

□ File No.: PS/00090/2022

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: Dated June 14, 2021, June 25, 2021 and July 8, 2021,
three claims were filed with the Spanish Data Protection Agency
against the MINISTRY OF HEALTH OF THE COMMUNITY OF MADRID with NIF
S7800001E (hereinafter, the claimed party).

SECOND: In view of the foregoing, there are indications of a possible
breach of the provisions of Regulation (EU) 2016/679 (General Regulation
of Data Protection, hereinafter RGPD), which has motivated the opening of the
action E/06961/2021. In accordance with the provisions of article 65 of the Law
Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of
digital rights (LOPDGDD hereinafter), the claim was transferred to
responsible or to the Delegate of Data Protection that in his case he has designated,
requesting that it send to this Agency the information and documentation that is
indicated. This request for information was not answered within the deadline. was admitted to
processing the claim on September 10, 2021.

THIRD: The General Subdirectorate for Data Inspection proceeded to carry out
of previous investigative actions to clarify the facts in
matter, by virtue of the investigative powers granted to the authorities of
control in article 57.1 of the RGPD, and in accordance with the provisions of the Title
VII, Chapter I, Second Section, of the aforementioned LOPDGDD.

Within the framework of investigation actions E/09873/2021, part of the

claimed a request for information dated October 5, 2021, so that within a period of ten business days, submit to this Agency the information and documentation indicated. Said request was reiterated on the 1st of December 2021, for not having received a response to it.

FOURTH: The information requirements, which were made in accordance with the regulations established in Law 39/2015, of October 1, on the Procedure Common Administrative of Public Administrations (hereinafter, LPACAP), were collected by the person in charge on October 6, 2021 and December 2 of 2021 respectively, as stated in the Notific@ certificates that work in the proceedings.

FIFTH: Regarding the required information, the respondent party has sent written response dated February 1, 2022 with Registry reference of presentation REGAGE22e00002434053, although this Agency has not had knowledge of it until the moment in which the claimed party has provided a copy of the same in his pleadings brief.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

2/4

SIXTH: On March 14, 2022, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against the claimed party, for the alleged infringement of Article 58.1 of the RGD, typified in Article 83.5 of the GDPR.

SEVENTH: On March 28, 2022, allegations to the initial agreement are received in which the claimed party requests that the file of this

sanctioning procedure since, although untimely, it has sent response to this Agency dated February 1, 2022. This can be verified thanks to the CSV codes of the ORVE presentation receipt with the number of registration REGAGE22e00002434053, which is attached to the aforementioned allegations.

EIGHTH: On June 13, 2022, a resolution proposal was formulated proposing that the Director of the Spanish Data Protection Agency agree to file this sanctioning procedure.

Likewise, the procedure was revealed so that within a period of ten days the party claimed could allege whatever he considered in his defense and present the documents and information that it considers pertinent, in accordance with article 89.2 of the LPACAP.

NINTH: The motion for a resolution, which was checked out on the 13th of June 2022 with registration number REGAGE22s00024123324, was collected by the responsible on June 14, 2022, as stated in the Notific@ certificate what works in the file.

After the period of ten business days granted in the resolution proposal for the presentation of pleadings, the respondent party has not presented pleadings.

In view of everything that has been done, by the Spanish Agency for the Protection of Data, in this procedure, the following are considered proven facts

PROVEN FACTS

FIRST: The information requirements indicated in the second background to fourth were notified electronically through Notific@ to the claimed party, in accordance with the provisions of article 43 of the LPACAP, not being answered in the deadlines granted for it.

SECOND: The respondent responded to the requirements made on date 1 February 2022.

THIRD: The agreement to initiate the sanctioning procedure was signed on the 14th of March 2022, the respondent presenting allegations against it on the date March 28, 2022.

FOURTH: The notification of the resolution proposal was made electronically to through the Notific@ system, being collected by the person in charge on June 14 of 2022.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

3/4

SIXTH: The respondent has not presented arguments to the proposal of resolution.

FOUNDATIONS OF LAW

Yo

Competition

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, 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: "The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions

regulations issued in its development and, as long as they do not contradict them, with a subsidiary, by the general rules on administrative procedures.”

Allegations to the initiation agreement

II

Although the respondent party had not provided the required information within the terms granted for it, answered the request made by this Agency before the agreement to initiate the sanctioning procedure was issued.

III

File, Archive

Article 89 of Law 39/2015, of October 1, on Administrative Procedure

Common to Public Administrations, provides the following:

"1. The investigating body will resolve the completion of the procedure, with filing of the actions, without it being necessary to formulate the resolution proposal, when in the procedure instruction it becomes clear that there is any of the following circumstances:

- a) The non-existence of the facts that could constitute the infraction.
- b) When the facts are not proven.
- c) When the proven facts do not constitute, in a manifest way, an infringement administrative.
- d) When it does not exist or it has not been possible to identify the person or persons liable or appear exempt from liability.
- e) When it is concluded, at any time, that the infraction has prescribed.

2. In the case of procedures of a sanctioning nature, once the instruction of the procedure, the investigating body will formulate a proposal for resolution that must be notified to the interested parties. The motion for a resolution

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

4/4

must indicate the manifestation of the procedure and the term to formulate allegations and present the documents and information deemed pertinent.”

In the present case, in accordance with the available evidence,

considers that the respondent has sought the Spanish Agency for the Protection of

Data the information required, so the non-existence of the fact is deduced

which involved the infringement. Consequently, it is appropriate to agree on the file of the process.

Therefore, in accordance with the above, the Director of the Spanish Agency for

Data Protection RESOLVES:

FIRST: FILE procedure PS/00090/2022.

SECOND: NOTIFY this resolution to the DEPARTMENT OF HEALTH OF

THE COMMUNITY OF MADRID, with NIF S7800001E.

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

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

C/ Jorge Juan, 6

28001 – Madrid

938-120722

www.aepd.es

sedeagpd.gob.es