

□ Procedure No.: PS/00041/2019

938-051119

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### BACKGROUND

FIRST: Dated October 9, 2018 Mr. A.A.A. (hereinafter, the claimant),  
filed a claim with the Spanish Agency for Data Protection against the  
RATAVESAN TAXIS ASSOCIATION, (hereinafter, the claimed or the Association),  
for considering their right to information violated as a result of the following facts:

“I am a self-employed taxi and I belong to the TAXIS ASSOCIATION  
RATAVESAN, which has given me a document for the authorization of my  
personal data according to articles 13 and 14 of the European General Regulation of  
Data protection 679/2016, of April 27 (RGPD), in this document is added  
a paragraph in which I consent and authorize the RATAVESAN TAXIS ASSOCIATION to  
that my personal contact data may be transferred to other entities, in no  
case states those entities or what my data will be used for. I have communicated  
to the president of the RATAVESAN TAXI ASSOCIATION, BECAUSE I REFUSE and the  
The answer I have received is that I am obliged or I would be given all the  
documentation. I understand that my rights are being violated, (...)”

The claimant attaches a copy of the document called "Legal Document  
New European RGPD for Associates of the Taxi Association" which, as indicated,  
was delivered for signature by the respondent.

This document informs, among others, of the following aspects:

“That the personal data that you have provided us, in your capacity as a member

associated, will be treated by the RATAVESAN TAXIS ASSOCIATION, as

Responsible for the treatment, for the purposes / with the purpose of internal management of the association-associate relationship/fulfill the commitments between the parties.

Likewise, the TAXIS ASSOCIATION is expressly consented and authorized

RATAVESAN, to the management and processing of personal data for the purposes

previously mentioned; so that the personal contact data can be

transferred to other entities, provided that they are necessary to favor and fulfill the purposes of the association.

(...)

The RATAVESAN TAXIS ASSOCIATION undertakes not to process the data

of a personal nature for purposes other than those agreed upon, as well as not

assign them or communicate them to third parties except legal obligation.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

2/17

(...)

No data will be transferred to third parties, except legal obligation. The rights that

attend are to file a claim with a supervisory authority, the right

of access, rectification, cancellation, limitation or opposition to its treatment

(ARC RIGHTS), to transparency of information, deletion (right to

oblivion), portability of your personal data, after proof of your identity,

by request/request sent by post/email, to the address

postal/email of the cooperative, with street address (...)"

SECOND: On January 22, 2019, you have entered this Agency in writing from the

claimed by answering the following points regarding the information that was requested in relation to the facts object of the claim:

-

The respondent “considers that there has been no type of incident / in terms of personal data protection, and therefore, has not adopted any type of measure/s in this regard, understanding that it lacks manifestly substantiates the claim, nor does it provide evidence or indications reasons for the existence of an infraction.”

-

That he has acted legitimately by referring the claimant, Secretary of the previous Board of Directors, the express consent document for associates, shipment made within the framework of the actions followed to regularize the processing of personal data made to the RGPD.

- That in accordance with the provisions of article 6 of the RGPD and articles 4 and 8 of the Organic Law 3/2018, the contradiction reported by the claimant does not occur between the second and last paragraphs of said document, “because the assignments produced, are necessary and mandatory, in some cases by legal imperative, with the purpose of fulfilling the purposes of the Association itself (according to is reflected in the statutes of the association).

-

Among the purposes included in the Statutes, the following stand out:

“The representation, defense and promotion of economic interests, social, professional and cultural aspects of its members before all kinds of entities public or private” and “The establishment of own services of common interest and in particular to the conservation and coordination of the RADIO-TELEPHONE service IN AUTO-TAXIS VEHICLES, in connection with the corresponding station

transmitter-receiver, in order to be able to meet the requests for services of both urban and intercity transport, which by means are requested by the users.”

-

That the regularization process initiated by the current management team originates from the lack of proof of the legality of the treatments carried out with the data of the associates and their transfer to the Canary Islands Regional Taxi Federation (FEDETAX) and the SOCOMTAXI company, entities to which they belong from the year 2000 and 2007, respectively, as collected in the corresponding Minutes.

According to the defendant, they are integrated into FEDETAX as a means to combine supramunicipal interests and in SOCOMTAXI, which specifies the data of the partners to manage and facilitate customer services.

