

□ File No.: PS/00386/2021

IMI Reference: A56ID 100962- Case Register 134474

RESOLUTION OF SANCTIONING PROCEDURE

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

BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) filed a claim with the

Bavarian Data Protection Authority - German Private Sector (Bavarian

Lander Office for Data Protection Supervision). The claim is directed against

AMADEUS IT GROUP, S.A. with NIF A84236934 (hereinafter, AMADEUS). The

The reasons on which the claim is based are the following:

The complaining party states that after several attempts to exercise their right to
access and deletion by sending several emails to the
responsible, the only response received is an email where they provide
instructions to delete the account, a procedure that, on the other hand, the party
complainant ensures that it does not work.

Along with the claim, the following is provided:

- Email of the complaining party dated October 4, 2018 to the
address zentrale@de.amadeus.com, with the following text (in German the original):

"I would like my user account with this email address to be deleted
email, as well as the data associated with it. I request written confirmation of the
deletion and I ask you to inform me within the period granted by the GDPR what data you have
stored on me

Any form of contact by you for the purpose of resending advertising

is unwanted and I kindly ask you to refrain from it. Thank you very much and

kind regards".

- Email of the complaining party dated November 11, 2018 to the

same address, responding to the previous email, with the following text (in German the

original): "Good afternoon, unfortunately I have not received any response like this

please contact me again. Greetings"

- Email of the complaining party dated December 14, 2018 to the

address DataProtection@amadeus.com, forwarding the previous emails, with the

following text (in German the original): "Good afternoon, Unfortunately not yet

I have received no response from you, although two months have passed. Therefore,

I request that you contact me as soon as possible and I would like to point out on this occasion that, for

As far as I know, GDPR requests must be responded to within 30 days of

according to the regulations. Kind regards".

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- E-mail from the address DataProtection@amadeus.com, dated December 17,

December 2018, in which your request is forwarded to the email

privacy.checkmytrip@amadeus.com, with the following text (in English the original): "Your

email has been forwarded to privacy.checkmytrip@amadeus.com who

will be able to help you with your application."

- Email address privacy.checkmytrip@amadeus.com to the party

claimant, dated December 17, 2018, with the following text (in English the

original): "Thank you for your email. If you have an account with

CheckMyTrip and you want to delete your account/the information stored in this account,

please open the app, log in with your account, and follow the steps below:

a) Click on Settings > Personal Information

b) Click on "Delete Account", review what you are deleting, and follow the instructions instructions.

Once the account is deleted this will automatically delete the information staff of this account. If you have any questions about the privacy of CheckMyTrip, please contact privacy.checkmytrip@amadeus.com, for any other request please contact feedback@checkmytrip.com.

Thank you so much

The Data Protection Office"

- Email of the complaining party dated December 27, 2018 to the privacy.checkmytrip@amadeus.com, in response to the previous email, with the following text (in German the original): "Good afternoon, Unfortunately, no longer I have access to my customer account data. Therefore I request that you delete all data about me. With the confirmation request. Greetings kind".

- Email address privacy.checkmytrip@amadeus.com, dated 28 January 2019, in response to the previous email, with the following text (in English the original): "Thank you for contacting us and sorry for the problems you are having. having. In order to delete your account please reset your password to be able to log in. Once you have reset your password and are able to log in session you can delete your account:

a) Click on Settings > Personal Information

b) Click on "Delete Account", review what you are deleting, and follow the instructions instructions.

Greetings

CheckMyTrip

- Email of the complaining party dated January 28, 2019 to the
privacy.checkmytrip@amadeus.com, in response to the previous email, with the
following text (the original in German): "Good afternoon, I have tried to do this

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procedure, but I get an error message "Login data
incorrect", even when I try to request a new password. Greetings".

- Email of the complaining party dated February 24, 2019 to the
privacy.checkmytrip@amadeus.com, in response to the previous email, with the
following text (in German the original): "Good afternoon, unfortunately I have not
received no response from you so far and therefore I want to ask you to
communicate with me Greetings".

SECOND: Through the "Internal Market Information System" (hereinafter
IMI), regulated by Regulation (EU) No. 1024/2012, of the European Parliament and of the
Council, of October 25, 2012 (IMI Regulation), whose objective is to promote the
cross-border administrative cooperation, mutual assistance between States
members and the exchange of information, as of February 6, 2020, had entry
in this Spanish Data Protection Agency (AEPD) the aforementioned claim. He
transfer of this claim to the AEPD is carried out in accordance with the provisions
in article 56 of Regulation (EU) 2016/679, of the European Parliament and of the
Council, of 04/27/2016, regarding the Protection of Physical Persons in what
regarding the Processing of Personal Data and the Free Circulation of these Data

(hereinafter, GDPR), taking into account its cross-border nature and that this

Agency is competent to act as main control authority, given that

AMADEUS has its main establishment in Spain.

According to the information incorporated into the IMI System, in accordance with the

established in article 60 of the GDPR, acts as a "control authority

data subject", in addition to the German data protection authority of Bavaria-

Private Sector, the authorities of Denmark, Norway, Sweden, Italy, France,

Cyprus, Poland, Finland and the German authorities in Berlin and Lower Saxony. All

them by virtue of article 4.22 of the GDPR, given that the interested parties residing in

these regions are affected or are likely to be substantially affected

affected by the treatment object of this procedure.

THIRD: In accordance with article 65.4 of Organic Law 3/2018, of 5

December, Protection of Personal Data and guarantee of digital rights (in

forward LOPDGDD), said claim was transferred to AMADEUS, so that

proceed to its analysis and inform this Agency within a month of the

actions carried out to adapt to the requirements established in the regulations of

Data Protection.

The transfer, which was carried out in accordance with the regulations established in Law 39/2015, of

October 1, of the Common Administrative Procedure of the Administrations

Public (hereinafter, LPACAP), was collected on June 30, 2020 as

It appears in the acknowledgment of receipt that is in the file.

On July 22, 2020, this Agency received a written response

indicating that checkmytrip is a service via online web or mobile application that

AMADEUS IT GROUP, S.A. offers to passengers, which allows them to gather the

relevant information about your trips. Initially, the service arose to offer

the passenger the option to access the details of his reservation managed in the system

from Amadeus. Today the service allows the user to download information from other

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reservations (by forwarding the email with the summary of the itinerary) and thus visualize your trips in one place regardless of the reservation system used. Is

It is necessary to create an account on the web / application to use the service. This has been designed so that the registered user has control of their data at all moment and through your credentials you can see all the related information and assigned to your account and delete it when you deem appropriate.

This service is completely independent and separate from the management of the reserves that AMADEUS IT GROUP, S.A. offers its clients whether they are travel agencies trip who subscribe to the system to be able to make reservations and issue tickets or to the airlines and other travel service providers that offer the availability of your offer in the system.

Since both services are intended for different customers, they have different purposes. different, the information processed in both channels is different, the legitimizing basis is different and therefore the retention period is different channels have been enabled separated for the management of the rights of those affected, the reception of claims or the management of any clarification that is necessary. For this reason

Two emails are managed: Privacy.checkmytrip@amadeus.com for manage everything related to checkmytrip and dataprotection@amadeus.com to manage everything related to the Amadeus system.

The complaining party states that, after several attempts to exercise their right to

access and deletion by sending several emails to the person in charge, the

The only response received is an email providing instructions for

delete the account, a procedure that, on the other hand, the complaining party ensures that it does not work.

The claim refers to checkmytrip since the affected party indicates so in their

emails. The first ones were sent out of the channel established for

This is because they were sent to a generic email address, different from the ones

previously mentioned, and managed by one of the subsidiaries of AMADEUS IT GROUP,

S.A. in Germany, outside of this service.

However, when the request was sent to dataprotection@amadeus.com, it was

answered immediately and it was transferred to the corresponding email to

checkmytrip. From that email, and also immediately, as shown by

the emails provided by the claimant, instructions were given

corresponding to the complaining party so that he could, through his access,

access the data and proceed to delete the account and other information related to

the same.

The checkmytrip user can himself perform the actions he deems

appropriate for the exercise of their rights, therefore, the complaining party is responded to

indicating the instructions so that you can perform said access by yourself.

AMADEUS considers that the communication to the complaining party of the way in which

accessing said system (instructions to delete the account) is enough to have for

response to the request to exercise the right.

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In relation to sending instructions that the complaining party cannot execute, the AMADEUS representatives indicate that there are only two options for this situation: 1) the loss of the password or 2) that the account no longer exists (has been previously deleted by the owner of the same). It is important to indicate that the message that the user receives is the same in both cases, since otherwise it would be giving information about the mere existence of an account associated with that email to anyone who tries to access without the password.

However, it does not allow the user to identify the reason for not accessing the account and therefore know if access is not possible because you have lost the password or is it because the user has proceeded to delete the account previously and therefore that account no longer exists. For this reason, given the indication of not being able to access instructions for resetting the password are sent since considered that the user would not request access and deletion of information that previously already deleted.

After analyzing the information contained in their systems, the representatives of AMADEUS inform that the account associated to the email of the party claimant was created on July 23, 2018 and subsequently deleted by the user on September 1, 2018. Therefore, on the date the access request and deletion the account no longer existed. It is for this reason that the complaining party could not execute the instructions sent.

Given the review of the incidence, a series of decisions have been adopted. measures to improve the process and prevent similar incidents from occurring in the future. Such measures include:

1) Update the Internal Guide for the management of rights related to CheckMy-Trip ("Privacy Manual: How to address data subject rights") to include the com-

proof of the existence of the account when the user indicates that he cannot follow the instructions in order to respond to the user more accurately and be more precise if the account no longer exists and be able to indicate it clearly.

1) Review of the privacy policy to indicate to the user the possibility of assign and delete personal data directly from the application/ website without the need to request it via email, maintaining the Possibility to write to the mail. This review will be included in the next update. zation of the policy to be implemented as soon as possible.

Therefore, the account no longer existed at the time of the access and deletion request. that had been previously deleted by the user and that according to the design of the application can only be deleted by the user. User deletion implies deletion of the account and the information related to it, and cannot be carried out by AMADEUS no additional deletion to the one already carried out by the complaining party with anteriority.

FOURTH: On August 28, 2020, in accordance with article 65 of the LOPDGDD, the claim presented by the claimant party was admitted for processing.

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FIFTH: The General Sub-directorate of Data Inspection proceeded to carry out preliminary investigation actions to clarify the facts in matter, by virtue of the functions assigned to the control authorities in the article 57.1 and the powers granted in article 58.1 of the Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter GDPR), and

in accordance with the provisions of Title VII, Chapter I, Second Section, of the

LOPDGDD, having knowledge of the following extremes:

In response to a request for information made by this Agency, on December 14,

September 2020, AMADEUS provides a copy of the response to the exercise of rights

of the complaining party, dated November 9, 2020, upon learning of its

claim, confirming that your data was duly deleted

in September 2018.

