compliance by these said mandates, proceed to its immobilization.

3. When it had been submitted to the Spanish Agency for the Protection of

Data a claim that referred, among other issues, to the lack of attention

within the rights established in articles 15 to 22 of the Regulation (EU)

2016/679, the Spanish Data Protection Agency may agree at any

time, even prior to the initiation of the procedure for the exercise of

the sanctioning power, by reasoned resolution and after hearing the res-

ponsible for the treatment, the obligation to meet the requested right, continuing-

I know the procedure regarding the rest of the issues that are the subject of the claim.”

Preamble I of the LOPDGDD says:

“The protection of natural persons in relation to data processing

is a fundamental right protected by article 18.4 of the Constitution

Spanish. In this way, our Constitution was a pioneer in recognizing the

fundamental right to the protection of personal data when it stated that “the law

will limit the use of information technology to guarantee honor and personal and family privacy.

of citizens and the full exercise of their rights. Thus it echoed the

work developed since the end of the 1960s in the Council of Europe and

of the few legal provisions adopted in neighboring countries.

The Constitutional Court stated in its Judgment 94/1998, of May 4, that

We are faced with a fundamental right to data protection by which

guarantees the person control over their data, any personal data, and

about its use and destination, to avoid illicit traffic of the same or harmful to the dignity

ity and the rights of those affected; Thus, the right to data protection

cough is configured as a faculty of the citizen to oppose that certain

personal data is used for purposes other than the one that justified its collection.

For its part, in Judgment 292/2000, of November 30, it considers it as a autonomous and independent right consisting of a power of disposition and control on the personal data that empowers the person to decide which of these data provide to a third party, be it the State or an individual, or what this third party can collect, and that also allows the individual to know who owns that personal data and for what, being able to oppose that possession or use.

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(...).

On the other hand, it is also included in article 8 of the Bill of Rights

Fundamentals of the European Union and in article 16.1 of the Treaty on Functioning

lien of the European Union. Previously, at European level, the Di-

aforementioned Directive 95/46/CE, whose purpose was to ensure that the guarantee of the right to protection of personal data does not pose an obstacle to the free movement of data.

within the Union, thus establishing a common space to guarantee the right

shock that, at the same time, would ensure that in case of international transfer of the data, its treatment in the country of destination was protected by adequate safeguards to those provided for in the directive itself".

Article 56 of Law 39/2015, of October 1, on Administrative Procedure

Common Agreement of Public Administrations (hereinafter, LPACAP), insofar as applicable, states the following:

"1. Once the procedure has been initiated, the competent administrative body to resolve

see, may adopt, ex officio or at the request of a party and in a reasoned manner, the measures provisional measures that it deems appropriate to ensure the effectiveness of the resolution that may could fall, if there were sufficient elements of judgment for it, in accordance with the principles of proportionality, effectiveness and least burden.

2. Before the initiation of the administrative procedure, the competent body to initiate or instruct the procedure, ex officio or at the request of a party, in cases of urgent urgency and for the provisional protection of the interests involved, may adopt, in a reasoned manner, the provisional measures that are necessary and provided. Provisional measures must be confirmed, modified or raised in the agreement to initiate the procedure, which must be carried out within within fifteen days of its adoption, which may be subject to appeal to proceed.

In any case, said measures will be without effect if the procedure is not initiated. within said period or when the initiation agreement does not contain a pronouncement express lie about them.

3. In accordance with the provisions of the two preceding sections, they may agree-

The following provisional measures are taken, under the terms provided in Law 1/2000, of January 7, of Civil Procedure:

- a) Temporary suspension of activities.
- b) Provision of bonds.
- c) Withdrawal or intervention of productive assets or temporary suspension of services for health, hygiene or safety reasons, the temporary closure of the establishment due to these or other causes provided for in the applicable regulatory regulations.
- d) Preventive seizure of assets, income and fungible things computable in cash by application of certain prices.
- e) The deposit, retention or immobilization of personal property.

f) The intervention and deposit of income obtained through an activity that

is considered illegal and whose prohibition or cessation is intended.

g) Consignment or constitution of a deposit of the amounts claimed.

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h) The withholding of income on account that must be paid by the Administrations

Public.

i) Those other measures that, for the protection of the rights of the interested

sated, expressly provided by law, or deemed necessary to ensure the

effectiveness of the resolution.

