 File No.: PS/00106/2022

RESOLUTION OF SANCTIONING PROCEDURE

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

the following

BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) on 04/6/2021 filed

claim before the Spanish Data Protection Agency. The claim is directed

against HOSPITAL POVISA, S.A. with NIF A36606788 (hereinafter, claimed). The

The reasons on which the claim is based are that he accessed his medical record in the

electronic management of the clinical record of the Galician Public Health Service (SERGAS),

named ***SYSTEM, and found that it contains test result data

that was done through the defendant, a private clinic, and under a private insurance scheme, which

considers "they should not appear in said HC", since they were made in order to "guarantee my

privacy using private insurance".

He states that he exercised his right of access before the defendant on 10/20/2020 and was given

response on 11/18/2020, considering that various documentation that integrates that response

matched with that registered in the electronic medical record management system

***SYSTEM, which can be accessed by SERGAS healthcare professionals.

Provide a copy of the documentation provided in the access dated 11/18/2020,

made of:

a) Part in which you inform that as responsible for the processing of your data for your

health care, "your administrative data has been processed for the purpose of billing

compare the services provided to the payer indicated by you, your insurer", he adds as

another category, those included in your medical history, including the number

medical history and those related to health status. It informs you that "the data related to

your private healthcare services provided by HOSPITAL POVISA have been communicated

to the payer indicated by you, the data relating to your public health benefits

public services provided by HOSPITAL POVISA have not been communicated to any third party

of the care professionals of HOSPITAL POVISA necessary for the provision

of quality health care".

"Informed personal consent" of 06/1/2016, mentioning Law 41/2002, re-

b)

regulating the autonomy of the patient and the rights and obligations in terms of information

information (LAP), in the sense that he provides his data to said center to be attended to.

do, and that your data is incorporated into an automated data file for internal use of

said entity. It informs you of the exercise of your rights, and that "I have been informed of

that a clinical record will be opened in your name, where, in addition to said data, all

regarding your health, treatment and injuries."

"I have also been informed that Hospital Povisa in case it is assisted with car-

If you go to an insurance company, you can provide a description of the ailments or injuries that

suffers from the patient, as well as a timely report on both his evolution and discharge and seque-

those in your case".

In the section "I expressly consent" it is indicated, "in compliance with the provisions

in the LOPD so that HOSPITAL POVISA can provide a description of the ailments and

injuries and other data on the patient's health to the responsible insurance company

payment for care provided at HOSPITAL POVISA", with the signature of the patient.

c) HP document "clinical history and evolution", of the claimant, "GENERALI client

SPAIN", urology service, of 4/04/2017.

Accompany the claimant with a printed copy of the consultation screen *** SYSTEM consultation screen

HC 01-05, in which in the form of a tree they can be consulted in primary, specialized, dis-

different health centers, including HP, and within "other studies and reports", "other reports

and evidence", you can see this one from 04/04/2017, which fully coincides, which fully coincides.

d) HP document: "Copy of the claimant's emergency medical report, "client

GENERALI ESPAÑA", of 09/19/2017.

Accompany the claimant with a printed copy of the consultation screen *** SYSTEM consultation screen

HC 01-03, in which in the form of a tree they can be consulted in primary, specialized, dis-

different health centers, including HP, and within "other studies and reports", "laboratory",

"other reports and evidence", and you see this one from 09/19/2017, which fully coincides.

e) SMS of 10/17/2019, notification of medical examination, according to the claimant, of

Kutxabank Seguros with the person in charge of treatment SERMESA, "where they give me an appointment to

medical examination on 10/25/2019, on the occasion of the life insurance of a mortgage loan

tecario."

Document from HOSPITAL POVISA (HP) of 10/25/2019, which contains test results

bas carried out, "laboratory service".

Provide a copy of screenshots of the electronic access to ***SYSTEM, (seen in the

top left that name) and you see a directory tree "Hospital POVISA" of the

that hang different folders. All analytics, as of 10/25/2019, are listed under the branch of

HP, other studies and reports, laboratory. Match those seen in ***SYSTEM with

those provided by the defendant.

SECOND: The claim is resolved on 04/21/2021 inadmissible for processing,

file E/04556/2021, against which the claimant files an appeal for reversal

which is estimated on 05/12/2021.

THIRD: On 12/13/2021, "In the framework of the actions carried out by the

General Sub-Directorate of Data Inspection in order to clarify certain facts of the

of which this Spanish Agency for Data Protection has been made aware, and in use of

the powers conferred by article 58.1 of Regulation (EU) 2016/679 of the

European Parliament and of the Council of 04/27/2016, regarding the protection of persons

with regard to the processing of personal data and the free movement of

these data and which repeals Directive 95/46/CE (General Regulation of

data protection) (hereinafter GDPR), and art. 67 of the Organic Law 3/2018, of 5/12,

Protection of Personal Data and guarantee of digital rights (hereinafter

LOPDGDD)", is requested "from HOSPITAL POVISA, S.A." the following information regarding

claimant, "as a consequence of the communication of their health data to the Service

Galician Health (SERGAS):

1. Evidence of having provided the claimant with information on the protection of

data in relation to the processing of your data and provide a copy of it.

2. Accreditation of the means used to provide the information in the section

former.

On 12/27/2021, he responded, and as it appears in the report of previous actions:

"1. HOSPITAL POVISA S.A. maintains an agreement with SERGAS by virtue of the

which provides health care to a population center in the province of Pontevedra.

That in compliance with said agreement, the medical record management system of PO-

VISA communicates with the SERGAS clinical record management system called-

c ***SYSTEM.

"The information related to the claimant's medical history is contained in the ***SIS-

SUBJECT from the moment the patient is cared for in the center, accessible by

part of SERGAS, taking into account the single electronic medical record system

planted in all health centers with SERGAS concert and that, by POVI-

SA, there have been no improper accesses to your medical history".

2. "[…] The regulations require Health Centers to have a single medical record

per patient, regardless of who finances the health care. Of

In this way, POVISA professionals record all the activity carried out on users.