SIXTH: On August 16, 2021, the Director of the AEPD adopted a project

decision to initiate disciplinary proceedings. Following the established process

in article 60 of the GDPR, on August 20, 2021 it was transmitted through the system

IMI this draft decision and the authorities concerned were informed that

they had four weeks from that time to raise pertinent objections and

motivated. Once the term for this purpose has elapsed, the control authorities concerned shall not

presented pertinent and reasoned objections in this regard, for which reason it is considered

that all supervisory authorities agree with said draft decision

and are bound by it, in accordance with the provisions of section 6 of the

Article 60 of the GDPR.

SEVENTH: On April 21, 2022, the Director of the Spanish Agency for

Data Protection agreed to initiate sanction proceedings against AMADEUS, with

in accordance with the provisions of articles 63 and 64 of Law 39/2015, of October 1, of

Common Administrative Procedure of Public Administrations (hereinafter,

LPACAP), for the alleged infringement of article 12 of the GDPR, typified in article

83.5 of the GDPR.

The initiation agreement was notified in accordance with the rules established in the LPACAP on

April 21, 2022, as stated in the acknowledgment of receipt in the file.

EIGHTH: On April 29, 2022, AMADEUS files a brief through the

which requests the extension of the term to adduce allegations and a copy of the file.

NINTH: On May 4, 2022, the examining body agrees to the extension

of term requested up to a maximum of three days, in accordance with the provisions of the

Article 32.1 of the LPACAP. And a copy of the file is sent to you.

The extension agreement is notified to AMADEUS that same day, as stated in the

acknowledgment of receipt in the file.

TENTH: On May 10, 2022, it is received at this Agency, on time and

form, letter from AMADEUS in which it alleges allegations to the start-up agreement in the

which, in summary, stated that:

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1. — THE COMPLAINT PARTY ADDRESSED AN ENTITY DIFFERENT FROM THE RESPONSIBLE FOR THE PROCESSING OF PERSONAL DATA

1.1

AMADEUS alleges that the claim on which this is based

Disciplinary Procedure (the "Claim") arises as a result of the exercise

by the complaining party of their rights of access and deletion in relation to

with the personal data that Amadeus ITG processed in the context of the service

Checkmytrip ("Checkmytrip"). However, it considers it necessary to clarify in advance

the facts that give rise to such Claim and the Transfer of Claim and Request for

Information (the "TRSI") (pages 15 et seq. of the File).

AMADEUS indicates that Checkmytrip is an online service of Amadeus ITG

1.2

(independent of other services) that allows passengers to gather the information
information about their trips and that, to this day, allows the user to dump the information
both from the Amadeus system and from other sources as explained in the reply
to the TRSI in detail (the "Response") (pp. 33 et seq. of the File).

AMADEUS explains that Checkmytrip has been designed so that the user has
absolute control of your personal data at all times and, accessing with your
credentials, you can see all the information related to and assigned to your account and
delete it as you see fit.

And since Checkmytrip is a completely independent service, they have
enabled separate channels:

privacy.checkmytrip@amadeus.com to manage claims, rights and

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clarifications regarding Checkmytrip; and

dataprotection@amadeus.com to manage claims, rights and

-

clarifications of the Amadeus system.

AMADEUS explains that, according to the Answer, the complaining party

1.3

sent three communications (two emails dated October 4 and

November 2018 to the address zentrale@de.amadeus.com and one dated 14

December 2018 to dataprotection@amadeus.com) through channels

different from those established in the context of Checkmytrip, before your request

out

(i.e.

privacy.checkmytrip@amadeus.com).

the right direction

sent by

Amadeus

ITG to

The first and second communications from the complaining party were sent to a generic email address managed by Amadeus Germany GmbH, the subsidiary of Amadeus ITG in Germany, and the third to the management of the Amadeus system. AND indicates that neither of these two email addresses is the established one to accommodate the rights of interested parties related to Checkmytrip.

1.4

In the opinion of AMADEUS, in accordance with the provisions of the Committee European Data Protection Agency (the "CEPD") in point 54 of its Guidelines 01/2022 on the rights of the interested parties - Right of access (the "Guidelines"), Amadeus ITG was not obliged to comply with the request for rights sent to this address, since it was not even addressed to the data controller

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personal data in question, in addition to the fact that Amadeus ITG had duly arranged a specific channel to make this type of request in the context of checkmytrip:

” It should be noted that the person responsible for the treatment is not obliged to give effect to a request sent to a random or incorrect email (or postal) address, not provided directly by the person responsible for the treatment, or to any channel of communication that is clearly not intended to receive requests regarding the

rights of the interested party, if the data controller has provided a communication channel adequate communication, which can be used by the interested party"

(translation and highlight are from AMADEUS)

In the same sense, for AMADEUS, the following is particularly relevant

Example included in the Guidelines:

"Example: Controller Y manages a network of gyms. He responsible for the treatment And indicates on its website and in the privacy notice for the clients of the fitness club who, in order to present any query or make a request, legality in relation to the processing of personal data, you must contact Contact the person responsible for the treatment at the email address QUERIES@Y.COM. However, the interested party sends a request to an address email found in the locker room, where you found a notice that says "If you are not satisfied with the cleanliness of the room, contact us at: CLEANERS@ Y.COM.", which is the email address of the cleaning staff. The cleaning staff. obviously not involved in the management of matters related to the exercise of the rights of the interested parties the clients of the fitness club. Although the email address was in the fitness club facilities, the data subject could not reasonably be expected to this would be a suitable contact address for such requests, as the site website and the privacy notice clearly informed about the communication channel that should be used for the exercise of the rights of the interested parties"

(translation is from AMADEUS)

AMADEUS explains that the third email from the complaining party did

1.5

sent to Amadeus ITG, although it was sent to the contact address intended for the management of rights different from those related to Checkmytrip (i.e. it was sent to

dataprotection@amadeus.com). However, AMADEUS states that it acted in diligently and answered immediately, transferring the request to the email corresponding Checkmytrip email, from where the request for exercise of rights of the complaining party. This shows, in his opinion, that Amadeus ITG has at all times acted with the expected diligence, adopting a proactive position as soon as he became aware of the party's request for rights claimant and giving due course to it in accordance with the provisions of the GDPR.

However, AMADEUS considers that it cannot be understood that the part

1.6

claimant exercised their data protection rights validly through the communications of October 4 and November 11, 2018 to the address

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zentrale@de.amadeus.com. In any case, it would not be until the email from dated December 14, 2018 (addressed to dataprotection@amadeus.com) when the request could be duly addressed to the data controller

Checkmytrip data (i.e. Amadeus ITG even though you didn't even use the enabled channel for it). Therefore, the inactivity of Amadeus ITG during the period that mediates between October 4 and December 14, 2018 considers that it cannot be understood contrary to the GDPR, since the first two communications were sent by the complaining party to a third party (i.e. Amadeus Germany GmbH) that is not the responsible for the treatment. In the information available to users of

Checkmytrip clearly mentioned Amadeus ITG as responsible for the treatment of the data and the appropriate channel to exercise the rights.

1.7

Consequently, AMADEUS believes that in no case can it be understood that Amadeus ITG was not required to take any action in relation to the two first communications from the complaining party. And consider that there is nothing reprehensible in the performance of Amadeus ITG in relation to those first two post office and, therefore, that the imposition of a sanction is not appropriate for the lack of response during this period, nor can it be considered as a aggravating.

2.— AMADEUS ITG HAS RESPONDED TO THE EXERCISE OF RIGHTS OF THE COMPLAINING PARTY AND HAS RESOLVED THE SITUATION THAT HAPPENED IN THIS CASE

2.1

Regarding the mechanism implemented by Amadeus ITG to Respond to requests for the exercise of data protection rights in relation to Checkmytrip, explains AMADEUS that the objective is to offer the user a system of remote, direct and secure access to personal data, which guarantees, so permanent, access to their entirety and the possibility of managing them yourself.

2.2

In light of the foregoing, AMADEUS declares that it responded to the part claimant giving him the necessary instructions so that he could carry out said access and manage your personal data by yourself by accessing your account. By Therefore, it considers that the communication to the complaining party of the way to access Checkmytrip, including instructions for deleting the account and data personnel associated with it, is sufficient to duly consider

your request to exercise your data protection rights has been addressed, in line with the provided in art. 13.2 of Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of digital rights (the "LOPDGDD"):

"The right of access shall be understood to be granted if the data controller provide the affected party with a remote, direct and secure access system to the data personal data that permanently guarantees access to its entirety. to such effects, the communication by the person in charge to the affected party of the way in which the latter may Accessing said system will be enough to consider the request to exercise the right."

Thus, AMADEUS understands that it has duly addressed the rights exercised by the complaining party, providing you with the way to access and delete your data

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personal, in accordance with the provisions of the LOPDGDD and without contravening in the GDPR at no time.

In this sense, AMADEUS indicates that the Guidelines to which it referred

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referenced above indicate that:

"While manual access request management processes could deemed appropriate, some controllers may benefit of the use of automated processes to manage the requests of the interested. This could be the case, for example, for those responsible for the treatment that receive a large number of requests. One way to provide the

information provided for in art. 15 is to provide the interested party with self-service tools [self-service tools]. This could facilitate efficient and timely management of access requests from interested parties and will also allow the person responsible for the treatment include the verification mechanism in the self-service tool.

Example: A social networking service has an automated process for manage access requests that allow the interested party to access their data personal from your user account. To extract personal data, the Users of the social network can choose the option to "Download their personal data" when they are connected to your user account. This self-service option allows users download a file with their personal data directly from the user account to your own computer".

(translation is from AMADEUS)

2.4

Notwithstanding the foregoing, AMADEUS explains that in the event of fact that concerns us, the circumstance arose that the complaining party could not accede to his account and, therefore, he was not able to carry out the desired steps in relation to his personal information. There were only two possible explanations for this situation: (i) the loss of password; or (ii) that the account no longer existed (that is, that there was been previously deleted by its owner, which is what happened in this case, such as Amadeus ITG has subsequently been able to verify — the account associated with the email of the complaining party was created on July 23, 2018 and subsequently deleted by the complaining party itself on September 1, 2018, for which reason it had already been removed on the date of your first request—).