THIRD: In view of the information contained in the "New RGPD Legal Document European for Associates of the Taxi Association", it is observed:

-

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

3/17

-Regarding the information related to the purposes of the treatment to which it is personal data and the legal basis of the treatment (article 13.1.c) of the

RGPD): Although it is noted that the data provided will be processed for the

“internal management of the association-associate relationship / fulfill the commitments between the parts.”, and for their assignment “to other entities, whenever they are necessary to

favor and fulfill the purposes of the association.”, however, the

legal basis that legitimizes such treatments for each of the purposes for which they obey the same

On the other hand, in the last paragraph of the document it is stated that "No data to third parties, except legal obligation.", while when in the second paragraph of the document indicates that the transfer to other entities will take place "provided that are necessary to promote and fulfill the purposes of the association.

There is, therefore, a contradiction in such statements.

-Regarding the information related to the recipients or the categories of recipients of personal data, where appropriate (article 13.1.e) of the RGPD): No informs that the personal contact data of the associates are communicated to FEDETAX and SOCOMTAXI.

-Regarding the information referred to the exercise of rights (article 13.2.b) of the RGPD): Regarding the contact data offered for the exercise of the rights recognized in articles 15 to 21 of the RGPD should not appear references to cancellation rights and transparency of information.

The ARCO rights should not be mentioned either because they refer to the previous Law Organic 15/1999, of December 13, Protection of Personal Data.

In addition, the respondent does not provide the email address to the that the interested parties may address to exercise such rights.

-

Regarding the information referred to in article 13.2.e) of the RGPD: It is not reported if the communication of personal data is a requirement legal or contractual, or a necessary requirement to sign a contract, nor if the The interested party is obliged to provide personal data, as well as the possible consequences of not providing such data.

FOURTH: Consulted on May 28, 2019, the application of the AEPD that

shows information about the history of sanctions and warnings

precedents, there are no previous records for violation of the provisions of article 13 of the RGD linked to the claimed.

FIFTH: On June 6, 2019, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure of Warning to the

claimed, in accordance with the provisions of articles 58.2.b) of the Regulation (EU)

2016/679 of the European Parliament and of the Council of April 27, 2016, regarding the

protection of natural persons with regard to data processing

personal information and the free circulation of these data (General Protection Regulation

of Data, (hereinafter RGD), for the alleged infringement of article 13 of the RGD,

typified in article 83.5 of the RGD.

In said agreement, under the provisions of article 58.2.d) of the RGD,

the corrective measures that could be imposed on the defendant were indicated in the

resolution to be adopted in the procedure in case the existence of the

described infraction, as well as the term that would be granted in said resolution for its

compliance and justification thereof.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

4/17

SIXTH: Notification of the start agreement, dated July 4, 2019, it is registered

entry in this Agency written of allegations of the claimed requesting the file

of the sanctioning procedure based, in summary, on the following

arguments:

-Denies that there is a violation of article 13 of the RGD on its part, estimating

that it has acted legally and legitimately in referring the claimant, within the framework of the regularization process to the RGPD with a date prior to December 7, 2018, the express consent document for associates.

- That "The legal basis that legitimizes the treatments that justify each of the purposes (they are those necessary for the internal management of the association- associates / fulfill the commitments between the parties, to favor and fulfill the purposes of the association, in accordance with the provisions of the Statutes of the association itself. Association, and, in the legal provisions of the Organic Law 1/2022, of 22 of March, regulating the Right of Association, and Law 4/2003, of February 28, of Canary Associations.

Likewise, the aforementioned, justifies the fact that data will not be transferred to third parties, except legal obligation and to favor and fulfill the purposes of the association. (Statutes of the Association itself, and, in the legal provisions of the Organic Law 1/2022, of March 22, regulating the Right of Association, and the Law 4/2003, of February 28, on Canary Associations.)"

All this, also in accordance with current European and Spanish regulations on protection of personal data, article 6 of the RGPD and articles 4 and 8 of the LOPDGDD.

- It is alleged that after the formulation of the claim, it was sent to the claimant "Legal Document RGPD European LOPDGDD for Associates of the Taxi Association" adapted to the new regulations, in which the assignment to FEDETAX and SOCOMTAXI. A copy of said document is attached, indicating in relation to himself:

That proves how the claimed guarantees the protection of the data of personal character and the exercise of the rights recognized in articles 15 to 21 of the RGPD and articles 13 to 18 of the LOPDGCC. Informs that no data will be transferred to third parties, except legal obligation. The rights that assist you are to present a

claim before a control authority, the right of access, rectification, cancellation, limitation or opposition to its treatment (Arch Rights), to the transparency of information, deletion (right to be forgotten), portability of your personal data, after proof of identity, by request/request sent by post/email, to the postal/email address of the cooperative.