Rivers that come to the Hospital, both through SERGAS and through private insurance. The professionals

SERGAS doctors can thus consult through the ***SYSTEM platform, titled

larity of SERGAS, the clinical histories of the group protected by Social Security

(electronic medical record).[…]"

3. In relation to the information on data protection provided to the claimant manifest-

ta:

"to. That in 2004, the claimant received healthcare for the first time through

from the emergency department of the hospital, which is why he is informed through the

Informational information on Data Protection placed on the counters.

b. That in 2016 the claimant went to the hospital again receiving health care.

general fee That at this moment POVISA provides you with an informative document

information on the processing of your personal data" Provide a copy of ANNEX 5 that

coincides with that provided by the claimant, done first, 1.b)

c. "The last health assistance to the claimant at the Hospital was in September 2017", "the

previously signed consent a year earlier, it was still valid" to cover the

obligation of the Hospital to inform you and obtain your consent for the treatment of your

data. They provide as a copy ANNEX 3, the response to the claimant's access exercise

from 11/18/2020.

4. Add that there is no record of access to the claimant's HC, through

of the aforementioned platform, no access by POVISA personnel, according to verification that

have performed since the last assistance provided in this center, beyond the

accesses that were necessary to meet the request for access to data presented by

the interested party in the year 2020. The rest of the accesses materialize through the

corresponding SERGAS users identified as "SERGAS external access

from ***SYSTEM'. In this regard, a copy of the registry is attached as Annex number 1

of accesses to the claimant's medical history, obtained from the ***SYSTEM platform,

CHECK PATIENT ACCESS", which covers the period from 12/23/2021 to

01/09/2012. The annex by dates, has the description field of "external access SERGAS

from ***SYSTEM", in others, there are people with names and surnames, doctors,

emergencies, or workstation user, in "program", sometimes appears ***SYSTEM

PRO and other other identifiers.

5. The information document on the processing of personal data and consent

informed of the patient was adequate at the time, as a result of the RGPD and the LOPDGDD.

"At the admission desks of the Hospital there is an informative poster about the

treatment of personal data of the patients attended, updated at the time",

The corporate website is also updated.

FOURTH: On 03/15/2022, the Director of the AEPD agreed:

"START SANCTION PROCEDURE against HOSPITAL POVISA, S.A., with NIF

A36606788, for the alleged infringement of article 13 of the GDPR, in accordance with the

article 83.5. b) of the GDPR, and for the purposes of prescription in article 72.1 h) of the

LOPDGDD."

[…]"

"For the purposes specified in the art. 64.2 b) of Law 39/2015, of 1/10, on Procedure

Common Administrative Law of Public Administrations, the sanction that could

correspond would be 30,000 euros, without prejudice to what results from the instruction."

FIFTH; In view of the initiation agreement, dated 04/5/2022, the following are received

allegations:

1) -Considers the proof of the printed copies of screens provided by the claimant

on the electronic medical record of SERGAS, called ***SYSTEM, illicit, for

"to have been obtained presumably in violation of the legislation that regulates the

access and operation of ***SYSTEM, such as legislation that limits access to the

clinical history only for health professionals belonging to the health system

that competes depending on the case (in this case, in the Galician Health System)".

It considers that information as the basis that supports the imputation and requests that by violating

the law should not be admitted, also calling for the proceedings to be suspended until

that "the origin of said evidence" be known.

2) Reiterates that HP is required by law to have a single HC, regardless

than whoever is the financier of the health care received by the patients. HP shape

part of the Galician Health System, as it is a health center arranged with the

SERGAS, by virtue of the provisions of article 4 of Law 7/2003, of 9/12, of

Galician Health Regulation.

"The information of those patients who are only private patients of the HP will not

is accessible through ***SYSTEM. HP support information would only be

accessible when the patient requires healthcare at SERGAS and attends,

indistinctly to HP or SERGAS."

For this reason, it should be SERGAS when accessing the healthcare information of the

patient in the HP, who would be obliged to inform the patient at that time,

as required by article 14 of the GDPR, which in turn, could exclude the

obligation to inform for HP in accordance with article 14.5 a), "for already having

said information".

"HP as a concerted care center, which is part of the Galician Health System,

has a legal obligation to maintain interoperability with ***SYSTEM". "The systems

of HP information in which the HC of the patients who are

treated at the HP, regardless of the funder of the service, interact with

***SYSTEM so that in those cases in which a patient goes to a center

health care of SERGAS to receive health care, if HC is available in HP, the same

can be viewed, with that sole care purpose, but it can never be

modified, it is not dumped, nor is it downloaded in ***SYSTEM. Decree 29/2009 of

5/02, of the Department of Health that regulates the use and access to the electronic HC, indicates

among other aspects, "that the concerted centers will incorporate into the Clinical History

Electronic all the information and documentation generated by clinical care

generated (art, 10).

"The Hospital does not communicate the data to ***SYSTEM, but the information is

accessible by legal imperative, but "in no case is an action carried out by the

HP in which the data is transferred to SERGAS". "Patient information would not be

available, until the patient requested health care at SERGAS, which was not

known to or controllable by HP.”

"For this reason, HP did not consider SERGAS as the recipient of the information, because

the information is never transmitted to SERGAS, and it does not depend on HP or itself

SERGAS, that the information of the interested party is accessed, but is the fact that

go to a SERGAS health center to receive health care, at which time

is informed in said center”.

3) He considers that he is accused of an infraction classified as very serious, when the truth

is that it considers that this literal of "omission of the duty to inform" is not appropriate, since

there is evidence in the file that your data has been processed, and if it has been given

information, indicates pages 13 and 88 in informed consent and signed by the

claimant on 06/01/2016, this being the way to inform before the entry into force of the

GDPR, having adapted specific measures to inform patients after the

entry into force of the GDPR.

4) HOSPITAL POVISA "has never uploaded any information to the information systems

SERGAS information, but only, for the benefit of their patients, with a

sole purpose of care and required by the applicable health regulations,

allowed the interconnection of their information systems, with the tool ***SYSTEM

and, , access to healthcare information only occurs when the patient

go to a SERGAS Public Health Center. “

5) As of 06/01/2018, a new informed consent was launched on the

treatment of personal data of patients, adapted to the GDPR, which is

“began delivering to new patients”, with the following information:

"The purpose of the information provided to patients is none other than to inform them that

your HC could be available to SERGAS physicians.”

Provide document one: "informed personal consent in compliance with the law

41/2002 regulating patient autonomy and rights and obligations in

of clinical information and the General Data Protection Regulation”.