At that time, AMADEUS indicates that the general practice in Amadeus ITG consisted in the fact that the message that the user received was the same in both cases, since that otherwise information would be given about the mere existence of a

account associated with an email address to anyone who tried to access without the password. In particular, in the case of the complaining party, which had indicated that you were not requesting access to your account, you were sent instructions for the password reset, since it was considered that it would not request the access and deletion of information that had previously been deleted.

AMADEUS explains that, given the situation that occurred, that, as it has been possible check, is the result of a mere misunderstanding, Amadeus ITG has improved the process of exercise of rights in the context of Checkmytrip (as already indicated in the Reply — specifically, on p. 38 of the File).

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2.5

For all of the above, AMADEUS considers that it has adopted the measures necessary to resolve the situation diligently and without seriously undermining any rights of the complaining party.

3.- ABSENCE OF INTENT AND FAULT IN THE ACTION OF AMADEUS ITG

3.1

In addition to the foregoing, AMADEUS alleges that when assessing the facts discussed, the total absence of fault, willful intent or negligence on the part of Amadeus ITG, as well as the diligence with which it has acted at all times to solve the incident once it was detected.

3.2

He goes on to say that, as previously detailed, the incident was

has occurred due to the inability of the complaining party to access their account (which had already been deleted previously by it, so it did not exist no account or any personal data to access or that could be deleted by Amadeus ITG), which prevented it from receiving timely information about the status of your personal data. This situation has arisen precisely because the security mechanisms that Amadeus ITG had proactively implemented to Preserve the personal information of its users and thus prevent it from being provide information about the existence of an account to users who do not corresponded. This is understood to demonstrate Amadeus ITG's desire to protect the personal data of its users and its firm will not to provide any type of information to those people who are not duly authorized.

AMADEUS explains that since in this case the Checkmytrip account does not

3.3

existed (since the complaining party had previously deleted it) the process password reset could not be completed no matter how much the part claimant to try, because there was no password to recover. Understands AMADEUS that this situation was not foreseeable and has allowed Amadeus ITG to review their mechanisms and procedures, adapt them and improve the processes so that they are not such incidents, no matter how rare, occur again in the future.

3.4

In line with what is described in the First and Second Arguments, he understands AMADEUS that it has been sufficiently established that Amadeus ITG implemented the process in this manner without intent to hinder the exercise of the rights of data protection of the interested parties, but to preserve the privacy and security of your personal data. Thus, it affirms that Amadeus ITG, counts (and has counted at all times) with the appropriate mechanisms to satisfy such

rights (as demonstrated by the deletion of the account of the party claimant in September 2018). And that there has only been one incident isolated event related to a particular event that was not expected to occur.

AMADEUS alleges that, even so, upon learning of the event, Amadeus ITG contacted Contact the complaining party, in order to confirm that their data had been duly deleted in September 2018, when the complaining party had deleted your Checkmytrip account, and to inform you of the causes that had originated the incident regarding your request to exercise your rights (as described in pick up on p. 58 of the File). In addition, AMADEUS affirms that, as has been detailed above, Amadeus ITG has made every effort to ensure that no a similar situation occurs again.

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3.5

For AMADEUS, the foregoing shows that measures were taken additional and reactive as soon as they are aware of the incident to put an end to it. AND that the diligence of Amadeus ITG is appreciated, in this way, not only in a preventive and proactive, but is reaffirmed by reacting to the error with the reinforcement of information, as well as rights management processes, which has made it possible to clarify the situation and prevent new incidents from occurring such as it is in the future.

AMADEUS states that the consideration and implementation of the measures adequate to solve the situation have traditionally been taken into account by

the AEPD in resolutions such as the one issued in file PS/00019/2021, in which

the absence of guilt was appreciated as detailed below:

"In the present case, it is clear that the defendant once learned of the errors that were occurring in the data crossing with the Robinson list of Adigital, acted with due diligence, correcting the error detected by sending the dated 02/5/2020 a new list corrected to the one investigated and incorporating into its internal list the numbering object of claim, dining on the calls to the claimant. Consequently, the element is not appreciated by the investigated volitional guilt in the initially charged conduct."

(highlighted is from AMADEUS)

3.6

For the reasons stated, AMADEUS considers that fraud cannot be appreciated, fault or intentionality in the actions of Amadeus ITG, considering that its objective at all times was the satisfaction of the data protection rights of the complaining party. Accordingly, you understand that attributing liability to Amadeus ITG for a violation of art. 12 GDPR, without the existence of intent or fault, would result in the nullity of this Sanctioning Procedure, to the extent that they would be violated the principles that govern the sanctioning administrative law. and what, for For this reason, the AEPD must file this Procedure Sanctioner.

4.— SUBSIDIARILY, ON THE NECESSARY PROPORTIONALITY OF THE SANCTIONS AND ITS GRADUATION. APPLICATION OF ATTENUATING

4.1

Subsidiarily to the previous Allegations, AMADEUS considers that, in the unlikely scenario that Amadeus ITG is held liable for the infringement of article 12, the Agency must take into consideration the following

extenuating circumstances, other than those already mentioned in the Commencement Agreement,

In order to determine the amount of the fine, and in accordance with the provisions of arts.

83.2 GDPR and 76.2 LOPDGDD:

(to)

The nature, seriousness and duration of the infringement, taking into account the

nature, scope or purpose of the processing operation in question

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

have suffered (art. 83.2.a GDPR)

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In the opinion of AMADEUS, the infringement has not caused any damage to the party

claimant, since the personal data in relation to which he requested access and

deletion had already been previously deleted by the complaining party in September

2018 (so there was no personal data to access or delete). By

Consequently, it understands that at no time has the claimant been deprived of the

access or deletion of your personal data, since it is the person who decided to delete them

in the past. It considers that there has simply been a specific anomaly in

in relation to the information provided about the deletion of your account

checkmytrip. Thus, it alleges that it is not possible to try to hold Amadeus ITG responsible for the

breach of an obligation which it had duly satisfied in September

2018.

In addition, AMADEUS affirms that it must be taken into account when considering the nature and

seriousness of the infringement, that the incident has occurred as a consequence of the

security measures proactively provided by Amadeus ITG to prevent provide information about the existence of Checkmytrip accounts to users that were not authorized. And that the event occurred as a result of a situation that Amadeus ITG could rarely imagine, since it was not expected that a user who had deleted their account subsequently requested access and deletion of your data.

AMADEUS alleges that in light of the scant (rather non-existent) impact of the violation of the privacy sphere of the complaining party, and of the manifest diligence with which Amadeus ITG acted (has acted and is acting), should be applied as mitigating the lack of seriousness of the infringement as well as damages caused to the complaining party as a consequence thereof.

It also alleges that, in any case, and in relation to the duration of the infringement, it is possible to accept the interpretation made by the AEPD, which considers that a violation continued over time. On the contrary, he considers it necessary to remember that Amadeus ITG, upon the exercise of the rights of the complaining party (which, greater abundance, it was not done through the mechanism provided for it) replied in a timely manner, providing the complaining party with the way to manage their personal information. And that the fact that this answer did not satisfy the party claimant (due, precisely, to the fact that their data was no longer in the Checkmytrip and therefore could not access your account) does not lead directly coupled with a continued breach of art. 12 GDPR until September 2020, as the AEPD maintains. And that the above is so, even more so when their rights had been successfully serviced by Amadeus ITG in September 2016, when the complaining party, through the mechanisms provided for this purpose, had deleted personal data from your Checkmytrip account.

(b)

Intentionality or negligence in the infringement (art. 83.2.b GDPR)

AMADEUS alleges that there was no intent or negligent action on the part of

of Amadeus ITG when managing the rights requests of the party

claimant. And that simply, in the case at hand, there has been a

specific misunderstanding regarding access to the (non-existent) account

Checkmytrip of the complaining party, due to the fact that Amadeus ITG systems

(intended to enhance security) did not indicate the specific reason why the

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complaining party could not access their account (i.e. that the account did not exist because they already

had been deleted by the complaining party itself) and sent directly to the

password reset process.

AMADEUS affirms that his only intention was to provide mechanisms that would ensure that

information was not provided to unauthorized users about the existence or not of

an account associated with an email address (that is, protect the

confidentiality of the information), but at no time has there been

intentionality or negligence in the conduct of Amadeus ITG that has

propitiated the commission of the infringement of art. 12 GDPR that is imputed to him.

And that this fact must be valued as an extenuating circumstance.

(c)

The degree of cooperation with the supervisory authority in order to remedy

to the infringement and mitigate the possible adverse effects of the infringement (art. 83.2.f

GDPR)

AMADEUS alleges that it has cooperated at all times with the Agency to provide the information that has been requested of you in connection with the Claim and within the present Sanctioning Procedure. In addition, he considers that accredited that, as soon as he became aware of the incident, he took the necessary measures necessary to communicate with the complaining party and adapt their procedures for Checkmytrip in order to provide users with complete and correct information about the status of your account, a fact that you understand should be valued as mitigating circumstance in the present case.

The benefits obtained as a result of the commission of the offense

(d)

(art. 76.2.c LOPDGDD)

AMADEUS affirms that it has not obtained any type of benefit or income as consequence of this incident. In fact, he considers that the situation that occurred more would either pose a risk of infringement (i.e. a detriment rather than a benefit), fact that must be assessed as an mitigating circumstance.

The possibility that the conduct of the affected party could have led to the

(and)

commission of the offense (art. 76.2.d LOPBGDD)

AMADEUS considers that, for the purposes of weighing the applicable sanction, it is especially relevant to take into account the fact that the complaining party exercised your data protection rights in relation to personal data that you had previously removed (using the mechanisms available to Amadeus

ITG for the users themselves to manage their personal data at their convenience)

and without first ascertaining that the deletion of the Checkmytrip account implies the deletion of all data and therefore the full exercise of your right. Understands

AMADEUS, that it is as if he were exercising the right after having already exercised it and

try penalizing Amadeus ITG for it.

AMADEUS declares that, without intending to assume in any case that the

action of the complaining party outside of bad faith, it does understand that it is important to have

into account this circumstance in relation to the weighting of the facts that

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disputed, and that the Agency appreciates that the conduct of the complaining party must

considered as, at least, not very diligent (he could have indicated this fact to

Amadeus ITG at any time) and, to a certain extent, inducing the commission of

the infringement by Amadeus ITG. And it alleges that this fact must be valued

as an extenuating circumstance.

4.2

AMADEUS alleges that the lack of consideration of the mitigating factors above

indicated would result in the disproportionality of the proposed sanction in relation to

the alleged violation. In this sense, Amadeus ITG considers that, in case of

assess the concurrence of the infringement of art. 12 GDPR (quod non), the measure

coercive measure that would be appropriate, in view of the background of the case (including

others, that the infraction is considered minor and corrective measures have been taken

appropriate), would be warning.

