

## RESOLUTION OF PUNISHMENT PROCEDURE

Procedure No.: PS/00358/2018

Of the procedure instructed by the Spanish Agency for Data Protection before

ASOCIACION NUEVA COPROPER, by virtue of a claim filed by A.A.A. (in

hereinafter, the claimant) and based on the following:

### BACKGROUND

FIRST: The claim filed by the claimant has entry dated May 31

of 2018 in the Spanish Agency for Data Protection. The claim is directed against

ASOCIACION NUEVA COPROPER with NIF G54673033 (hereinafter, the claimed). The

The reasons on which the claim is based are that on May 26, 2018 it was published in

a digital newspaper called "DIARIO INFORMATION DE ALICANTE", which is accessed through

[www.informacion.es](http://www.informacion.es) a news that reveals your personal data.

Along with the claim, it provides an extract from the news in the press and the aforementioned sentence

where cross-outs can be seen in the spaces where the complainant says his name is written.

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

provided by the claimant / of the facts and documents of which he has had knowledge

this Agency, the Subdirectorate General for Data Inspection proceeded to carry out

preliminary investigative actions to clarify the facts in question,

in accordance with the provisions of Regulation (EU) 2016/679 (General Regulation of

Data Protection, hereinafter RGPD).

As a result of the research actions carried out, it is found that the

responsible for the treatment is the claimed.

In addition, the following extremes are noted:

The ASOCIACIÓN NUEVA COPROPER GUARDIA CIVIL ALICANTE, through its

website [www.nuevacoproper.org/es/](http://www.nuevacoproper.org/es/) allows access to the positive judgment of the

contentious ordinary military disciplinary appeal number XXX/XXXX, object of this claim, without due anonymization of the personal data contained therein, since despite the fact that in the sentence apparently scanned and shown on the aforementioned website the data personal data are crossed out, this anonymization measure lacks sufficient effectiveness to guarantee the confidentiality of the personal data contained in said document, that it is still possible to read the appellant's name, as well as her surnames and NIF.

THIRD: On November 14, 2018, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against the defendant, for the alleged infringement of article 32.1 b) of the RGPD, infringement typified in article 83.5 of the RGPD and classified as serious in article 73.1 f) and g) of the LOPDGDD.

After the stipulated period to make allegations, without receiving a statement any part of ASOCIACION NUEVA COPROPER GUARDIA CIVIL ALICANTE on initial agreement is now considered a resolution proposal, as established in the article 64.2.f) of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP).

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

In this proceeding, the following are considered proven facts:

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## PROVEN FACTS

FIRST: May 26, 2018 was published in a digital newspaper called "DIARIO INFORMACION OF ALICANTE", which is accessed through [www.informacion.es](http://www.informacion.es) a news revealing your personal data.

Along with the claim, it provides an extract from the news in the press and the aforementioned sentence where cross-outs can be seen in the spaces where the complainant says his name is written.

SECOND: The NEW COPROPER GUARDIA CIVIL ALICANTE ASSOCIATION, through its web page [www.nuevacoproper.org/es/](http://www.nuevacoproper.org/es/) allows access to the positive judgment of the contentious ordinary military disciplinary appeal number XXX/XXXX, object of this claim, without due anonymization of the personal data contained therein, since despite the fact that in the sentence apparently scanned and shown on the aforementioned website the data personal data are crossed out, this anonymization measure lacks sufficient effectiveness to guarantee the confidentiality of the personal data contained in said document, that it is still possible to read the appellant's name, as well as her surnames and NIF.

## FOUNDATIONS OF LAW

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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 Organic Law 3/2018, of December 5, of Protection of Personal Data and guarantee of digital rights (hereinafter LOPDGDD), the Director of the Spanish Data Protection Agency is competent to resolve this procedure.

II

Article 6.1 of the RGPD establishes the assumptions that allow the legalization of the treatment of personal data.

Thus, article 32.1 of the RGPD regulates the security of the treatment, establishing that “taking into account the state of the art, the application costs, and the nature, scope, context and purposes of the treatment, as well as risks of probability and severity variables for the rights and freedoms of natural persons, the person in charge and the person in charge of the treatment will apply appropriate technical and organizational measures to guarantee a level appropriate to the risk, which, where appropriate, includes, among others:

- a) pseudonymization and encryption of personal data;
- b) the ability to ensure confidentiality, integrity, availability and resilience permanent treatment systems and services;
- c) the ability to restore the availability and access to personal data in a fast in the event of a physical or technical incident;
- d) a process of regular verification, evaluation and assessment of the effectiveness of the technical and organizational measures to guarantee the security of the treatment.”