It is also reported that "when strictly necessary, the data may be

communicated in accordance with the provisions of current legislation to the health authority

and other public bodies with competence in the matter, as well as companies

insurers or other paying entities when you tell us that the expenses

assistance must be satisfied by them, being able to facilitate the description of the

ailments or injuries that I suffer as well as a timely report of both its evolution and

discharge and sequelae in your case”

The legitimizing basis is: "the provision of health care and compliance with

legal obligations regardless of who turns out to be the payer of the same

keeping the personal data processed during the period of time required by the

applicable regulations proceeding subsequently to the deletion.

To guarantee the existence of a single clinical record per Center and comply with the

current legislation and since HOSPITAL POVISA is a concerted center, for the

provision of public health care, it is essential that the data of my

clinical records are accessible by the physicians of the GALLEGO HEALTH SERVICE,

guaranteeing greater security and avoiding duplication of tests, administration of

medications and errors derived from the lack of healthcare information.”

6) On 06/13/2018, it was agreed, "given the circumstances and the context

in which personal data is processed given the various ways of reporting,

reform the information available to patients, proceeding to "place in all the

patient care places, reception desks, waiting rooms and kiosks

(they are the machines in which patients download with their health card, the

information about your appointments), a first layer of basic information, facilitating the

second layer of information at all patient care desks and at the

Hospital website. Provide document two, a photograph of an information panel,

first layer, placed in the HP facilities, which reads: "basic information

on Data Protection", with the sections of responsible, the purpose, in

recipients, SERGAS is not mentioned, but: "Data will be communicated to entities

payers of health services and those legally obligatory", and "rights", with a

additional information that refers to counters and the web.

The second layer is contained within document 2, entitled "Privacy Policy

patients" in which it begins indicating that the update is by the GDPR, on a legal basis:

"provision of health care, regardless of who turns out to be the payer of the

itself, within the framework of a contractual or non-contractual relationship (Art. 6.1 b GDPR), and the

protection of a vital interest of the patient or of a third party (art 6.1.d GDPR)".

It also reports in similar terms contained in document 1 mentioned in this

ordinal: specifically, it states: "Finally, in order to guarantee the existence of the

unique clinical history per Center and comply with current legislation and whenever

HOSPITAL POVISA is a concerted center for the provision of health care

public, it is essential that the data of the clinical history be accessible by the

physicians of the GALICIAN HEALTH SERVICE, guaranteeing greater safety and avoiding duplication of tests, medication administration and errors derived from the lack of healthcare information."

-The provisions of recital 62 are applicable, which "exempts the obligation to provide information when the data subject already possesses the information, when the registration or the communication of personal data are expressly established by law, or when providing the information to the interested party is impossible or requires an effort disproportionate"

-On the date on which the interested party received the services from HP, October 2019, "the data protection information was already duly updated to the requirements of the GDPR" "In the previous moments (April and September 2017), it was of application article 5 of the LOPD 15/1999 and not article 13 of the RGPD in which case a possible violation of article 5 of the LOPD 15/1999 should be analyzed, since the GDPR was not applicable to the processing of data concerning the interested party made in the year 2017."

7) In addition, it must be differentiated from the offense typified in article 72. 1 h) of the LOPDGDD, of the light typified in article 74 of the LOPDGDD, which means "not facilitating all the information required by articles 13 and 14 of the GDPR". This aspect was analyzed in resolution PS 465/2021 (an address is missing from the video surveillance information poster where to exercise the legally regulated rights) PS 239/2020 similar to above, and PS 237/2021 (the web page ***URL.1 of which the defendant is the owner, because does not properly identify the person in charge or the rights that assist the users or the routes to be used for their exercise). In the event that the AEPD maintain the imputation, alleges the prescription of the infringement of article 13 of the GDPR, referring to the moment in which the data is obtained from the interested party and, secondarily, qualify as slight since there is no total omission. When processing the data, last date, 10/25/2019, the

infraction would be prescribed.

8) Dissatisfaction with the aggravating circumstances to apply the possible sanction.

The first, regarding the consideration of the infringement as permanent. When describing the

continued infringement and its elements, the "sentence no. 3602/2020 of the TS, room of the

Administrative litigation" fourth law basis to consider that there are no

in the defendant Unlike the continuous aggravating circumstance of the offence, that of

permanent nature is not explicitly included as an aggravating circumstance in the regulations of

Data Protection. The character of "permanent infraction in which a single illegal

maintained for a prolonged period of time during which the lesion of the

legal good. However, they identify it in such a way for the sole purpose of calculating the

limitation period of the infringement which, in our opinion, should not also be transferred

for the purposes of applying the aggravating circumstance". He cites a sentence of TS, third room, of what

contentious, of 03/16/2010, on the transfer of data to a third party, highlighting the

fragment as an example "... there is no plurality of actions, but simply the

disclosure to a third party of the personal data relating to the complainant. It

It happened at a certain point in time. It cannot even be said that that setting

in knowledge of the personal data was, in itself considered, a prolonged action

during a certain period. That this action could have harmful consequences for the

owner of the personal data at a later time does not convert it, contrary to what

affirmed by the impugned sentence, in a continuous/permanent infraction. Whether

accepted this thesis, many penal or administrative infractions would be

continuous/permanent, since the harmful effects of an action or omission can

make itself felt some time after the moment of the commission". does not consider behavior

as permanent

The second aggravating circumstance of 83.2.a) of the GDPR, which considers that presumably the lack

of information has been extended to more people, without having deployed any kind of

probative activity that supports that affirmation and without it having been the specific object of

the claim.

9) Add absence of responsibility, for:

- Failure to comply with one of the principles of the sanctioning power, such as the existence of

fraud or fault in the imputed entity. There is no evidence of intentional action, for

since it has no interest in omitting that information regarding access to the data by the

SERGAS through the electronic platform, whenever it responds to an obligation

required by sectoral regulations.

-There is no record of benefits obtained in the commission of the alleged infringement.

-There is no recidivism.

SIXTH: On 09/8/2022, a test practice period begins, assuming that

reproduced for evidentiary purposes the claim filed by the claimant and his

documentation, the documents obtained and generated by the appeal for replacement and its

resolution, as well as those generated in previous investigation actions.