- An assessment of what is stated in the "Report on the causes that have motivated the incidence that has originated the claim" that is attached, in which it is clarified that the claim is not based on an incident/infraction in matter of protection of personal data or in a breach of the legislation in force in this matter.

SEVENTH: On November 28, 2019, a resolution proposal was formulated in the sense that by the Director of the Spanish Agency for Data Protection imposed on the defendant, in accordance with the provisions of article 58.2.b) of the GDPR, a penalty of a warning for an infringement of article 13 of the GDPR, typified in Article 83.5.b) of the RGD.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

5/17

Likewise, it was proposed to the Director of the Spanish Protection Agency of Data that if at the time of adopting the appropriate resolution it had not been rectified the irregular situation, the claimed party be ordered, in accordance with the provided in article 58.2.d) of the RGD, the adoption of the necessary measures to adapt the information offered to the requirements contemplated in article 13



of the RGPD, and must provide associated users with all the information required in the aforementioned precept and adapting that offered in the document examined to the aspects revealed in the Basis of Law IV of the proposal for resolution.

Said act was notified to the respondent on December 2, 2019.

EIGHTH: On December 19, 2019, entry is registered in this Agency

written arguments of the respondent to the resolution proposal indicating:

- That in compliance with the second section of the proposed resolution, proceeded to inform the partners about the processing of their data in accordance with the established in article 13 of the RGPD. To this end, it has been delivered to each of them the informative clause on data protection whose copy is provided, being proof of such delivery by signing such receipt. Also, it has been shown said document on the Association board, which is justified by attaching supporting documentation of such extremes.
- That on December 11, 2019, the burofax claimant was sent with acknowledgment of receipt informing you of the processing of your data as established by the article 13 of the RGPD. Attached burofax sent and acknowledgment of receipt dated 12 December 2019, as well as a copy of the document with the text sent by said medium.
- That the data of the partners are transferred to the entities in charge of the FEDETAX treatment, in order to be able to manage the services of representation and defense, and SOCOMTAXI, in order to perform management coordination services of fleets of vehicles of the partners, in accordance with the agreements approved by the partners included in the minutes No. 6 of July 12, 2000 and No. 15 of April 5 of 2007. Attached is a copy of the treatment manager contracts signed with these entities.

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

## FACTS

FIRST: On October 9, 2018, entry is registered in this Agency

claim made by the claimant against the TAXIS ASSOCIATION

RATAVESAN stating that the "New European RGPD Legal Document for  
Associates of the Taxi Association" that was given to him by the defendant for  
complying with the duty of information established in the RGPD did not identify the  
entities to which your personal contact data could be transferred or the  
purposes for which said data would be used.

SECOND: In the Articles of Association of the RATAVESAN Taxi Association,  
find

"Article 2 The purposes of the Association shall be the following:

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

6/17

1. The representation, defense and promotion of economic interests,  
social, professional and cultural rights of its affiliates before all kinds of  
public or private entities"

2. The establishment of own services of common interest and in particular to the  
of the conservation and coordination of the RADIO-TELEPHONE service IN  
AUTO-TAXIS VEHICLES, in connection with the corresponding  
transmitting-receiving station, in order to be able to attend to the requests  
of both urban and intercity transport services, which through

are requested by users

3. Schedule the necessary actions to achieve social improvements, labor and economics of its affiliates.

4. Organize constant training and professional promotion work and culture of its members

THIRD: The respondent indicates the adoption of the following agreements, collected in the documentation listed below:

-In Minutes No. 6 of June 12, 2000, it appears that the Association was integrated into the Canary Islands Regional Taxi Federation (FEDETAX)

- In Act No. 15 of April 5, 2007, the Association assigns the services of its customers to SOCOMTAXI, entity that currently manages the data of the associates so that they can receive the services.

FOURTH: The claimant, who is an associate member of the Association, was part of the Board of Directors of the same as Secretary between June 2009 and October 2015.

FIFTH: The current Board of Directors of the Association, appointed after the elections held on October 31, 2015, has stated that in order to adapt to the RGPD the treatments carried out with the personal information obtained of its associates hired, on September 28, 2018, as an advisor to the company PRODACAN

SIXTH: In October 2018, the respondent provided the associate members with the "New European RGPD Legal Document for Associates of the Taxi Association" for their signature. In this document, provided by the claimant, the

The respondent reported, among others, the following aspects:

"That the personal data that you have provided us, in your capacity as a member associated, will be treated by the RATAVESAN TAXIS ASSOCIATION, as

Responsible for the treatment, for the purposes / with the purpose of internal management of the

association-associate relationship/fulfill the commitments between the parties.