III

In accordance with the evidence available to the NEW ASSOCIATION

COPROPER CIVIL GUARD ALICANTE,

through your website

[www.nuevacoproper.org/es/](http://www.nuevacoproper.org/es/) allows access to the judgment approving the appeal

ordinary military disciplinary litigation number XXX/XXXX, object of this claim, without the

due anonymization of the personal data contained therein, since although they appear

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crossed out, this measure lacks sufficient effectiveness to guarantee the confidentiality of the personal data contained in said document, when possible as well and despite this measurement, the reading of the appellant's name, as well as her surnames and NIF.

The known facts constitute an infraction, attributable to the defendant, for specific violation of article 32.1 b) of the RGPD, which states that “the person in charge and the in charge of the treatment will apply appropriate technical and organizational measures to

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

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

permanent treatment systems and services”

#### IV

Article 58.2 of the RGPD provides the following: "Each control authority will have

of all the following corrective powers indicated below:

b) sanction any person responsible or in charge of the treatment with a warning

when the treatment operations have violated the provisions of this

Regulation;

d) order the person in charge or in charge of the treatment that the operations of

treatment comply with the provisions of this Regulation, where appropriate, in a

certain manner and within a specified period;

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

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

particular;

Article 83.1 of the RGPD provides the following:

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

in accordance with this article for the infringements of this Regulation indicated in the

sections 4, 5 and 6 are in each individual case effective, proportionate and dissuasive”.

In the present case, it is a situation that affects the appellant of the judgment

of the ordinary military disciplinary appeal number XXX/XXXX, because the website

[www.nuevacoproper.org/es/](http://www.nuevacoproper.org/es/) allows access to the judgment approving the appeal

ordinary military disciplinary litigation number XXX/XXXX, object of this claim, without the

due anonymization of the personal data contained therein, since although they appear

crossed out, this measure lacks sufficient effectiveness to guarantee the confidentiality of

the personal data contained in said document, when possible as well and despite this

measurement, the reading of the appellant's name, as well as her surnames and NIF.

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In the present case, it is a situation that affects the claimant because the

On May 26, 2018, it was published in a digital newspaper called "DIARIO INFORMATION DE ALICANTE", which is accessed through [www.informacion.es](http://www.informacion.es), a news item that reveals its personal information.

This infraction can be sanctioned with a fine of €20,000,000 maximum or, in the case of a company, an amount equivalent to a maximum of 4% of the volume of total annual global business of the previous financial year, opting for the highest amount, in accordance with article 83.5 of the RGPD.

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Without prejudice to the provisions of article 83.5, sections a) and b), of the RGPD, in its art. 58.2 b) establishes the possibility of sanctioning with a warning, in relation to what is indicated in Recital 148:

"In the event of a minor offence, or if the fine likely to be imposed constituted a disproportionate burden for a natural person, instead of sanction by fine a warning may be imposed. However, special attention should be paid to the nature, seriousness and duration of the infringement, its intentional nature, the measures taken to alleviate the damages suffered, the degree of responsibility or any pertinent previous infraction, to the way in which the control authority has had knowledge of the infraction, compliance with measures ordered against the person responsible or manager, adherence to codes of conduct and any other aggravating circumstance or

extenuating."

According to what was stated,

SAW

By the Director of the Spanish Data Protection Agency,

HE REMEMBERS:

1.- WARN NEW COPROPER ASSOCIATION CIVIL GUARD ALICANTE, with

in accordance with the provisions of article 58.2º letter b) RGPD, in relation to the complaint by infringement of article 32.1 b) of the RGPD, typified as serious in article 83.5 of the aforementioned Organic Law.

2.- REQUEST the ALICANTE CIVIL GUARD COPROPER ASSOCIATION, so that within a month from this act of notification carry out:

-the anonymization of the personal data contained in the documents to which they are access through the website [www.nuevacoproper.org/es/](http://www.nuevacoproper.org/es/) applying for it, appropriate technical and organizational measures to ensure a level of optimal and adequate security and confidentiality, such as through the pseudonymization or encryption of personal data.

3.- NOTIFY this Agreement to ASOCIACION NUEVA COPROPER GUARDIA CIVIL ALICANTE.

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

October, 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 period of one month from the day

following the notification of this resolution, or, directly contentious appeal

before the Contentious-Administrative Chamber of the National High Court, with

in accordance with the provisions of article 25 and section 5 of the fourth additional provision of

Law 29/1998, of July 13, regulating the Contentious-Administrative Jurisdiction, in the period of two months from the day following the notification of this act, as provided for in article 46.1 of the aforementioned legal text.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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