Likewise, it is considered reproduced for evidentiary purposes, the allegations to the start-up agreement

of the referenced disciplinary procedure, presented by the defendant and the

documentation that accompanies them, as it is related to this claim.

In addition, it is decided to request the defendant:

A) In the access requested by the claimant, there was also some evidence that, as the

boratorio made HOSPITAL POVISA-HP- on 10/25/2019 to the claimant, who were listed in the

SERGAS consultation system-***SYSTEM. In this regard, you are instructed to report

on behalf of whoever was acting in those laboratory tests (proving it minimally,

if there is a contract and legal position for the purposes of data protection) where they were practiced

the analytics and for what purpose, and informative literal of data collection that is provided

not to the claimant.

On 09/23/2022, a letter was received from the defendant responding that "he acted in the

position of Responsible for Treatment, taking into account both the regulations applicable

cable on data protection, such as the health sector regulations, which are obligatory

compliance, being the entity SERMESA (PREVENTIVE MEDICINE SERVICES,

S.A.), a financier of the service. Analytical tests were performed at HOSPITAL

POVISA, in its own laboratory, in order to perform a medical review on the patient.

Therefore, there is no clinical analysis contract as it is an internal laboratory."

Regarding the literal information provided to the patient, which the complainant has already referred

At a previous point, "at the time you go to receive said health care", it is

corresponds to the two layers according to the meeting of the Protection Committee of

Data from HOSPITAL POVISA, held on 06/13/2018. Thus, in the first one they appear

some information panels placed in waiting rooms, places of access and counters

care providers. In the second layer, information was provided on the web and at counters

patient care

From the contract signed with the entity by order of which the analyzes were carried out, no

nothing

B) Provide a copy of part of the agreement signed with SERGAS, and indicate from what date or

stages provides or has provided HP concert services for SERGAS in healthcare

related to the scope of clinical action that covers the claimant as a user

river of the public health care system. Part in which the “Legal position” refers to

ca in terms of data protection” that HP adopts in the health care concert

subscribed with SERGAS in terms of data processing and communication to the management system

electronic management of medical records ***SYSTEM.

It states that the concert was signed on 09/1/2014, currently in force, indicates that the

concert "was subject to review in the disciplinary procedure PS/00287/2018 and recur-

under administrative litigation 186/2019 in the National Court, assessing that it would be

a "treatment and an Agreement on which the principle of res judicata weighs, understanding

that there is no administrative review.”

It does not provide a copy of any document.

C) Regarding the examination or evaluation of the printed copies of screens provided by the

claimant with the healthcare information that says: "I have been able to access my medical history

of the application ***SYSTEM of the Galician Health Service (SERGAS).” and the request of

claimed in his allegations, the claimant provides printed copies of the screens

of said access with the reports.

In this regard, it should be noted that the Decree that regulates the electronic medical record in the

SERGAS 29/2009, of 02/05, establishes a chapter III called "access by

patient users" that begins with article 19 entitled "right of access to the

electronic medical record data" that can be exercised by the patient or user

by proving your identity. Article 20 configures it as a right, not

only to access but to obtain a copy of the reports or data that appear in the

itself and in article 21 as limits it is established that it cannot be exercised to the detriment of

of the rights of third parties. Article 22 establishes “direct access to the history

electronic clinic by electronic means Internet "and that the exercise of this access

must be carried out prior verification by the system ***SYSTEM of the identity of the interested party, through their electronic signature or through another similar mechanism that allows you to check with “full security”. Article 23 establishes it as a "form of exercise of the right of access to the information contained in the clinical history”, of in accordance with law 11/2007 of 06/22 on electronic access.

Therefore, being a very personal right and given that the defendant handles a hypothesis without a real argument that is not given, and does not prove any indication of violation of the rule in accessing said history, also appearing on the SERGAS website a section for said access, as in many other Ministries that can access said stories,

The suspension of the procedure is not considered justified given that this cause is not would enter into the reasons that can justify it, nor is the request to SERGAS for the legitimacy of said consultations, or of the access record, for which reason the proof is denied.

I have proposed to investigate this aspect.

He states that he opposes non-admission, pointing out that the screenshots he provides in his complaint do not correspond to the application that SERGAS makes available to patients to access their clinical history, but it is information obtained directly directly from the ***SYSTEM application, a tool accessible only to staff SERGAS and subsidized health centers, which shows that either the claimant is a healthcare worker, or has obtained the information fraudulently, unfair or unlawful. Provides the application interface that allows patients access to your medical record in SERGAS, with the section "my Sergas medical record" or "my

clinical history in the National Health System", and then shows a second screen.

size in which the medical reports available for another patient appear, in the different

Centers in which the patient has received health care, whose order, provisions

tion and visibility are different from those provided by the claimant, although also in each

episode contains the sign to be able to be downloaded. It shows that this interface is from E-

SAUDE, owned by SERGAS, in no case ***SYSTEM, since this is limited

access to healthcare professionals.

He states that it could be an illegitimate access to the information available in ***SIS-

SUBJECT, and there may be access to information from third parties. Requests that the claimant be asked

source and manner in which he obtained said access, calling it "illegal obtaining of the

evidence".

On 09/27/2022, it was decided to extend the test and request:

1-A claimant:

a) In your claim, you state that "I have been able to access my clinical history from the

application ***SERGAS SYSTEM", and provides printed copies of screens. you are requested

the origin and form of access to ***SYSTEM, as accessing, access route and

form of identification to obtain what you contributed to your claim.

b) In your claim, you state that you received an SMS notifying the recognition

by KutxaBank Seguros with the treatment manager SERMESA

where they give me the appointment on 10/25/19 for said medical examination due to insurance

life of a mortgage loan. For this purpose, you are asked if you can contribute

documentation of said statement and a copy of the document proving the statement

and the quality of the participants that are mentioned.

Receive the notification on 09/30/2022, without responding to the request

2-SERGAS was requested to report:

a) If patients can access the ***SYSTEM application electronically to

be able to see, download and obtain your medical record, and what would be the address and the way to

that patients would agree to be able to carry out these actions. Secondarily, if not

outside, report the website or platform through which patients can access the

medical history by media.

A response was received on 10/21/2022 stating that the ***SYSTEM application only

allows access to professionals from the Galician public health system as described in

included in decree 29/2009 which regulates the use and access to medical records

electronic as well as the subsequent decrees that modify it, on 164/2013, of 24/10, and

168/2014 of 12/18.