Likewise, the TAXIS ASSOCIATION is expressly consented and authorized

RATAVESAN, to the management and processing of personal data for the purposes

previously mentioned; so that the personal contact data can be

transferred to other entities, provided that they are necessary to favor and fulfill the

purposes of the association.

(...)

The RATAVESAN TAXIS ASSOCIATION undertakes not to process the data

of a personal nature for purposes other than those agreed upon, as well as not

assign them or communicate them to third parties except legal obligation.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

7/17

(...)

No data will be transferred to third parties, except legal obligation. The rights that

attend are to file a claim with a supervisory authority, the right

of access, rectification, cancellation, limitation or opposition to its treatment

(ARC RIGHTS), to transparency of information, deletion (right to

oblivion), portability of your personal data, after proof of your identity,

by request/request sent by post/email, to the address

postal/email of the cooperative, with street address (...)"

SEVENTH: In June 2019, the respondent has modified the "New Legal Document

European RGPD for Associates of the Taxi Association", introducing the following

change:

“Furthermore, the TAXIS ASSOCIATION is expressly consented and authorized RATAVESAN, to the management and processing of personal data for the purposes previously mentioned; so that the personal contact data can be transferred to other entities, provided that they are necessary to favor and fulfill the own purposes of the association (SOCOMTAXI, FEDETAX, ENTITIES PUBLIC/PRIVATE ENTITIES).”

## FOUNDATIONS OF LAW

Yo

By virtue of the powers that articles 55.1, 56.2, 57.1 and 58.2.b) of the Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, regarding the protection of natural persons with regard to the treatment of personal data and the free circulation of these data, (hereinafter, RGPD), recognize each control authority, and as established in arts. 47 and 48.1 of Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), the Director of the Spanish Agency for Data Protection is competent to resolve this process.

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.”

## II

Articles 1 and 2.1 of the RGPD provide the following:

“Article 1. Object

1. This Regulation establishes the rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of such data.

2. This Regulation protects the fundamental rights and freedoms of natural persons and, in particular, their right to data protection personal.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

8/17

3. The free movement of personal data in the Union may not be restricted or prohibited for reasons related to the protection of persons regarding the processing of personal data.

#### Article 2. Material scope of application

1. This Regulation applies to the treatment in whole or in part automated processing of personal data, as well as the non-automated processing of data personal content or intended to be included in a file.”

Article 4 of the GDPR, under the heading "Definitions", provides that:

“For the purposes of this Regulation, the following shall be understood as:

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

2) "processing": any operation or set of operations carried out about personal data or sets of personal data, either by procedures automated or not, such as the collection, registration, organization, structuring, conservation, adaptation or modification, extraction, consultation, use, communication by transmission, broadcast or any other form of enabling of access, collation or interconnection, limitation, suppression or destruction;"

9) "addressee": the natural or legal person, public authority, service or other organization to which personal data is communicated, whether or not it is a third party. Nope

However, the public authorities that may receive personal data in the context of a specific investigation in accordance with the Law of the Union or of the Member States; the processing of such data by said public authorities will be in accordance with the rules on protection of data applicable to the purposes of the treatment;

11) «consent of the interested party»: any manifestation of free will, specific, informed and unequivocal by which the interested party accepts, either through a statement or a clear affirmative action, the processing of personal data that concern you;

Therefore, in accordance with those definitions, the collection, use and communication of the personal data provided by those associated with the claimed constitutes data processing, for which the data controller has to comply with the provisions of article 13 of the RGPD

III

In the present case, the defendant is charged with the violation of the duty to inform provided for in article 13 of the RGPD, a precept that determines the following:

“Article 13. Information that must be provided when the personal data are obtained from the interested party.

1. When personal data relating to him is obtained from an interested party, the

responsible for the treatment, at the time these are obtained, will provide

[www.aepd.es](http://www.aepd.es)

C/ Jorge Juan, 6

28001 – Madrid

[sedeagpd.gob.es](http://sedeagpd.gob.es)

9/17

all the information indicated below:

a) the identity and contact details of the person in charge and, where appropriate, of their

representative;

b) the contact details of the data protection delegate, if any;

c) the purposes of the treatment to which the personal data is destined and the basis

legal treatment;

d) when the treatment is based on article 6, paragraph 1, letter f), the

legitimate interests of the person in charge or of a third party;

e) the recipients or categories of recipients of the personal data,

in your case;

f) where appropriate, the intention of the controller to transfer personal data to a

third country or international organization and the existence or absence of a decision to

adequacy of the Commission, or, in the case of transfers indicated in the

Articles 46 or 47 or Article 49, paragraph 1, second paragraph, reference to the

adequate or appropriate warranties and the means to obtain a copy of these or

to the fact that they have been borrowed.