AMADEUS reminds that the warning measure is not exclusively

applicable to managers or managers who are natural persons. This is not the

diction contained in recital 148 GDPR and the AEPD has come to recognize it

through the imposition of the sanction of warning to mercantile companies

(see, among others, the decision issued to a limited liability company

in procedure PS/00351/2020).

By virtue of all the foregoing, AMADEUS requests the filing of this

disciplinary procedure and, secondarily, the imposition of the sanction of

warning or, secondarily, of the corresponding amount in its minimum degree.

ELEVENTH: On May 23, 2022, the instructing body of the

disciplinary procedure formulated a resolution proposal, in which it proposes that

by the Director of the AEPD sanction AMADEUS IT GROUP, S.A., with NIF

A84236934, for a violation of article 12 of the GDPR, typified in Article 83.5

of the GDPR, with a fine of €5,000 (five thousand euros).

The proposed resolution was notified in accordance with the rules established in the

LPACAP on May 23, 2022, as stated in the acknowledgment of receipt that works in

The file.

TWELFTH: On June 6, 2022, it is received at this Agency, in

time and form, letter from AMADEUS in which it alleges allegations to the proposal of

resolution in which, in summary, stated that:

1. - Expiration of the Disciplinary Procedure

1 1 As a first allegation, it alludes to a supposed expiration situation in which

is the present Sanctioning Procedure.

1 2 AMADEUS cites that, in accordance with art 64 2 in fine of the Organic Law 3/2018, of 5

December, Protection of Personal Data and Guarantee of Digital Rights (the

"LOPDGDD")

"Article 64 Form of initiation of the procedure and duration

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2 () The procedure will have a maximum duration of nine months from the date of the initiation agreement or, where appropriate, of the draft initiation agreement.

After this period, its expiration will occur and, consequently, the file of performances.”

1.3 AMADEUS affirms that the Draft Agreement to Initiate the Procedure

Penalty was issued on August 16, 2021 (notifying this party on August 20, 2021).

August of that same year). This being so, and in application of the aforementioned art. 64.2

of the LOPDGDD, understands that the Disciplinary Procedure would have expired on

last May 16, 2022, counting the term from date to date in line with what

provided for in the Third Additional Provision of the LOPDGDD. Consequently,

considers that the AEPD should proceed to declare the expiration of the Procedure

Sanctioning and filing of actions in compliance with the provisions of the

cited norm.

2. - Ratification and Reiteration of the Content of the Allegations Against the Agreement of Start

2.1 Subsidiarily to the previous allegation, and for the improbable case in which it is not

declare the expiration of the Disciplinary Procedure, Amadeus ITG reiterates in the

all of what is indicated by it in its Allegations to the Commencement Agreement whenever

that, in his opinion, the content of the Resolution Proposal does not refute with

sufficiency of what is indicated in the Allegations. In order to avoid repetition, assume

incorporated herein, the content of the Claims mutatis mutandis.

2.2 Notwithstanding and given its unique importance, AMADEUS pays particular attention

in one aspect of the aforementioned Resolution Proposal where it considers that the AEPD

errs especially. It refers to the moment in which the AEPD understands that the party claimant exercised its rights against Amadeus ITG. To this they dedicate the following Third Allegation.

3. - Lack of effective exercise by the claimant of their rights before

AMADEUS ITG until December 2018, when it actually addressed that entity.

It is not appropriate to understand that the rights are exercised correctly when the party complainant addresses a legal entity other than the person responsible

3.1 AMADEUS understands that in the Resolution Proposal the AEPD errs when setting the moment in which the complaining party actually exercised before Amadeus ITG its

rights in the context of the CheckMyTrip service ("CheckMyTrip") (see herein

in this regard, the first allegation of the Allegations to the Commencement Agreement). In the Resolution Proposal, both with the purpose of establishing the start of the computation for the

response to the exercise of rights under art. 12 GDPR, as for the purposes of

aggravating circumstance indicated by the AEPD (the duration of the infringement), the AEPD starts from the date of October 4, 2018 on which the complaining party sent a first email

email to the address: zentrale@de.amadeus.com, therefore considering the

Agency that a notification sent to that email address is a

correct mechanism to contact Amadeus ITG for the indicated purposes. AMADEUS

considers that this position of the AEPD is wrong and is not sustained even under

data protection regulations or in accordance with the criteria established by the Committee

European Data Protection Agency (CEPD).

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3.2 As already clarified to the AEPD in the Allegations to the Commencement Agreement, AMADEUS indicates that the address zentrale@de.amadeus.com is an email address generic email addressed to and operated by Amadeus Germany GmbH, the Amadeus subsidiary in Germany. It is therefore a different legal person of Amadeus ITG (the sole controller), which is located in a country other than said person in charge and that he understands that he clearly does not provide the service object of the rights exercised by the complaining party. Also, the address question is not the address provided by Amadeus ITG (the person responsible for the service and of treatment). This being the case, he considers that it is evident in his eyes, that a communication addressed to that address can never be considered valid sent to Amadeus ITG or claim that it displays effects against it.

3.3 However, the AEPD has another - and wrong, in the eyes of AMADEUS - opinion. It considers that the use of such an address cannot be understood as "random or incorrect, not provided directly by the data controller", nor any communication channels that are clearly not intended to receive requests relating to the rights of the interested party, in the terms provided by the CEPD in its Guidelines 01/2022 on the rights of data subjects - Right of access (the "Guidelines"). The Agency understands, ultimately, that the complaining party could reasonably expect that your request will be honored.

3.4 AMADEUS is extremely surprised that the AEPD reaches this conclusion when the policies of Amadeus ITG and CheckMyTrip in no case point to the German corporation as the entity in charge of receiving these requests for the exercise of rights addressed to Amadeus ITG nor do they allude to email zentrale@de.amadeus.com.

3.5 On this point, AMADEUS highlights that, in this case, the party complainant had to proactively seek the German entity Amadeus Germany

GmbH and your contact information outside the CheckMyTrip service to find the address of e-mail that he used, and it should also have omitted the fact - so other evident as can be seen in the following extracts of information publicly accessible on the Internet - that the address you were using belonged to the German entity and not to the sole data controller which is

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3.6 AMADEUS understands that it is not, therefore, before a situation in which the interested party goes to a generic contact address of the person in charge and different from the one provided for the exercise of rights (see the first example of section 56 of the Guidelines), or in which the interested party uses a means other than that provided by the responsible (ex. Art. 12.2 GDPR). He believes that this is a scenario in which all lights the complaining party moves away from the path established for the exercise of its data protection rights: this is, (a) go to the address provided in the privacy policy for

-

privacy.checkmytrip@amadeus.com; or (b) that of the data protection officer or others related to the right to data protection.

exercise of rights

3.7 This being the case, it considers that it was difficult to "reasonably expect" the part complainant for an answer when he contacted zentrale@de.amadeus.com.

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He understands that this is also clear when, in his email dated December 14, 2018, the complaining party changes the means of contact and goes to Amadeus ITG (the authentically responsible) to the address dataprotection@amadeus.com (where, even without being the correct address for the exercise of rights in the CheckMyTrip environment, receive response on time). This change may indicate that the same complaining party understand that it is unreasonable to expect a response from Amadeus ITG to emails sent to the address you find on the internet. AMADEUS understands that it is so much His work as well as that of the AEPD to try to make users aware of the habit of searching privacy policies for any question related to your rights and consider to understand that the right was duly exercised in sending the first Correos does not contribute at all to this objective.

3.8 And, connected with what has been indicated, AMADEUS continues that if the AEPD considers that Amadeus ITG should have responded to the request for the exercise of rights of the party claimant even though the claimant used an email address that differed from the one provided by Amadeus ITG and did not even correspond to one of the addresses of the Spanish entity, simply because it is Amadeus Germany GmbH an Amadeus group company, one wonders about the measures What does the AEPD expect that Amadeus ITG would have implemented in order to deal with to such a company.

3.9 The AEPD cannot create an obligation for data controllers (which is the other side of the coin of the law that is recognizing here the part complainant) by virtue of which, those responsible must establish mechanisms to

that any communication on the exercise of rights under the GDPR that reaches any email address (or other means of communication) of any of the entities of its business group (regardless of the country, corporate purpose, etc.) must end up being received by the person in charge in question, and this regardless of the mechanisms that said person in charge has made available to the interested parties for the exercise of rights. Such a requirement would require an effort disproportionate, alegal (the GDPR does not provide for the obligation that groups of companies in the EU establish this type of channels with all their subsidiaries), contrary to the own system of the GDPR (in relation to the duties of transparency and information) and that would put international groups in a clear position of lack of protection before the exercise of rights of individuals, enduring the delay and loss of time due to the incorrect exercise of rights to entities from all over the world world, in any language, solely and exclusively for being a group of companies.

3.10 The CEPD Guidelines themselves (see section 53) cited above, when address the reasonable efforts that a controller should take in responding to rights when the interested parties do not go to the channel provided by the person in charge, They start from cases where rights are exercised before the person responsible for various forms (other than those provided by the person in charge), but, as is logical, it is not raises cases where the right is exercised to another person responsible even if it belongs to the same group of companies. Going a little deeper into the Guidelines, from the section 55 another scenario is extracted in which the person responsible does not have to act before a exercise of rights: when an interested party addresses an employee who clearly does not have to do with data protection issues (e.g. drivers, service of cleaning, etc.). In the case that concerns us now, it goes one step further: the interested party is addressed to an entity located in another country that has nothing to do with the treatment

of your personal data (beyond being a subsidiary of the person in charge). seems out of all discussion that the mere fact of being part of a group of companies cannot automatically make its members responsible for all the treatments of the rest of its companies.

3.11 AMADEUS explains that the subsidiaries of a group are legal entities independent and directly subject to their own regime of compliance with the GDPR that is autonomous and independent with respect to that of other legal persons, whether they belong to the same or another business group. You understand that the AEPD cannot, nor should, try to change this reality or shape it so that, in relation to the rights (as in the case at hand), there is a kind of en bloc responsibility or group forgetting this separation. Liability and/or unforeseen block obligation in the GDPR and, in his opinion, contrary to the principles of administrative law sanctioning.