Access to health data by citizens by telematic means can be done by

through the E-SAUDE platform. Point out two web addresses where you can

find and its regulation by Order of 09/19/2016 that creates and regulates the personal folder

of health.

The information is the one that is allowed access as it is collected on the website itself, it would be:

My medical record access to your electronic medical record reports

My schedule check your appointments

My treatments information about your current and future past treatments

My healthcare management of your appointments and information about your professionals

My procedures historical information about your health and management of procedures with SERGAS

My personal portfolio management of one's own health and illness.

b) Indicate if the results and contents that are viewed from the access to the clinical history

of a patient in telematic format, which can be downloaded from ***SYSTEM and

from the platform that, if applicable, is through which private users can

do, are they the same or are there variations.

It states that from the ***SYSTEM platform, access by users is not allowed.

citizens so it is not feasible to download anything.

The type of report that can be consulted is described on the SERGAS corporate portal

through the E-SAUDE platform. It is indicated that most of the reports of your

SERGAS clinical history can be consulted from the moment the professional

has generated them with the exception of the cases indicated:

-Report of non-laboratory diagnostic tests, Nuclear Medicine report

-Of andrological state of urology

-Laboratory tests not clinical analysis

In these cases, in order to consult and download your report, 30 days must have elapsed.

days from its completion or who has had a consultation in primary care with

after the report creation date.

Some reports from your digital medical record are not available through E -SAUDE.

If you need it, you should contact the patient care unit to

request your complete history.

Through the E SAUDE platform, access to medical reports is allowed and the rest

of information indicated above in terms of the different types of information. For

access to the different types of information there are different types of access depending on the

type of access to the platform will have more or less information.

As stated on the web there are two types of access: Without identification or with high security

that requires registering in the system in two ways, in person at organs or

administrative units of the Junta de Galicia or electronically through the

Electronic Headquarters. Regarding the accesses with high security, it is indicated that it is possible to

access all your health information and personalized content offered by the

platform such as reports of your medical history and treatments.

At the time of consultation of the E SAUDE platform, the information acquired is identical

to the one existing in ***SYSTEM, but it must be taken into account that the information in

***SYSTEM is dynamic, can be updated by healthcare professionals

responsible for its preparation.

3-A claimed, you are requested, that within ten days, provide:

"Copy of the contract signed with SERMESA detailing the service to be performed and the

to)

object."

On 10/13/2022, he stated:

The defendant and SERVICIOS DE MEDICINA PREVENTIVA, S.A. (SERMESA), base their relationship

tion in an agreement for the operation in such a way that reconnaissance or

medical tests, according to different application criteria, under rates that

are renewed periodically. Therefore, the relationship between both parties is not arti-

culada in a service provision contract as such. The purpose of the agreement between the

parties is the performance, by HOSPITAL POVISA, of examinations or tests

medical, to those people who are referred to the center, by SERMESA. HOSPI-

TAL POVISA, once it receives the identification data of the people referred to the center, it

Responsible for processing the summons. In those cases where the derived user is not

previous patient of HOSPITAL POVISA, but who comes to the center for the first time, generates

a clinical history once the patient has been identified, in which they will be duly recorded

Once the tests are carried out, their results and the reports prepared

by the Hospital staff. As we have previously reported, in our study

Allegation letter dated 04/05/2022, patients are duly informed by

HOSPITAL POVISA, on the processing of your personal data, by various means, such as,

For example, through the information panels located at all check-in counters.

service to the public, to whom they necessarily attend before being served. After the

implementation of the actions required and previously agreed upon, the results of the assistance

care provided to the patient are sent to SERMESA, applying the appropriate security measures.

security, in order to prevent access to information by unauthorized personnel."

SEVENTH: On 11/2/2022, a resolution proposal is issued with the following literal:

"That by the Director of the Spanish Agency for Data Protection the

violation, attributed to HOSPITAL POVISA, S.A., with NIF A36606788, of article 13 of the

GDPR in accordance with article 83.5 b) of the GDPR, typified for prescription purposes

in article 72.1.h) of the GDPR."

After the period granted, no allegations were received.

PROVEN FACTS

FIRST: The claimant states in his claim that: "I have been able to access my history

clinic of the application ***SYSTEM of the Galician Health Service (SERGAS)" -***SYSTEM

is the electronic management system for SERGAS clinical records - and has seen that

there are data on medical health care episodes provided in the private clinic

HOSPITAL POVISA (HP) in "private insurance regime". The claimant exercises

before HP his right of access that was answered in writing on 11/18/2020, coinciding with the

cited episodes with those contained in ***SYSTEM.

The claimant provides the printed copies of the screens of the attendances that are seen in the

screen ***SERGAS SYSTEM. In different tabs and in the form of a tree or directory of

folders, you can read: primary, specialized, different health centers, one of them

HOSPITAL POVISA, with the following care episodes:

1) Within "other reports and tests", one of 4/04/2017 is seen, "clinical history and

evolution “ “a 42-year-old patient who was referred due to his desire to know the blood group

for pregnant" appearing annotated the same. In client, figure GENERALI ESPAÑA.

2) Within "other reports and evidence", you can see one from 09/19/2017, "medical report of

emergencies” on the occasion of the consultation. In client, figure GENERALI ESPAÑA.

3) Within "other studies and reports", "laboratory", there are four folders, three

dated 10/25/2019 and the last one on 04/6/2017. In all three, from 10/25/2019, you can see data from

your analytics.

Along with this, the claimant provides a printed copy of a text message dated 10/17/2019, notification

cation of medical examination, according to the claimant, from KUTXABANK insurance, with Service

Medicina Preventiva SA, SERMESA, “where they give me an appointment for medical examination

co on 10/25/2019, on the occasion of the life insurance of a mortgage loan.”

Analytical tests are carried out by HP, at its facilities, its own laboratory, which

had signed an agreement with SERMESA, financier of the service.

SECOND: HP, since 2014 has signed a concert with SERGAS, by virtue of the

which provides health care to a population center in the province of Pontevedra. In

compliance with said agreement, the HP medical record management system, communicated

unique with the SERGAS clinical record management system called ***SYSTEM.