2. In addition to the information mentioned in section 1, the person responsible for the

treatment will facilitate the interested party, at the moment in which the data is obtained

personal, the following information necessary to guarantee data processing



fair and transparent

a) the period during which the personal data will be kept or, when not

possible, the criteria used to determine this period;

b) the existence of the right to request from the data controller access

to the personal data related to the interested party, and its rectification or deletion, or the

limitation of its treatment, or to oppose the treatment, as well as the right to

data portability;

c) when the treatment is based on article 6, paragraph 1, letter a), or the

Article 9, paragraph 2, letter a), the existence of the right to withdraw consent in

any time, without affecting the legality of the treatment based on the

consent prior to its withdrawal;

d) the right to file a claim with a supervisory authority;

e) if the communication of personal data is a legal or contractual requirement, or

a necessary requirement to sign a contract, and if the interested party is obliged to

provide personal data and is informed of the possible consequences of

not provide such data;

f) the existence of automated decisions, including profiling, to

referred to in article 22, sections 1 and 4, and, at least in such cases, information

about applied logic, as well as the importance and consequences

provisions of said treatment for the interested party.

3. When the person in charge of the treatment projects the subsequent treatment of

personal data for a purpose other than that for which it was collected,

will provide the interested party, prior to said further treatment, information

for that other purpose and any additional information relevant to the meaning of paragraph 2.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

10/17

4. The provisions of sections 1, 2 and 3 shall not apply when and in

to the extent that the interested party already has the information.

Said precept must be related to what is established in article 12

of the RGPD, referring to the "Transparency of information, communication and modalities

exercise of the rights of the interested party", which in its section 1 establishes the

Next:

"1. The person responsible for the treatment will take the appropriate measures to facilitate

to the interested party all the information indicated in articles 13 and 14, as well as any

communication pursuant to articles 15 to 22 and 34 relating to processing, in the form

concise, transparent, intelligible and easily accessible, with clear and simple language,

in particular any information directed specifically at a child. Information

shall be provided in writing or by other means, including, if applicable, by

When requested by the interested party, the information may be provided

verbally provided that the identity of the interested party is proven by other means."

In turn, both precepts are related to the provisions of the Considerations

two 60 and 61 of the aforementioned RGPD, which establish:

"(60) The principles of fair and transparent treatment require that the

interested party of the existence of the treatment operation and its purposes. The responsible

of the treatment must provide the interested party with as much complementary information as is

necessary to ensure fair and transparent processing, taking into account the

specific circumstances and context in which the personal data is processed. I know

must also inform the interested party of the existence of profiling and

the consequences of such elaboration. If personal data is obtained from

interested parties, they must also be informed of whether they are obliged to provide them and of the consequences if they don't. This information may be transmitted in combination with standardized icons that offer, in an easily visible way, intelligible and clearly legible, an adequate overview of the treatment provided. Icons presented in electronic format must be legible mechanically.

(61) Data subjects should be provided with information on the processing of your personal data at the time it is obtained from them or, if obtained from another source, within a reasonable time, depending on the circumstances of the case. If the personal data can be legitimately communicated to another recipient, it must be inform the interested party at the time they are communicated to the recipient for the first time time. The data controller who plans to process the data for a purpose that is not is the one for which they were collected must provide the interested party, before said further processing, information about that other purpose and other necessary information. When the origin of the personal data cannot be provided to the interested party by multiple sources have been used, general information should be provided.”

For its part, article 11 of the LOPDGDD, provides the following:

“Article 11. Transparency and information to the affected

1. When the personal data is obtained from the affected party, the person responsible for the treatment may comply with the duty of information established in article 13 of Regulation (EU) 2016/679, providing the affected party with the basic information to referred to in the following section and indicating an electronic address or other medium that allows easy and immediate access to the rest of the information.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

2. The basic information referred to in the previous section must be contain at least:

- a) The identity of the data controller and his representative, in his case.
- b) The purpose of the treatment.
- c) The possibility of exercising the rights established in articles 15 to 22 of Regulation (EU) 2016/679.

If the data obtained from the affected party were to be processed for the preparation of profiles, the basic information will also include this circumstance. In this In this case, the affected party must be informed of their right to oppose the adoption of automated individual decisions that produce legal effects on him or her significantly affect in a similar way, when this right concurs in accordance with the provisions of article 22 of Regulation (EU) 2016/679.”