3.12 In conclusion, it alleges that the AEPD cannot accept that the complaining party exercised your rights correctly when you contacted zentrale@de.amadeus.com on October 4, 2018, while such exercise occurred before an entity: (a) on that which was not reported in the context of the CheckMyTrip service; (b) from another country; (c) other than the data controller; (d) that does not provide the service that gives rise to the treatment of the data of the complaining party and, finally, (e) that it used a address other than that provided by the person in charge (Amadeus ITG) in its privacy policy privacy for the exercise of rights. And considers that it is not acceptable either that the Spanish entity Amadeus ITG be penalized for an alleged obligation "to

the German subsidiary to forward said request through the relevant channels, since it is the subsidiary that does know the internal procedures of the group, especially those relating to the exercise of data protection rights". AMADEUS alleges that any effective exercise of rights by the complaining party before Amadeus ITG must be at the earliest on December 14, 2018, the date on which that it was addressed to

ITG) in

dataprotection@amadeus.com and for all purposes, including in relation to the aggravating circumstance identified in the Resolution Proposal (the duration of the infraction).

authentic responsible (Amadeus

Alleges that respect for the right to data protection of individuals and the compliance with the regulations that regulate it, constitutes the central axis of the activity of Amadeus group and it allocates numerous resources and means to this, counting on processes implemented with the aim of protecting the individual at all times. Without However, it considers that what the AEPD requires of Amadeus ITG by reproaching it for not respond to a notification sent to an address completely unrelated to it as is zentrale@de.amadeus.com exceeds what is reasonably required.

And requests:

1. The file of this Sanctioning Procedure given its expiration.
2. Subsidiarily to the foregoing, the filing of this Sanctioning Procedure related to the alleged infringement of article 12 GDPR.
3. Subsidiarily to all of the above, and in the unlikely event that it is considered Amadeus ITG responsible for the violation of article 12 GDPR, the imposition of the

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penalty of warning, or, secondarily, of the corresponding amount in its minimum grade.

In view of all the proceedings, by the Spanish Agency for Data Protection

In this proceeding, the following are considered proven facts:

PROVEN FACTS

FIRST: On October 4, 2018, the claimant sent an email to

the address zentrale@de.amadeus.com, with the following text (in German the original):

"I would like my user account with this email address to be deleted email, as well as the data associated with it. I request written confirmation of the deletion and I ask you to inform me within the period granted by the GDPR what data you have stored on me

Any form of contact by you for the purpose of resending advertising is unwanted and I kindly ask you to refrain from it. Thank you very much and kind regards"

SECOND: On November 11, 2018, the claimant sent an email

email to the address zentrale@de.amadeus.com, responding to the previous email, with the following text (in German the original): "Good afternoon, unfortunately no I have received no response so please contact me again. Greetings".

THIRD: On December 14, 2018, the claimant sent an email

email to the address DataProtection@amadeus.com, forwarding the emails above, with the following text (in German the original): "Good afternoon, Unfortunately I haven't received any response from you yet, although I already two months passed. Therefore, I request that you contact me as soon as possible and I would like point out on this occasion that, as far as I know, GDPR requests should be

answered within 30 days in accordance with the regulations. Kind regards".

FOURTH: On December 17, 2018, an email was sent to the party

claimant from the address DataProtection@amadeus.com, in which your

request to the email privacy.checkmytrip@amadeus.com, with the following text (in

"Your email has been forwarded to

english the

privacy.checkmytrip@amadeus.com who will be able to assist you with your request."

original):

FIFTH: On December 17, 2018, an email was sent to the party

complainant from the address privacy.checkmytrip@amadeus.com, in response to the

previous emails, with the following text (in English the original): "Thank you for your email

electronic. If you have an account with CheckMyTrip and wish to delete your account/the

information stored in this account, please open the app, log in with

your account, and follow the steps below:

a) Click on Settings > Personal Information

b) Click on "Delete Account", review what you are deleting, and follow the instructions

instructions.

Once the account is deleted this will automatically delete the information

staff of this account. If you have any questions about the privacy of

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CheckMyTrip, please contact privacy.checkmytrip@amadeus.com, for

any other request please contact feedback@checkmytrip.com.

Thank you so much

The Data Protection Office”

SIXTH: On December 27, 2018, the claimant sent an email to the address privacy.checkmytrip@amadeus.com, in response to the previous email, with the following text (in German the original): “Good afternoon, Unfortunately, I no longer I have access to my customer account data. Therefore I request that you delete all data about me. With the confirmation request. Greetings kind”.

SEVENTH: On January 28, 2019, an email was sent to the party complainant from the address privacy.checkmytrip@amadeus.com, in response to the previous email, with the following text (in English the original): "Thank you for contacting us and sorry for the problems you are having. In order to delete your account please reset your password in order to login. once there is Once your password has been reset and you can log in, you can delete your account:

- a) Click on Settings > Personal Information
- b) Click on "Delete Account", review what you are deleting, and follow the instructions instructions.

Greetings

CheckMyTrip

EIGHTH: On January 28, 2019, the claimant sent an email to the privacy.checkmytrip@amadeus.com, in response to the previous email, with the following text (the original in German): “Good afternoon, I have tried to do this procedure, but I get an error message "Login data incorrect”, even when I try to request a new password. Greetings”.

NINTH: On February 24, 2019, the claimant sent an email to the address privacy.checkmytrip@amadeus.com, in response to the previous email, with

the following text (in German the original): "Good afternoon, unfortunately I have not received no response from you so far and therefore I want to ask you to communicate with me Greetings".

TENTH: Checkmytrip is a service via online web or mobile application that AMADEUS IT GROUP, S.A. offers to passengers, which allows them to gather relevant information about his travels. Initially, the service arose to offer the passenger the option to access the details of your reservation managed in the Amadeus system. Today in day the service allows the user to download information from other reservations (by forwarding the email with the summary of the itinerary) and thus view in one place your travel regardless of the reservation system used. You need to create a account on the web/application to use the service.

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This service is completely independent and separate from the management of the reserves that AMADEUS IT GROUP, S.A. offers its clients whether they are travel agencies trip who subscribe to the system to be able to make reservations and issue tickets or to the airlines and other travel service providers that offer the availability of your offer in the system.

Separate channels have been set up to manage the rights of those affected, the reception of claims or the management of any clarification that is necessary.

By

electronic:

Privacy.checkmytrip@amadeus.com to manage everything related to checkmytrip and

dataprotection@amadeus.com to manage everything related to the Amadeus system.

two are managed

this

reason

mail

ELEVENTH: The email address zentrale@de.amadeus.com is managed

by one of the subsidiaries of AMADEUS IT GROUP, S.A. in Germany. and is foreign to checkmytrip service.

TWELFTH: So that users cannot execute the instructions that

provides AMADEUS to access your personal data, there are only two options: 1)

the loss of the password or 2) that the account no longer exists (has been previously

already deleted by the owner of the same). The message that the user receives is the same in

both cases, which does not allow the user to identify the reason why he does not access

the account and therefore know if access is not possible because you have lost the

password or is it because the user has proceeded to delete the account with

previously and therefore that account no longer exists.

THIRTEENTH: The account associated with the email address of the complaining party

It was created on July 23, 2018 and later deleted by the user on July 1.

September 2018. Therefore, on the date the access request was made and

deleted the account no longer existed. It is for this reason that the complaining party does not

could execute the instructions sent.

FOURTEENTH: As a result of this case, AMADEUS has adopted the following

measures:

- Updating of the internal Guide for the management of rights related to

CheckMyTrip ("Privacy Manual: How to address data subject rights") to include the

verification of the existence of the account when the user indicates that he cannot

follow the instructions in order to respond to the user more accurately and be more precise if the account no longer exists and to be able to indicate it clearly.

- Review of the privacy policy to indicate to the user the possibility of accessing and delete personal data directly from the application/web without the need possibility of requesting it via email, maintaining the possibility of writing go to the mail

FIFTEENTH: On November 9, 2020, AMADEUS sent the claiming party an email explaining why you had not been able to access your data in January and February 2019 with the instructions that had been provided and it is confirmed that your data had been duly deleted on September 1, 2018.

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FUNDAMENTALS OF LAW

Competition and applicable regulations

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

(General Data Protection Regulation, hereinafter GDPR), grants each

control authority and as established in articles 47 and 48.1 of the Law

Organic 3/2018, of December 5, Protection of Personal Data and guarantee of

digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve

this procedure the Director of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: "Procedures

processed by the Spanish Data Protection Agency will be governed by the provisions in 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

previous questions

In the present case, in accordance with the provisions of article 4.1 of the GDPR, there is the processing of personal data, since AMADEUS performs the collection and conservation of, among others, the following personal data of natural persons: name and surname and email, among other treatments. AMADEUS carries out this activity in its capacity as data controller, given who is the one who determines the purposes and means of such activity, by virtue of article 4.7 of the GDPR. In addition, it is a cross-border treatment, since AMADEUS has its main establishment in Spain, although it provides services to several countries in the European Union.

The GDPR provides, in its article 56.1, for cases of cross-border processing, provided for in its article 4.23), in relation to the competence of the authority of main control, that, without prejudice to the provisions of article 55, the authority of control of the main establishment or of the only establishment of the person in charge or of the The person in charge of the treatment will be competent to act as control authority for the cross-border processing carried out by said controller or commissioned in accordance with the procedure established in article 60. In the case examined, as stated, AMADEUS has its main establishment in Spain, so the Spanish Agency for Data Protection is competent to act as the main supervisory authority.

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For its part, article 15 of the GDPR recognizes the right of access of the interested in their personal data, while article 12 of the GDPR indicates the how this right should be addressed.

II

Allegations adduced

In relation to the allegations made in the proposed resolution of this disciplinary procedure, we proceed to respond to them according to the order exposed by AMADEUS:

1. - Expiration of the Disciplinary Procedure

AMADEUS alleges an alleged expiration situation of this Procedure

Sanctioning, given that the draft agreement to start the sanctioning procedure was issued on August 16, 2021 and notified on August 20, 2021 and is understood that the procedure must last nine months, by virtue of article 64.2 of the LOPDGDD, so it would have expired on May 16, 2022.

In this regard, this Agency wishes to point out that in the aforementioned draft decision of initiation of disciplinary proceedings, in the Fundamentals of Law X it is indicated that:

“(..) On the other hand, in section 4 of the aforementioned article 64 of the LOPDGDD establishes that the processing deadlines established in this article will be automatically suspended when information, consultation, request for assistance or Mandatory pronouncement of a body or agency of the European Union or of a or several control authorities of the Member States in accordance with the provisions in the GDPR, for the time between the request and the notification of the

pronouncement to the Spanish Data Protection Agency (...)."

As indicated in the Sixth Fact Background, on August 20, 2021

this draft initiation decision was transmitted through the IMI system

sanctioning procedure and the interested authorities were informed that

they had four weeks from that time to raise pertinent objections and

motivated. Therefore, by virtue of article 64.4 of the LOPDGDD, the procedure

was suspended from August 20, 2021 to September 17, 2021, date

in which the period for the interested authorities to present their

pertinent and reasoned objections. So the expiration of the present

procedure would take place on June 13, 2022.