The information related to the claimant's medical history is available on the ***SISTE-

MA from the moment the patient is cared for in the center, accessible by par-

SERGAS, according to the defendant, taking into account the electronic medical record system

The only one implemented in all health centers with a SERGAS agreement.

THIRD: In the right of access provided on 11/18/2020 to the claimant for the re-

cried out, he was informed:

-"the data related to your private healthcare services provided by HOSPITAL POVI-

SA have been communicated to the payer indicated by you, the data related to their benefits.

public health services provided by HOSPITAL POVISA have not been communicated to any

any third party other than the healthcare professionals of HOSPITAL POVISA necessary

for the provision of quality health care.

-Copy of a clause of "Informed personal consent" of 06/01/2016, mention-

do Law 41/2002, regulating the autonomy of the patient and the rights and obligations in

information matter (LAP), which provides your data to said center to be attended,

and that your data is incorporated into an automated data file for internal use of said

entity. It informs you of the exercise of your rights, and that "I have been informed that

will open a clinical history in your name, where, in addition to said data, everything related to

vo to his health, treatment and injuries."

"Likewise, I have been informed that Hospital Povisa, in case it is assisted with charge

to an insurance company, you can provide a description of the ailments or injuries suffered by

the patient, as well as a timely report on both his evolution and discharge and sequelae in

Their case".

In the section "I expressly consent" it is indicated, "in compliance with the provisions

in the LOPD so that HOSPITAL POVISA can provide a description of the ailments and

information and other data on the patient's health to the insurance company responsible for the

payment for care provided at HOSPITAL POVISA", with the patient's signature.

FOURTH: In tests it was proven that in general, users and citizens cannot ac-

access your medical history through ***SYSTEM, which can only be accessed by professionals

health sionals. Those access through the E-SAUDE platform, being able to obtain

have access to reports of the clinical history of each patient, past treatments, current

and future, management of one's own health and illness. The claimant in evidence was requested

bas how he had accessed ***SYSTEM if it is not stated that he is a health professional, but

did not answer.

FIFTH: HP details in allegations, that since 06/01/2018, due to the entry into vi-

gor of the RGPD, the way of informing users changed, by "delivering" the information about

treatment of data to "new patients", providing a document 1 in which the

form of the legitimizing base and of SERGAS as recipient of clinical history data.

ca and has a space for your signature.

Likewise, to comply with the obligation to inform the GDPR, since 06/13/2018, HP, "re-

formed" the information on data collection in two layers, through informative posters.

tives, as follows:

-A first layer containing basic information, with informative posters displayed-

reception rooms, waiting rooms and machines used for patients to unload

with your health card information about your appointments. It contains the literal: "basic information"
ca on data protection", including: the person responsible for the treatment, the purpose, right
data, and as recipients: "Data will be communicated to paying entities of the services
sanitary and those legally obligatory". It is also indicated that for more information
You can go to the website or to the reception desks. There is no reference to SER-
GAS in that first layer, although it does appear in recipients: "data will be communicated to entities
paying responsibilities for health services and those legally obligatory"
-The second layer would be informative posters placed at customer service counters.
patients, and on the website, under the document called "privacy policy
of patients", warns of the change of the GDPR and an "update for its adaptation" is produced.
tion". SERGAS is reported as recipient of clinical history data. It is informed
with the literal: "Finally, in order to guarantee the existence of the unique clinical history
each Center and comply with current legislation and since HOSPITAL POVISA is a center
concerted tro for the provision of public health care, it is essential that
the data of the clinical history are accessible by the doctors of the GALLEGO SERVICE
DE SALUD, guaranteeing greater security and avoiding duplication of tests, administering
administration of medicines and errors derived from the lack of healthcare information." contributes
accreditation of what is stated in document two.
SIXTH: Regarding the information provided to the claimant in the collection of data,
derived from its submission to clinical analysis that is carried out on 10/25/2019 with the claim-
last support provided by HP listed in ***SYSTEM, HP stated, that ac-
acted as a clinical laboratory on behalf of SERMESA, which financed the service. Is considered
that as of that date, implemented since 06/13/2018 by the defendant, there were the mentions
given information updates in the treatment of patients in two layers, between
which included the specification of the recipient of SERGAS data, and the legitimizing basis.
FUNDAMENTALS 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 authority

of control and as established in articles 47, 48.1, 64.2 and 68.1 of the Organic Law

3/2018, of 5/12, Protection of Personal Data and guarantee of digital rights (in

hereafter, LOPDGDD), the Director is competent to initiate and resolve this procedure

of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed

by the Spanish Data Protection Agency will be governed by the provisions of the

Regulation (EU) 2016/679, in this organic law, by the provisions

regulations dictated in its development and, insofar as they do not contradict them, with character

subsidiary, by the general rules on administrative procedures."

II

HP is accused of a violation of article 13 of the GDPR, which establishes:

"1, When personal data relating to him is obtained from an interested party, the person responsible for the

treatment, at the time they are obtained, will provide you with all the information

indicated below:

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

b) the contact details of the data protection officer, if applicable;

c) the purposes of the processing for which the personal data is intended and the legal basis of the processing.

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 personal data, if applicable;

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 adequacy of the

Commission, or, in the case of transfers indicated in articles 46 or 47 or article

49, paragraph 1, second paragraph, reference to the adequate or appropriate guarantees and the

means to obtain a copy of these or to the place where they have been made available."

2. In addition to the information mentioned in section 1, the data controller

will provide the interested party, at the time the personal data is obtained, the following

information necessary to guarantee fair and transparent data processing:

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

the criteria used to determine this term;

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

personal information relating 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 article 9,

paragraph 2, letter a), the existence of the right to withdraw consent at any

moment, without affecting the legality of the treatment based on prior consent

upon his withdrawal;

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

e) if the communication of personal data is a legal or contractual requirement, or a requirement necessary to sign a contract, and if the interested party is obliged to provide the data personal and is informed of the possible consequences of not providing such data;

f) the existence of automated decisions, including profiling, to which referred to in Article 22, paragraphs 1 and 4, and, at least in such cases, significant information about applied logic, as well as the significance and intended consequences of that treatment for the interested party.

3. When the person responsible for the treatment plans the subsequent processing of data personal information for a purpose other than that for which it was collected, will provide the data subject, prior to said further processing, information about that other purpose and any additional information relevant under paragraph 2.