#### IV

In the present case, from the assessment of the set of facts verified as a result of of the actions carried out on the occasion of the processing of this sanctioning procedure, it is evident that the defendant has violated the duty to information that is required in your capacity as data controller carried out with the personal data that it collects directly from its associates. Thus, it is proven in the file that the defendant had not adopted no measure tending to facilitate the associates at the time of collection of your data the information provided for in the data protection regulations. In fact, in the writings made by the person claimed before this Agency prior to the formulation of the proposed resolution of the procedure, figure that was in October

2018 when, for the purposes of adapting to the RGPD, it provided its associates with the information contained in the “New European RGPD Legal Document for Associates of the Taxi Association”, (hereinafter, “New Legal Document RGPD”), in order to comply with the provisions of article 13 of the RGPD, standard which was applicable from May 25, 2018.

The aforementioned document presented the following informational deficiencies:

a) Regarding the information related to the purposes of the treatment to which personal data and the legal basis of the treatment (article 13.1.c) of the RGPD): the legal basis that legitimized the aforementioned treatments was not specified in relation to each of the purposes to which they responded. Also there was a contradiction regarding the statements related to the assignment of data to third parties.

b) With respect to the information related to the recipients or the categories of recipients of personal data (article 13.1.e) of the RGPD): It was not reported that the personal contact data of the associates are communicated to FEDETAX and to SOCOMTAXI.

c) With respect to the information referring to the exercise of rights (article 13.2.b) of the RGPD) references were included to rights not included among the articles 15 to 21 of the RGPD, such as the right of cancellation and the transparency of the

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

12/17

information, as well as the ARCO rights, an acronym that refers to the previous Law

Organic 15/1999, of December 13, Protection of Personal Data.

d) Regarding the information referring to the contact details of the person in charge

(article 13.1.a) of the RGPD: The email address was not provided to

which the interested parties could go to exercise such rights.

In the same way, it appears in the procedure that the defendant, after receiving the

aforementioned agreement to start it, in June 2019 modified the aforementioned "Document

Legal New RGPD". Notwithstanding, having reviewed the content of the information

provided in that document, it was verified that the aforementioned deficiencies

the respondent had only corrected the one related to the lack of information concerning

the recipients or categories of recipients of the personal data (article

13.1.e) of the RGPD), going on to inform of the communication of data of the associates

to FEDETAX and SOCOMTAXI to fulfill and favor the purposes of the Association.

Therefore, in the proposed resolution notified to the respondent, it was made

It should be noted that in the "New Legal Document" it continued without informing about the basis

law that legitimizes the treatments set forth in relation to each of the

purposes to which they respond. In this regard, it was observed

claimed that sections 1 to 3 of article 6.1 of the RGPD establish the following:

"Article 6. Legality of the treatment

1. The treatment will only be lawful if at least one of the following is met

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

applicable to the data controller;

d) the processing is necessary to protect the vital interests of the data subject 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.

2. Member States may maintain or introduce more in order to align the application of the rules of this Regulation with regarding the treatment in compliance with section 1, letters c) and e), setting more precisely specific treatment requirements and other measures that

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

13/17

guarantee lawful and equitable treatment, including other situations specific treatment under chapter IX.

3. The basis of the treatment indicated in section 1, letters c) and e), must be established by:

a) Union law, or

b) the law of the Member States that applies to the person responsible for the treatment.

The purpose of the treatment must be determined in said legal basis or, in relation to the treatment referred to in section 1, letter e), it will be necessary for the fulfillment of a mission carried out in the public interest or in the exercise of public powers conferred on the data controller. This legal basis may contain specific provisions to adapt the application of rules of this Regulation, among others: the general conditions that govern the legality of the treatment by the controller; the types of data object of treatment; the interested affected; the entities to which personal data can be communicated and the purposes of such communication; purpose limitation; the retention periods of the data, as well as the operations and procedures of the treatment, including the measures to ensure lawful and fair treatment, such as those relating to other specific treatment situations under chapter IX. Union Law or of the Member States will fulfill a public interest objective and will be proportional to the legitimate end pursued.