4. Provisional measures may not be adopted that may cause damage to

difficult or impossible repair to the interested parties or that imply violation of rights

protected by law.

5. Provisional measures may be lifted or modified during the processing

mitigating the procedure, ex officio or at the request of a party, by virtue of circumstances

supervening or that could not be taken into account at the time of its adoption.

In any case, they will be extinguished when the administrative resolution takes effect.

to put an end to the corresponding procedure”.

In the analyzed data treatment, the high risk is unquestionably appreciated.

go that it supposes for the guarantees and freedoms of those affected, minors, as well

as an absence of legal basis to do so.

The continuation of the treatment entails a very serious and irreparable damage.

ble for the rights of affected minors. Discontinuation of treatment is

only measure that can be adopted to safeguard the Fundamental Right

to Data Protection, turning out to be, in addition, the least harmful, onerous and proportional for the claimed.

From these premises and in order to reestablish and guarantee the rights and freedoms of those affected, it was deemed appropriate, when agreeing to start this procedure to impose a provisional measure that would prevent the continuation of the treatment as soon as possible. processing of the personal data of minors through the video recorded by the claimant that it must cease its publication and dissemination immediately.

As provided in art 83.2 of the RGPD and art 76.3 of the LOPDGDD above transcribed was considered necessary, proportional, effective to guarantee the rights and liberties at stake for the affected minors and less onerous for the claimant to impose, in addition to the administrative fine, the provisional measure of order, in accordance with the provisions of art. 69 of the LOPDGDD and art. 56 of the LPACAP, the provisional suspension of all processing of personal data related to the We are not affected by broadcasting the video on the Instagram profile of the claimed party. and through whatsapp.

It was requested as evidence that the respondent inform if he had suspended the distribution of the video whose broadcast originated this procedure; without being received reply on that particular.

In accordance with the provisions of article 58.2.d) of the RGPD, it is ordered to the demanded to suspend the dissemination of the video on the Instagram profile, if not well done already

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Therefore, in accordance with the applicable legislation and having assessed the criteria for graduation of sanctions whose existence has been proven,

The Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE B.B.B., with NIF ***NIF.1, for an infraction of Article 6 of the

RGPD, typified in Article 83.5 of the RGPD, a fine of €10,000 (ten thousand euros)

SECOND: LIFT the provisional measure ordered to B.B.B. in the agreement of

opening of this sanctioning procedure, in accordance with the provisions of the

art. 69 of the LOPDGDD and art. 56 of the LPACAP, which led to the continuation of the

treatment of the personal data of minors through the video recorded by the

claimed that its publication and dissemination should cease immediately.

THIRD: REQUIRE B.B.B. so that, within a maximum period of one month, it adopts

the necessary measures to adapt their actions to the regulations for the protection of

personal data, ceasing the publication and dissemination of the video with data of

minors, if you haven't already done so.

FOURTH: NOTIFY this resolution to B.B.B.

FIFTH: Warn the sanctioned party that he must make the imposed sanction effective once

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

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

Common Public Administrations (hereinafter LPACAP), within the payment term

voluntary established in art. 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 December 17, through its entry, indicating the NIF of the sanctioned and the number

of procedure that appears in the heading of this document, in the account

restricted number ES00 0000 0000 0000 0000 0000, opened on behalf of the Agency

Spanish Department of Data Protection in the banking entity CAIXABANK, S.A.. In case

Otherwise, it will be collected in the executive period.

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 article 50 of the LOPDGDD, this

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

Against this resolution, which puts an end to the administrative procedure in accordance with art. 48.6 of the

LOPDGDD, and in accordance with the provisions of article 123 of the LPACAP, the

Interested parties may optionally file an appeal for reconsideration before the

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

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

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

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

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

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

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

aforementioned Law.

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

may provisionally suspend the firm resolution in administrative proceedings if the

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

If this is the case, the interested party must formally communicate this fact by writing addressed to the Spanish Agency for Data Protection, presenting it through Electronic Register of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other registers provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. You must also transfer to the Agency the documentation proving the effective filing of the contentious appeal-administrative. If the Agency was not aware of the filing of the appeal contentious-administrative within a period of two months from the day following the notification of this resolution would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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