4. The provisions of paragraphs 1, 2 and 3 shall not apply when and to the extent that the interested party already has the information."

Article 4 of the GDPR, "definitions", indicates:

2) "processing": any operation or set of operations performed on data personal data or sets of personal data, whether by automated procedures or not, such as the collection, registration, organization, structuring, conservation, adaptation or modification, extraction, consultation, use, communication by transmission, diffusion or any other form of authorization of access, comparison or interconnection, limitation, deletion or destruction;

9) "recipient" means the natural or legal person, public authority, service or other body to which that personal data be communicated, whether or not it is from a third party"

15) "health data" means personal data relating to the physical or mental health of a natural person, including the provision of health care services, revealing information about your state of health;"

The initiation agreement enters into the obligation of the duty to inform the interested party when

obtain personal data related to him, indicating the precept that he must provide "all" the information "as they are obtained", which includes paragraphs a) to f) of the article 13 of the RGPD, and in the second paragraph, adds for that same moment, that will provide: "information necessary to guarantee fair data processing and transparent", as well as the exception in paragraph 4, that: "The provisions of the Sections 1, 2 and 3 will not apply when and to the extent that the interested party already have the information.", as in this case, which has part of the information and data were already in the files of the person claimed for medical attention previous.

These provisions exceed those that the previous LOPD contemplated as the right to information in data collection.

Faced with the manifestation of the defendant that he does not dump his data in the SERGAS information, but it is produced for assistance purposes and for the benefit of patients the interconnection of data that the single clinical history implies, communication of the HP direction ***SYSTEM of the SERGAS, and that only occurs when the patient comes as such to be treated at a SERGAS public center, this would be enough to be considered data processing by communication, with a specific recipient, specific, known of which the patient should be informed when assisted by HP, regardless of which. if applicable, the SERGAS should be provided.

The claimant became aware that the data of his assistances in HP appeared in the electronic system for managing medical records of *** SISTEMA, managed by the

SERGAS, and it is a fact not denied by the defendant who acknowledges that it is so for the sake of single medical history.

Regardless of whether the claimant has not justified how he was able to access ***SYSTEM, or the qualification that can be considered from said access, the patient has right of access to the documentation of the clinical history, and to obtain a copy of the data that appear in it (article 18 LAP). Thus, the health legislation establishes a right broader in scope than that of access established in the data protection regulations, that affects not only the data itself, but also the documentation in which they are they contain. Therefore, if the right of access reaches the document in which the data is collected, as part of the health documentation, such as data from histories clinical histories that contain information such as diagnoses, test results, evaluations, medical evaluations and any treatments or interventions carried out, the GDPR it also reiterates that this would include the right to obtain a copy.

Taking for granted that the same information given in the right of access by the defendant is the one that was obtained in the access by ***SYSTEM, and that is contemplated in the Law, it does not seem deduce that the instrument provided consisting of access to ***SYSTEM can affect the defense or defense guarantees of the defendant, when by the principle of compliance, must accredit and guarantee the observance of the rights and principles in the data processing of the claimant.

Furthermore, the claimant would have access to the same information and content in the official platform that gives access to your clinical information E-SAUDE, as reported by the SERGAS, which could access the episodes that are the subject of the claim, which appear in the systems of the defendant, and that by applying the single clinical history that he defends, transferred to ***SYSTEM, which has not denied the claimant either. It is estimated that the claim of invalidity of said document provided as one of the means of contrast with the data that the claimant disposed of the claimant as seen in the access is not a sufficient reason

to cancel said contribution, since in any case it is a fact not denied by the defendant

nor does it harm the explanation that you have to give about the communication information system

of data to recipients that must be given to patients, specifically to the claimant.

On the other hand, the principle of transparency is a general obligation under the GDPR,

which applies regardless of the legal basis for the processing, and throughout

throughout its life cycle, and applies to three fundamental aspects:

(1) the provision of information to data subjects related to fair treatment; before

of the data processing cycle or at the beginning of it, that is, when the data is collected

through the interested party or by other means.

(2) how data controllers communicate with data subjects in relation to

your rights, according to the GDPR; and

(3) how controllers facilitate data subjects to exercise their rights

rights, which can be throughout the entire treatment period

This information, as part of the principle of transparency, empowers the interested parties to

hold controllers and processors accountable and to exercise control over

your personal data, for example, by providing or revoking informed consent

do and exercising their rights as affected.

A basic consideration of the principle of transparency is that the interested party must be able

to determine in advance the scope and consequences of the treatment and should not be

unexpectedly addressed at a later time about the ways in which they have been used

your personal information.

II

When a user goes to the doctor or health center, public or private, section 2.h)
of article 9 of the GDPR would enable the treatment and consent does not have to be requested
to the patient for the processing of their personal data, since they come to
provide health care, but it is mandatory that it be informed as prescribed by the
Article 13 GDPR

Recital 61 indicates: ”The interested parties must be provided with information about the treatment
of your personal data at the time it is obtained from them or, if it is obtained
from another source, within a reasonable time, depending on the circumstances of the case. Yeah
personal data can be legitimately communicated to another recipient, it must be included
form the data subject at the time they are communicated to the addressee for the first time”.

In this case, taking as the reference date the date of the last assistance with
HP health data content as of 10/25/2019, and taking into account the
previously: 2016 and 2017 episodes, not initially appreciated as having been
informed the claimant of the transmission of their data, to the information systems
assistance ***SERGAS SYSTEM through which access is possible.

This known addressee was not contained in the information given to the claimant in
none of those occasions.

Considering that it would have occurred on the occasion of the claimant's attendance at the
tests of 10/25/2019, however, it would be necessary to assess whether that information that was given
as offered on that date, met the complete requirements established in said article
13, and analyze the type of content implied by the omission of the information up to that date and
data communicated to the Galician Public Health Service when the patient attended
previously under a private insurance scheme or derived by an entity to carry out
analytical tests.

In the health care of the claimant in 2016 and 2017 in HP under insurance

private, data was collected from it, the claimant being informed of aspects of the

treatment as:

-Responsible for the file, purposes, exercise of rights and in relation to the entity

insurer information on transfer of data as a result of the payment of the

support provided by HP.