For all the foregoing, this claim is dismissed.

2. - Ratification and Reiteration of the Content of the Allegations Against the Agreement of

Start

Amadeus ITG reiterates in all that is indicated by it in its

Allegations to the Initiation Agreement, so we proceed to respond to all of them

below, with the exception of the one related to the fact that the complaining party addressed a

entity other than the person responsible for the processing of personal data, on which

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AMADEUS insists on its third argument to the proposed resolution of this

sanctioning procedure.

Second Allegation to the Agreement to Initiate this Sanctioning Procedure.-

AMADEUS ITG HAS RESPONDED TO THE EXERCISE OF RIGHTS OF THE PARTY

COMPLAINT AND HAS RESOLVED THE SITUATION THAT HAPPENED IN THIS CASE

AMADEUS alleges that it responded to the complaining party giving them the instructions necessary for you to be able to access and manage your personal data by herself, by accessing her account. And considers that this communication on the how to access Checkmytrip, with the instructions to delete the account and the personal data associated with it, is sufficient to duly consider your request to exercise your data protection rights has been addressed, in line with the provided in art. 13.2 of the LOPDGDD.

In the present case, the circumstance arose that the complaining party could not access your account and could not perform the desired steps. This because of, As AMADEUS was able to verify later, the account associated with the email email of the complaining party had been deleted prior to its first application.

At that time, the general practice of AMADEUS was that the message that the user received was the same whether the user had lost the password or the account no longer existed, understanding that otherwise information would be given about the mere existence of an account associated with an email address to anyone who tried to gain access without the password.

AMADEUS alleges that the situation that occurred was the result of a mere misunderstanding and that has improved the process of exercising rights in the context of Checkmytrip, therefore that it considers that it has adopted the necessary measures to resolve the situation of diligently and without in any way impairing the rights of the complaining party.

In this regard, this Agency wishes to point out that it is true that article 13.2 of the LOPDGDD allows to understand granted the right of access with a communication from the responsible to the affected party on the way in which he can access a system of remote, direct and secure access to your data. However, in the present case, the

instructions sent by AMADEUS were useless since the account associated with the email address of the complaining party had been deleted, so he could not access to see the personal data he had AMADEUS.

It is evident that in this specific case it was not possible for the complaining party access your personal data or provided you with an adequate response explaining the reason for such a situation, so it cannot be understood that AMADEUS would have given a proper response to the claimant's request.

It is not enough to provide instructions with the way to access your data personal if these instructions do not allow duly attending to the right required.

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As for the reasons that prevented execution of the aforementioned instructions, it is irrelevant that the account associated with the email had been previously deleted email from the complaining party. The point is that you were not provided with such information to the complaining party despite the fact that he contacted AMADEUS again to indicate that you were still unable to access your account.

Finally, this Agency wishes to point out that it appreciates that AMADEUS would have improved the process of exercising rights in the context of Checkmytrip to root of the claim that gave rise to this proceeding, but cannot consider that AMADEUS had "adopted the necessary measures to resolve the situation in a diligent manner and without in any way impairing the rights" of the

complaining party, since a due response was given as a result of the intervention of this Agency.

For all of the above, this Agency dismisses this allegation.

Third Allegation to the Agreement to Initiate this Sanctioning Procedure.-

ABSENCE OF INTENT AND FAULT IN THE ACTION OF AMADEUS ITG

AMADEUS alleges that the total absence of fault must be taken into consideration, or negligence on the part of AMADEUS, as well as the diligence with which it has acted in at all times to solve the incident once it was detected.

Indicates that the complaining party could not receive timely information on the status of your personal data (that is, that your account had been previously deleted) due to the security mechanisms that AMADEUS had implemented proactively to avoid providing information about the existence of an account to users that did not correspond, which demonstrates the desire of AMADEUS for protecting the personal data of its users and its firm will not to provide any type of information to those people who are not duly authorized.

It alleges that the situation of the present case (that the account had been deleted with by the complaining party) was not foreseeable and has allowed AMADEUS review its mechanisms and improve processes so that this does not occur again types of incidents, however rare they may be.

AMADEUS stated that it was an isolated incident related to a concrete assumption that was not expected to occur and that, even so, upon receiving news of the event AMADEUS contacted the complaining party in order to confirm that your data had been duly deleted on September 1, 2018. And he has put all his efforts into ensuring that there is no more similar situation.

AMADEUS understands that the foregoing shows that measures were taken additional and reactive as soon as they are aware of the incident to put an end to it. AND that the diligence of AMADEUS is appreciated not only in a preventive and proactive way, but it is reaffirmed when reacting to the error with the reinforcement of the information, as well as rights management processes, which has made it possible to clarify the situation and prevent new incidents like this from occurring in the future.

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He cites the resolution issued in PS/00019/2021, in which he understands the absence of culpability for the consideration and implementation of the appropriate measures to remedy the situation.

For all the above, AMADEUS understands that it is not possible to appreciate fraud, fault or intentionality in its action, therefore it must proceed to the file of the present sanctioning procedure.

In this regard, this Agency wishes to point out that it appreciates that AMADEUS had implemented security mechanisms to protect personal data of its users (which, on the other hand, is its obligation), but it cannot understand that the situation presented here was not at all foreseeable, rather AMADEUS did not I expected it to happen, which is different. In addition, it is not true either that "by having news of the event AMADEUS contacted the complaining party".

AMADEUS contacted the complaining party once this party intervened.

Agency, while the complaining party had sent three emails

indicating that he had not been able to access his account, without having obtained a response by

part of AMADEUS. For the same reason, it is also not true that "measures were taken additional and reactive as soon as they are aware of the incident to put an end to it".

Therefore, the diligence of AMADEUS cannot be appreciated "in a preventive and proactive", in the terms exposed by AMADEUS.

Although it is true that, once this Agency intervened, measures have been adopted to prevent a similar incident from occurring in the future, it is no less true that the AMADEUS' action in this case has been, to say the least, negligent and that he had received at least three emails from the complaining party indicating that he had not been able to access his account and did not give him a proper response until This Agency intervened.

Regarding the reference to PS/00019/2021, in addition to being a completely different one referred to the making of advertising calls once the concerned due to an involuntary and punctual error, the regularization of such situation had taken place prior to the intervention of this Agency.

For all of the above, this Agency dismisses this allegation.

Fourth Allegation to the Agreement to Initiate this Sanctioning Procedure.-

SUBSIDIARILY, ON THE NECESSARY PROPORTIONALITY OF THE SANCTIONS AND ITS GRADUATION. APPLICATION OF ATTENUATING

4. 1 AMADEUS alleges that the following should be taken into consideration extenuating circumstances:

a) Article 83.2 a) GDPR: the infringement has not caused any harm to the party complainant, since the personal data on which he requested access and deletion they had already been previously deleted in September 2018, so in no case moment the complaining party has been deprived of access or deletion of their data. AND understands that AMADEUS cannot be held responsible for the breach of a obligation that it had duly satisfied in September 2018. Therefore,

interprets that the lack of seriousness of the infringement should be applied as mitigation as well as damages caused to the complaining party.

In this regard, this Agency wishes to point out that the damage caused to the party claimant is precisely the lack of control over their personal data. Whether had responded properly when requested by the complaining party, it would not have been produced the said infringement. The asset protected in this case is the control of the interested parties with respect to their personal data and, if they are not given a proper response, They lack this control. In the present case, the control of knowing with what data of yours account the data controller in question (AMADEUS). have provided useless instructions to the complaining party, is not giving a proper response to the requested information. And he was not given an answer to why these did not work instructions, despite having indicated so by the complaining party on at least three occasions. For its part, AMADEUS alleges that, in relation to the duration of the infringement, AMADEUS responded in a timely manner to the exercise of rights of the complaining party (which was not done through the mechanism provided for it), providing the way to manage your personal data. The fact that this answer does not satisfied the complaining party (because the data was no longer in the systems of Checkmytrip) does not carry a continued breach of art. 12 GDPR up to September 2020. Even more so when their rights had been correctly served by AMADEUS in September 2018, when the complaining party had deleted your personal data from your Checkmytrip account.

Regarding the address used to exercise the corresponding right, this

Agency refers to its response to the third claim of AMADEUS to the proposal resolution of this sanctioning procedure.

Regarding the duration of the infraction, this Agency considers that it was not answered in time and form to the exercise of rights of the complaining party, since the instructions provided were useless, a circumstance that the complaining party informed AMADEUS on three occasions without receiving a response.

Only once this Agency intervened was it given a proper response, in the terms of article 12 of the GDPR in September 2020.

For all the foregoing, this claim is dismissed.

b) Article 83.2.b) RPDG: AMADEUS understands that there was no intention or negligent action on his part and that this fact must be assessed as extenuating circumstance.

In this regard, this Agency reiterates what was stated in its response to the third allegation to the agreement to initiate this disciplinary procedure and dismisses this allegation.

c) Article 83.2.f) of the GDPR: AMADEUS alleges that it has cooperated at all times with the Agency to provide the information that has been requested in relation to the claim and has proven that, as soon as he became aware of the incident, took the necessary steps to communicate with the complaining party and adapt their

Checkmytrip procedures in order to provide users with information

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complete and correct on the status of your account, a fact that must be valued as extenuating circumstance.

In this regard, this Agency wishes to point out that the fact that it had responded to the complaining party in September 2020, within section c) of article 83.2 of the GDPR and also assessed as mitigating the the fact of having adopted measures so that in the future an incident is not repeated as in the present case, in section c) of article 83.2 of the GDPR.

Therefore, this claim is dismissed.

d) Article 76.2.c) of the LOPDGDD: AMADEUS alleges that it has not obtained any benefit or income as a result of this incident, which must be considered as an extenuating circumstance.

In this regard, this Agency wishes to point out that this precept can only be considered as aggravating

This graduation criterion is established in the LOPDGDD in accordance with the provisions in article 83.2.k) of the GDPR, according to which administrative fines will be imposed taking into account any "aggravating or mitigating factor applicable to the circumstances of the case, such as the financial benefits obtained or the losses avoided, directly or indirectly, through the infringement", it being understood that avoiding a loss has the same nature for these purposes as gains.

If we add to this that the sanctions must be "in each individual case" effective, proportionate and dissuasive, in accordance with the provisions of article 83.1 of the GDPR, admit the absence of benefits as a mitigation, not only is it contrary to the assumptions of facts contemplated in article 76.2.c), but also contrary to the provisions of article 83.2.k) of the GDPR and the principles indicated.