In the aforementioned motion for a resolution it was pointed out that for the purposes of the article 13.1.c) of the RGPD the legal basis of the treatments carried out for the purposes specified could be fixed in the consent of the associates, for which took into account the following information and circumstances:

-

What is alleged by the Association both in terms of the purposes of the Association included in its Statutes (Proven Fact No. 2) as well as the agreements embodied in Minutes No. 6 of June 12, 2000 and No. 15 of April 5, 2007 (Done Tested No. 3);

- That in the "New Legal Document" it is indicated that "Furthermore, it is consented and



expressly authorizes the RATAVESAN TAXIS ASSOCIATION to manage and processing of personal data for the aforementioned purposes; a that personal contact data may be transferred to other entities, whenever they are necessary to promote and fulfill the purposes of the association (SOCOMTAXI,

PUBLIC ENTITIES/ENTITIES  
PRIVATE).”

FEDETAX,  
On the other hand, the motion for a resolution noted that not being justified by the respondent that the transfer of the data of the interested parties to FEDETAX and SOCOMTAXI responded to the fulfillment of a legal obligation, it was contradictory to inform that "No data will be transferred to third parties, except legal obligation", as it appeared in the last paragraph of the amended "New Legal Document" provided by the claimant. It was also pointed out that in this same final paragraph the claimed continued to report on the existence of the right of cancellation and transparency to information, not included in articles 15 to 21 of the RGPD.

It was added that the claimant had not eliminated the mention of the “ARCO Rights”, which could lead to confusion as it was used as  
[www.aepd.es](http://www.aepd.es)

C/ Jorge Juan, 6  
28001 – Madrid  
[sedeagpd.gob.es](http://sedeagpd.gob.es)

14/17

acronym for the rights of individuals recognized in Organic Law 15/1999, of December 13, Protection of Personal Data, a rule that is no longer was in force. It was pointed out that, regardless of whether the

postal address of the Association, as the mailing address is not provided

contact email of the same, the information should be eliminated from the document

that was carried out on the possibility of exercising via email before the

claimed the rights cited.

Likewise, the cited resolution proposal stated that in the "Document

Legal New" studied the respondent continued without reporting the provisions of the

article 13.2.e) of the RGPD.

v

From what has been stated so far, it is evident that the defendant had not shown

the diligence that was required to establish the measures that result

necessary to adapt the information offered to the associates (interested parties) in order to

comply with the duty of information in the terms provided in article 13

of the RGPD, a rule that is applicable from May 25, 2018.

Consequently, the defendant has incurred in the violation of article 13 of the

RGPD described, materialized in a collection of personal data of the associates

without providing them, at the time of collection, all the information provided in the

aforementioned precept, a situation that is not modified by the actions

corrective actions undertaken by the respondent upon becoming aware after

receipt of the initiation agreement and the proposed resolution of the procedure to

in order to comply with the duty to inform in accordance with said precept.

Seated which, and without prejudice to the responsibility of the claimed in the

commission of the infraction imputed to him, it is recorded in the procedure that the

claimed has documented proof that, after receiving notification of the

aforementioned motion for a resolution, proceeded to adopt the technical and

organizational arrangements necessary for the processing operations to conform to what

provided in article 13 of the RGPD.

To this end, along with other measures described in the background of fact eight, the Association has reformulated the document that it had been using, which has renamed "Data Protection Information", including in it, among other information to be provided to associates/interested parties at the time of collection of your data, relating to the following aspects, as can be deduced from the documentation provided:

-

a) Regarding the information related to the purposes of the treatment to which personal data and the legal basis of the treatment (article 13.1.c) of the RGPD): it is specified that "The legitimacy for the use of your data is based on your consent when registering with the association and accepting its statute."

-

b) With respect to the information related to the recipients or the categories of recipients of personal data (article 13.1.e) of the RGPD): it is reported that "to fulfill the functions of the association, your data will be transferred to the entities in charge of the treatment REGIONAL FEDERATION OF TAXIS OF CANARIAS (FEDETAX) in order to be able to manage the services of representation and defence, and the GRAN CANARIA TAXI MARKETING COMPANY (SOCOMTAXI) in order to perform fleet management coordination services

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

15/17

of partner vehicles. Likewise, your data will also be transferred in cases of legal obligation"

-

c) With respect to the information referring to the exercise of rights (article 13.2.b) of the RGPD): it is specified that the interested parties may exercise before the claimed the rights mentioned in article 13.2.b) relating to your data, although it has omitted to inform about the right to oppose the treatment, reason why which the respondent is urged to remedy said omission by adding the aforementioned right of Opposition contained in article 21 of the RGPD in the new document or clause informative.

- In addition, it has removed the references to the right of cancellation and transparency information and the acronym ARCO is no longer cited.

-

d) Regarding the information referring to the contact details of the person in charge (article 13.1.a) of the RGPD: the mention that the interested parties could exercise their rights by email, providing only to such effects the postal address of the Association.