-There is no record that it was expressly reported that as a recipient your data will be

communicated to SERGAS as recipient of the information

-Subsequently, in 2018, the collection information system was modified. it seems

reasonable given the extension of transparency obligations that includes

the GDPR, linked to the principle of loyalty, transparency and proactive responsibility that

includes that data controllers should always be in a position to

demonstrate that personal data is processed in a transparent manner in relation to the

interested.

Recital 171 of the GDPR establishes that when the treatment has started before

of 05/25/2018, those responsible for the treatment must ensure that it is in accordance with

its transparency obligations.

This implies that, before the entry into force of the GDPR, those responsible for the treatment of

data should review all information provided to data subjects about the processing

of your personal data (for example, in privacy statements/notices, etc.) to

ensure that they meet the transparency requirements discussed. When they are introduced

changes or additions to such information, data controllers must leave

make it clear to stakeholders that these changes have been made to comply with the GDPR.

It is recommended that these changes or additions be actively brought to the attention of

data subjects, but, as a minimum, data controllers must put this

publicly available information (eg, on your website). In this case it is proven

that the defendant implemented mechanisms both to inform the collection of data to

new patients, as well as those who were already part of their files for having been

previously served, as the claimant. Among other extremes, the

SERGAS recipient clause at that time.

The claimant resorts to carrying out analytical tests entrusted to HP on

10/25/2019, and there is no new data collection, and there is information

offered since 06/13/2018 for users and patients who are not new to the Hospital,

figuring that the claimant already had a clinical history open in it from years before.

The result is that there was no data collection, but a modification of the

themselves and made known since 06/13/2018 adapted to the GDPR, among which are

included the aforementioned addressee reference SERGAS. As a result, you cannot

qualify neither data collection, nor omission in the duty of information in the collection of

data, being applicable the one indicated in article 13.4 of the RGPD that indicates that:

"The provisions of sections 1, 2 and 3 shall not apply when and to the extent

that the interested party already has the information." Along with this, there is an update

of the information that is considered fulfilled since 06/13/2018, which also completes the

recipient section.

IV.

Regarding the prescription of the infringement, considering the defendant that it is a
lack of information rather than a total absence of it, so it is estimated that it must be
classified as minor, it must be considered that the difference in the classification of the offense
could suppose that depending on whether it was considered very serious or mild, the time to
to be prosecuted for one or the other (prescription of the offence) varies, being three years after
that it was considered committed, being the case that was contemplated in the initiation agreement,
and one year in the case of accepting the defendant's thesis, being able to meet the prescription
depending on where the point of origin of the commission of the offense is taken.
In this regard, 10/25/2019 cannot be considered as the data collection date that
They had already occurred long before, 2016 or 2017.
In addition, it is necessary to understand accredited the effects of updating information from
06/13/2018.
Article 74 of the LOPDGDD states:
"The remaining infractions of a merely
of the articles mentioned in sections 4 and 5 of article 83 of the 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."
The very serious one is included in article 72.1.h) which states: "1. Depending on what you set
article 83.5 of Regulation (EU) 2016/679 are considered very serious and will prescribe
three years, the infractions that suppose a substantial infringement of the articles mentioned
mentioned therein and, in particular, the following: h) The omission of the duty to inform the
concerned about the processing of your personal data in accordance with the provisions of the articles
Articles 13 and 14 of Regulation (EU) 2016/679 and 12 of this organic law."

As noted above, the claimant's treatment was already ongoing and the claimant

established a system to ensure compliance with the GDPR in terms of obligations

nes of transparency.

The claimant's medical history was previously collected in HP, related to

your personal data of the health care provided in 2016, 2017. Before 2019,

they had certainly been informed of the purpose of collecting their data, of the person in charge

of your data and the possibility of exercising your rights and some recipients of your data

cough. The update of the information available to the public suggests that it is taken for

understood the information, in this case, the update of the same, at the moment in which

its availability occurs, a fact that occurs on 06/13/2018 and that the claimant has

opportunity to verify when appearing the posters and the specified informative references,

At that time, the obligation to report the missing part was fulfilled. shouldn't be

postpone the date on which the obligation to update the information of the

treatment at the time the claimant goes to the consultation because it would mean considering

ensure that if he does not attend or while he does not attend, the defendant has not complied with the obligation

set, or if it came, a period of time is left in which some effects have occurred

that are accredited, being the truth that the defendant has implemented the means and the fi-

nes to update the information.

Therefore, taking into account the aforementioned provision of the update of the information

tion of the treatment in June 2018, the infraction cannot be classified as very serious, for not

be an omission in the duty of information, and the obligation to inform is understood to have been fulfilled.

sea from the date of its implementation, 06/13/2018 through the double layer system in

the facilities and the website of the claimant.

Any of the two circumstances together would give rise to the file of the accused infraction

referred to in article 72.1.h) of the LOPDGDD that is attributed to the defendant.

Therefore, in accordance with the applicable legislation and assessed graduation criteria

of the sanctions whose existence has been accredited,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ARCHIVE the infraction, charged to HOSPITAL POVISA, S.A., with NIF

A36606788, of article 13 of the GDPR in accordance with article 83.5 b) of the GDPR,

classified for the purposes of prescription in article 72.1.h) of the GDPR.

SECOND: NOTIFY this resolution to HOSPITAL POVISA, S.A..

THIRD: Against this resolution, which puts an end to the administrative process 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 replacement 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 Court, with

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

of Law 29/1998, of 13/07, regulating the Contentious-administrative Jurisdiction, in the

period of two months from the day following the notification of this act, according to what

provided for in article 46.1 of the aforementioned Law.

Finally, it is noted that in accordance with the provisions of art. 90.3 a) of the LPACAP, it may be

provisionally suspend the final resolution in administrative proceedings if the interested party expresses

their intention to file a contentious-administrative appeal. If this is the case, the

The interested party must formally communicate this fact by writing to the Agency

Spanish Protection of Data, presenting it through the Electronic Registry of the

Agency [https://sedeagpd.gob.es/sede-electronica-web/], or through any of the

remaining records provided for in art. 16.4 of the aforementioned Law 39/2015, of 1/10. Also

must transfer to the Agency the documentation that proves the effective filing of the

Sponsored links. If the Agency were not aware of the filing

of the contentious-administrative appeal within a period of two months from the day following the

Notification of this resolution would terminate the precautionary suspension.

Mar Spain Marti

Director of the Spanish Data Protection Agency

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