Thus, assessing the absence of benefits as a mitigation would nullify the effect dissuasive of the fine, to the extent that it lessens the effect of the circumstances that

effectively affect its quantification, reporting to the person in charge a benefit to the that he has not earned. It would be an artificial reduction of the sanction that can lead to understand that infringing the norm without obtaining benefits, financial or of the type whatever, it will not produce a negative effect proportional to the seriousness of the fact offender.

It is also worth mentioning the Judgment of the AN, of 05/05/2021, rec. 1437/2020, which indicates: "Considers, on the other hand, that the non-commission should be considered as mitigating from a previous violation. Well, article 83.2 of the GDPR establishes that you must be taken into account for the imposition of the administrative fine, among others, the circumstance "e) any previous infringement committed by the person in charge or in charge treatment". It is an aggravating circumstance, the fact that there is no the budget for its application entails that it cannot be taken into consideration, but it does not imply or allow, as the plaintiff claims, its application as mitigating"; applied to the present case, the lack of budget for its application regarding the art. 76.2.c) of the LOPDGDD, that is, obtain benefits as a result of the infraction does not allow its application as a mitigation.

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For all the foregoing, this claim is dismissed.

e) Article 76.2.d) of the LOPDGDD: AMADEUS alleges that the complaining party exercised your rights in relation to personal data that you previously deleted and without first ascertaining that the deletion of the Checkmytrip account implies the deletion of all data and therefore the full exercise of your right. Understands

that it is as if he exercised the right after having already exercised it and it is a question of penalize AMADEUS for it. And requests that the action of the complaining party (which is not taken for granted out of bad faith) is considered to be, at least, not very diligent and, to a certain extent, inducing the commission of the infringement by AMADEUS, which which must be considered as an extenuating circumstance.

In this regard, this Agency wishes to point out that it in no way considers that the complaining party had acted in bad faith. Nor is it the subject of the present procedure that the data of the complaining party had not been deleted, but the lack of a due response to the request to exercise rights, under the terms of article 12 of the GDPR. It would have been enough to answer at the time that the part claimant had deleted their data correctly in September 2018 and that for AMADEUS could not access his Checkmytrip account and that the company lacked personal data about him. But this only happened once this Agency intervened, in September 2020.

For all the foregoing, this claim is dismissed.

4.2 AMADEUS alleges that the lack of consideration of the mitigating factors indicated above result in the disproportionality of the proposed sanction in relation to the alleged infringement. And it considers that, in case of appreciating the concurrence of the violation of article 12 of the GDPR, the coercive measure that would be appropriate (taking into account that the infringement is considered minor and measures have been taken appropriate corrective measures), would be warning. And remember that it is not a measure reserved exclusively for natural persons (citing, as an example, the resolution of the PS/00351/2020).

In this regard, this Agency wishes to point out that the extenuating circumstances have been dismissed alleged by AMADEUS and that it considers that the nature of this infringement is serious for the purposes of article 83 of the GDPR, since it is a loss of control

of the personal data of the interested parties by not being able to know what data a person responsible for treatment or if these data had been deleted.

For this reason, this claim is dismissed.

3. - Lack of effective exercise by the claimant of their rights before

AMADEUS ITG until December 2018, when it actually addressed that entity.

It is not appropriate to understand that the rights are exercised correctly when the party complainant addresses a legal entity other than the person responsible

AMADEUS understands that in the proposed resolution the AEPD errs when setting the moment in which the complaining party actually exercised before Amadeus ITG its

rights in the context of the CheckMyTrip service ("CheckMyTrip") when considering the

Communication of October 4, 2018 (date on which the complaining party sent a

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first email to the address: zentrale@de.amadeus.com) as a

correct mechanism to contact Amadeus ITG for the indicated purposes.

AMADEUS indicates that the address zentrale@de.amadeus.com is an address of

generic email addressed to and managed by Amadeus Germany

GmbH, the Amadeus subsidiary in Germany. And that it is a legal person

different from Amadeus ITG (the sole controller), which is located at

a country other than the person in charge and who understands that it clearly does not provide the

service object of the rights exercised by the complaining party. Besides, the

address in question is not the address provided by Amadeus ITG (the person responsible for the

service and treatment). This being the case, he considers that it is evident in his eyes,

that a communication addressed to that address can never be considered as validly sent to Amadeus ITG or claim that it displays effects against this.

And it affirms that the policies of Amadeus ITG and CheckMyTrip in no way indicate to the German company as the entity in charge of receiving these exercise requests of rights addressed to Amadeus ITG nor do they allude to email zentrale@de.amadeus.com.

In this regard, this Agency wishes to point out that the claimant resides in Germany and it is expected that it is related to the German subsidiary of AMADEUS. In fact, of the screenshots provided by AMADEUS, it is the same German subsidiary that refers to the email address zentrale@de.amadeus.com as the means valid for contacting Amadeus Germany GmbH.

Recital (59) of the GDPR provides that: "Formulas must be arbitrated to facilitate the interested party the exercise of their rights under this Regulation, including the mechanisms to request and, where appropriate, obtain free of charge, in particular, the access to personal data and its rectification or deletion, as well as the exercise of the right of opposition. The data controller must also provide means for applications to be submitted electronically, in particular when personal data is processed by electronic means. The person in charge of treatment must be obliged to respond to the requests of the interested party without undue delay and no later than one month, and to explain their reasons in in case he didn't attend to them."

These mechanisms are not mandatory and it cannot be understood that they will only be those requests for the exercise of rights that are made only to through the channels established by the data controllers in their policies Of privacy. On the contrary, each data controller has the power

to organize itself as it deems best, provided that a response is provided
satisfactory to the exercise of the rights requested by the interested parties, within the term
legally provided. But the organization that this person in charge of
treatment cannot be an obstacle to the satisfaction of a right that recognizes
the interested parties the GDPR.

In the present case, AMADEUS has decided to centralize all requests for
rights exercises
the direction
dataprotection@amadeus.com and those related to CheckMyTrip at the address
relating to AMADEUS in

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privacy.checkmytrip@amadeus.com. Now, the fact that a request
information is directed to a subsidiary of the group does not imply that AMADEUS should not give it
due response, as data controller (as indicated in its
allegations).

to

the

address

dataprotection@amadeus.com

This Agency does not know why the claimant's request was forwarded from

the

address

privacy.checkmytrip@amadeus.com, since in their emails the part

Claimant at no time refers to the CheckMyTrip service, rather to the

Otherwise, you always intend to contact AMADEUS to delete your data

personal. In any case, it cannot be denied that by sending an email to

the address zentrale@de.amadeus.com

the complaining party could wait

reasonably that your request was attended by AMADEUS. The fact of

that such an email address was managed by the German subsidiary of

AMADEUS, it is not something that the complaining party was obliged to know. Of

In fact, it seems reasonable in the eyes of this Agency that the complaining party wanted

communicate with the German subsidiary, which is the one with which you have presumably had

relationship. Nor is it the obligation of the complaining party to know the fact that that

email address is foreign to the CheckMyTrip service. On the contrary, this

The Agency considers that, in any case, it was the obligation of the German subsidiary to resend

said request through the pertinent channels to AMADEUS as responsible for

treatment, since it is the subsidiary that does know the internal procedures of the group,

especially those related to the exercise of data protection rights.

Precisely, in section 53 of the aforementioned Directives 01/2022 on the rights

of the interested parties- Right of access, the EDPB "...encourages those responsible for

treatment to provide the most appropriate and easy communication channels

to use, in accordance with article 12, paragraph 2, and article 25, to allow

that the interested party make an effective request. However, if the interested party

a request through a communication channel provided by the controller

of treatment that is different from the one indicated as preferable, the request will be

considered, in general, effective and the person in charge of the treatment must process said

request accordingly (see examples below). Those responsible for

treatment must make all reasonable efforts to ensure that

facilitates the exercise of the rights of the interested party (for example, in the event that the

interested send the data the request to an employee who is on leave, a

automatic message informing the interested party about a communication channel

alternative to your request may be a reasonable effort).”

In this sense, this Agency insists that the address zentrale@de.amadeus.com,

that the same German subsidiary provides as an ideal means to contact

with it, is a perfectly valid address to request the exercise of the

rights recognized in the GDPR by the interested parties residing in

Germany. And that it was the obligation of the Amadeus group to arbitrate the internal mechanisms

necessary for that request for rights to be forwarded to the channels that

company determined as the most suitable to give due response.

AMADEUS also highlights that the complaining party had to proactively seek

to the German entity Amadeus Germany GmbH and its contact details outside the

CheckMyTrip service to find the email address you used, and that

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he should also have omitted the fact that the address he was using belonged to

the German entity and not the sole data controller, which is Amadeus ITG.

AMADEUS understands that it is not, therefore, before a situation in which the

interested party goes to a generic contact address of the person in charge and different from the one

provided for the exercise of rights (see the first example of section 56 of the

Guidelines), or in which the interested party uses a means other than that provided by the

responsible (ex. Art. 12.2 GDPR). Rather, he believes that it is a scenario in which that clearly the complaining party strays from the path established for the exercise of your data protection rights: this is, (a) go to the address provided in the privacy policy for the

-

privacy.checkmytrip@amadeus.com-; or (b) that of the data protection officer or others related to the right to data protection.

exercise of rights

In this regard, this Agency wishes to point out that AMADEUS is carrying out a assumption about the actions of the complaining party totally lacking evidence in that sense. In fact, in making its assumptions AMADEUS seems to forget that, in your email dated October 4, 2018, when you made your first request for deletion of their personal data, the complaining party refers to the fact that "...

Any form of contact by you for the purpose of resending advertising is unwanted and I kindly ask you to refrain from it." That is, what positions to assume, it could also be assumed that your request to delete your account and your personal data was related to a delivery of advertising by

AMADEUS (presumably in German and from the group's German subsidiary) that the complaining party did not wish to receive it again and therefore contacted the address zentrale@de.amadeus.com and not with an email address of CheckMyTrip (nor with the one provided by AMADEUS for issues related to the privacy of personal data), which is why it did not refer to the

CheckMyTrip service in any of your electronic communications.

AMADEUS refers to the first example in section 56 of the aforementioned Guidelines in which "a data controller X provides, on its website and in your privacy policy, two emails – the general email

of the person in charge of treatment: contacto@X.com and the email of the point of

data protection contact of the data controller: requests@X.com.

Additionally, the data controller X indicates on its website that, in order to

send any query or request regarding the processing of personal data,

You must contact the data protection contact point at the email

indicated. However, the interested party sends a request to the general email

of the data controller: contacto@X.com. In this case, the person responsible for

treatment must use all reasonable efforts to make your services

are aware of the request, which was made through general email,

so that it can be redirected to the data protection contact point and be

answered within the period established by the GDPR. Furthermore, the person responsible for

treatment cannot extend the term to respond to the request, only

because the interested party has sent a request to the general email of the

data controller and not the data protection contact point.”