SAW

By virtue of the provisions of article 58.2 of the RGPD, the Spanish Agency of Data Protection, as a control authority, has a set of corrective powers in the event of an infraction of the precepts of the GDPR.

Sections b), d) and i) of article 58.2 of the RGPD provide the following:

“2 Each supervisory authority shall have all of the following powers corrections listed below:

(...)

b) sanction any person responsible or in charge of the treatment with warning when the processing operations have violated the provisions of

this Regulation;”

(...)

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

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

in a specified manner and within a specified period;”

“i) impose an administrative fine in accordance with article 83, in addition to or in

instead of the measures mentioned in this paragraph, depending on the circumstances

of each particular case;

Article 83 of the RGPD, under the heading “General conditions for the

imposition of administrative fines”, in its sections 2 and 5.b) states that:

“two. 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 article 58, paragraph 2, letters a) to h) and j). (...)

5. Violations of the following provisions will 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

[www.aepd.es](http://www.aepd.es)

C/ Jorge Juan, 6

28001 – Madrid

[sedeagpd.gob.es](http://sedeagpd.gob.es)

16/17

global total annual turnover of the previous financial year, opting for

the largest amount:

(...)

b) the rights of the interested parties according to articles 12 to 22;”.

For its part, article 71 of the LOPDGDD establishes that “They constitute

infractions the acts and behaviors referred to in sections 4, 5 and 6 of the Article 83 of Regulation (EU) 2016/679, as well as those that are contrary to the present organic law.”, providing in article 74.a) of said norm that “It is considered minor and will prescribe after a year the remaining infractions of a merely formal of the articles mentioned in paragraphs 4 and 5 of article 83 of Regulation (EU) 2016/679 and, in particular, the following:

a)

Failure to comply with the principle of transparency of information or the right to information of the affected party for not providing all the information required by Articles 13 and 14 of Regulation (EU) 2016/679.”

Of the exposed facts and reasoned arguments in the previous grounds of law, and without prejudice to the measures adopted by the Association to provide its associates with the complete information required in article 13 of the RGPD, it is considered proven that the claimed party has breached the duty to information that is required when the data of the interested parties processed is obtained from them, resulting, therefore, responsible for the commission of the infringement of the provisions of article 13 of the RGPD, typified in article 83.5.b) of the RGPD, and qualified as mild for prescription purposes in article 74.a) of the LOPDGDD.

In the present case, confirmed the existence of the infraction described, considers it appropriate to impose the sanction of warning provided for in article 58.2.b) of the RGPD in view of the following circumstances: the main activity of the claimed is not linked to the usual treatment of personal data staff; that the data collected from the interested parties is processed in relation to the own services of the claimed and the condition of associates of the interested parties, throughout that is added that the administrative fine that could fall in accordance with the provisions

in article 83.5.b) of the RGPD would constitute a disproportionate burden for the claimed, an entity that is not aware of the commission of any previous infraction in matter of data protection.

Therefore, in accordance with the applicable legislation,

The Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE the RATAVESAN TAXIS ASSOCIATION, with NIF

G35447077, in accordance with the provisions of article 58.2.b) of the RGPD, a sanction of warning for an infringement of article 13 of the RGPD, typified in the article 83.5.b) of the RGPD.

SECOND: NOTIFY this resolution to the TAXIS ASSOCIATION

RATAVESAN, with NIF G35447077.

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

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

[www.aepd.es](http://www.aepd.es)

C/ Jorge Juan, 6

28001 – Madrid

[sedeagpd.gob.es](http://sedeagpd.gob.es)

17/17

LPACAP, the interested parties may optionally file an appeal for reconsideration

before the Director of the Spanish Agency for Data Protection within a period of

month 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, the firm resolution may be provisionally suspended in administrative proceedings if the interested party expresses his intention to file a contentious appeal-administrative. If this is the case, the interested party must formally communicate this made by writing to the Spanish Agency for Data Protection, introducing him to the agency

[<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other records provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. Also must transfer to the Agency the documentation that proves the effective filing of the contentious-administrative appeal. If the Agency were not aware of the filing of the contentious-administrative appeal within two months from the day following the notification of this resolution, it would end the precautionary suspension.

Electronic Registration of  
through the  
Sea Spain Marti  
Director of the Spanish Data Protection Agency  
C/ Jorge Juan, 6  
28001 – Madrid  
[www.aepd.es](http://www.aepd.es)  
[sedeagpd.gob.es](http://sedeagpd.gob.es)