And it considers that the complaining party could hardly "reasonably expect" that

was answered when he addressed centrale@de.amadeus.com. understand that it

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It is also clear when, in his email dated December 14, 2018, the party

complainant changes the means of contact and goes to Amadeus ITG (the authentic

responsible) to the address dataprotection@amadeus.com (where, even without being the

correct address for the exercise of rights in the CheckMyTrip environment, receive

reply in time). This change may indicate that the same complaining party

understand that it is unreasonable to expect a response from Amadeus ITG to emails sent to the address you find on the internet. AMADEUS understands that it is so much His work as well as that of the AEPD to try to make users aware of the habit of searching privacy policies for any question related to your rights and consider to understand that the right was duly exercised in sending the first Correos does not contribute at all to this objective.

In this regard, this Agency understands that precisely the first example of section 56 of the aforementioned Guidelines is the assumption that occurred in the present case. He interested party (the complaining party) has sent his request for access to an email address generic email provided by the company to which it is addressed (in this case, to the German subsidiary, which is the one with which it has had contact), to the address zentrale@de.amadeus.com. Therefore, the data controller (AMADEUS) should have made all "reasonable efforts to make your services aware of the request, which was made through general email, so that can be redirected to the data protection contact point and is answered within within the period established by the GDPR", as indicated in the aforementioned Guidelines, to that the German subsidiary knows of the request and was redirected to the contact point of protection of data that corresponds, in order to be able to attend it in the term established by the GDPR. Therefore, this Agency considers that the part claimant could "reasonably expect" that his request would be honored when submitting it to the address zentrale@de.amadeus.com.

AMADEUS infers, without any evidence in this sense, that the fact that the part complainant changes the means of contact and addresses Amadeus ITG at the address dataproteccion@amadeus.com can indicate that the complaining party understands that it is not it is reasonable to expect a response from Amadeus ITG to emails sent to the address that you find on the internet. Assuming, this Agency considers that it also

it could be assumed that the complaining party has simply changed the means of communication because he did not receive a response to the request he had made previously (when it was expected to be so, it should be noted) and tried another means of communication, by contacting the address provided on the page of Amadeus internet, to see if that way he would get a response to his request.

AMADEUS continues that if the AEPD considers that Amadeus ITG should have attended the request for the exercise of rights of the complaining party even when it used a email address that differed from the one provided by Amadeus ITG and neither did not even correspond to one of the addresses of the Spanish entity, simply because Amadeus Germany GmbH is a group company Amadeus, it is worth wondering about the measures that the AEPD expects that Amadeus ITG would have implemented to be able to cope with such a company.

It affirms that the AEPD cannot create for those responsible for the treatment a obligation (which is the other side of the coin of the right that is recognizing here to the complaining party) by virtue of which, those responsible must establish

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mechanisms so that any communication of exercise of rights under the GDPR that reaches any email address (or other means of communication) of any of the entities of its business group (regardless of the country, corporate purpose, etc.) must end up being received by the person in charge in question, and this regardless of the mechanisms that said person in charge has put in place disposition of the interested parties for the exercise of the rights. Such a requirement

would imply a disproportionate, legal effort (the RGPD does not provide for the obligation for groups of companies in the EU to establish this type of channel with all its subsidiaries), contrary to the very system of the GDPR (in relation to the duties of transparency and information) and that would put international groups in a clear situation of lack of protection in the exercise of individual rights, supporting the delay and loss of time due to the incorrect exercise of rights to entities from all over the world, in any language, solely and exclusively for being a group of companies.

The ECPD Guidelines themselves (see section 53) cited above, when dealing with the reasonable efforts that a controller must take when responding to the rights when the interested parties do not go to the channel provided by the person in charge, They start from cases where rights are exercised before the person responsible for various forms (other than those provided by the person in charge), but, as is logical, it is not raises cases where the right is exercised to another person responsible even if it belongs to the same group of companies. Going a little deeper into the Guidelines, from the section 55 another scenario is extracted in which the person responsible does not have to act before a exercise of rights: when an interested party addresses an employee who clearly does not have to do with data protection issues (e.g. drivers, service of cleaning, etc.). In the case that concerns us now, it goes one step further: the interested party is addressed to an entity located in another country that has nothing to do with the treatment of your personal data (beyond being a subsidiary of the person in charge). seems out of all discussion that the mere fact of being part of a group of companies cannot automatically make its members responsible for all the treatments of the rest of its companies.

AMADEUS explains that the subsidiaries of a group are independent legal entities and directly subject to their own GDPR compliance regime which is

autonomous and independent with respect to that of other legal persons, whether of itself or another business group. You understand that the AEPD cannot, nor should, try to change this reality or shape it so that, in relation to the rights (as in the case at hand), there is a kind of en bloc responsibility or group forgetting this separation. Liability and/or unforeseen block obligation in the GDPR and, in his opinion, contrary to the principles of administrative law sanctioning.

In conclusion, it alleges that the AEPD cannot accept that the complaining party exercised his rights correctly when he contacted zentrale@de.amadeus.com on the 4th of October 2018, as such exercise occurred before an entity: (a) on the that it was not reported in the context of the CheckMyTrip service; (b) from another country; (c) other than the data controller; (d) that does not provide the service that gives rise to the treatment of the data of the complaining party and, finally, (e) that it used a address other than that provided by the person in charge (Amadeus ITG) in its privacy policy privacy for the exercise of rights. And considers that it is not acceptable either

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that the Spanish entity Amadeus ITG be penalized for an alleged obligation "to the German subsidiary to forward said request through the relevant channels, since it is the subsidiary that does know the internal procedures of the group, especially those relating to the exercise of data protection rights". AMADEUS alleges that any effective exercise of rights by the complaining party before

Amadeus ITG must be at the earliest on December 14, 2018, the date on which

that it was addressed to

ITG) in

dataprotection@amadeus.com and for all purposes, including in relation to the

aggravating circumstance identified in the Resolution Proposal (the duration of the infraction).

authentic responsible (Amadeus

Alleges that respect for the right to data protection of individuals and the

Compliance with the regulations that regulate it constitutes the central axis of the activity of

Amadeus group and it allocates numerous resources and means to this, counting on processes

implemented with the aim of protecting the individual at all times. Without

However, it considers that what the AEPD requires of Amadeus ITG by reproaching it for not

respond to a notification sent to an address completely unrelated to it as

is zentrale@de.amadeus.com exceeds what is reasonably required

In this regard, this Agency wishes to point out that section 56 of the aforementioned Guidelines

provides that “However, CEPD recommends, as a good practice, that

data controllers introduce, where possible, mechanisms to

improve internal communication between employees about the requests received by

those who are not competent to deal with those requests. To facilitate the

exercise of rights of the interested parties”.

In this sense, it is not unreasonable (neither impractical nor an effort

disproportionate) that the data controller must implement the

necessary internal mechanisms so that, at least as regards the

generic email addresses of each of its subsidiaries, in which

expects to receive requests of all kinds (including the exercise of rights that the

RGPD recognizes the interested parties), said requests are redirected as soon as possible to the

point of contact established by said person in charge for this purpose, so that they are

answered within the period established by the GDPR (and that the same Guidelines

indicate that it cannot be extended for the mere fact of having been sent to an address

generic email). Regarding the measures for which you ask

AMADEUS to deal with "such a company", it would suffice in this case, for example,

with the forwarding of the email with the request of the right to the address of

email provided by AMADEUS for this purpose.

This Agency considers that this simple action would not "put the groups

international organizations in a clear situation of lack of protection before the exercise of the right of

individuals", but it would be responding to a right that the GDPR

acknowledge the stakeholders. And that it is not a matter of not being able to answer in

deadline for these requests due to "the incorrect exercise of rights to entities of

all over the world, in any language, solely and exclusively for being a group of

companies", but it is assumed that precisely companies from different countries, at the same time

being part of the same group of companies, is in a better position to

know the internal mechanisms of the group to redirect the request for rights

in question to the point of contact provided by said group of companies. Nevertheless,

Of course, each company and group of companies has the power to organize

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as it deems best and to implement the mechanisms it deems most

suitable for this purpose, provided that a proper response is provided to the requests

of exercise of the rights recognized to the interested parties by the GDPR.

The fact that in the present case all requests for GDPR rights

should go to a single point of contact, apparently in Spain, is a

matter beyond the control of the interested parties, which is solely the responsibility of the organization that AMADEUS deemed it convenient and these interested parties cannot be forced to know about the AMADEUS business network (nor the peculiarities of the service CheckMyTrip) and impose a single point of contact to exercise their rights, if Although this Agency (and the aforementioned Guidelines) recognizes the possibility that controllers provide an email address preferred for the exercise of these rights.

In any case, it is surprising in the eyes of this Agency that AMADEUS put so much effort into considering that the exercise of rights by the party complainant took place on December 14, 2018 (date on which he addressed the address dataprotection@amadeus.com) instead of October 4, 2018 (date on who addressed the address zentrale@de.amadeus.com), when the right was not duly attended until November 9, 2020, after the intervention of this Agency. It is not understood that a couple of months difference is so relevant to consider when it was that the exercise of the right was duly requested. right of access, when it took more than two years to give him an answer as corresponds.

In any case, this Agency considers that the email address zentrale@de.amadeus.com cannot be understood as a “random or incorrect, not provided directly by the data controller”, nor “any communication channel that is clearly not intended to receive requests related to the rights of the interested party”, in the terms outlined in the Directives 01/2022 of the European Committee for Data Protection, without prejudice to the fact that AMADEUS had provided a different preferred email address. zentrale@de.amadeus.com

In the present case, this Agency considers that by sending an email to the

address

the complaining party could wait

reasonably that your request was granted. And that the fact that such an address of

e-mail was handled by the German subsidiary of AMADEUS, it is not something

that the complaining party was required to know. Neither is the fact that it is

outside the Checkmytrip service. On the contrary, in any case, it was the obligation of the subsidiary

German to forward said request through the pertinent channels, since it is the

subsidiary the one that does know the internal procedures of the group, especially those related to the

exercise of data protection rights.

Therefore, for all of the foregoing, this Agency dismisses this allegation.

IV.

Right of access

Article 15 "Right of access of the interested party" of the GDPR establishes:

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"1. The interested party shall have the right to obtain from the data controller

confirmation of whether or not personal data concerning you is being processed and, in such

case, right of access to personal data and the following information:

a) the purposes of the treatment;

b) the categories of personal data concerned;

c) the recipients or categories of recipients to whom they were communicated or will be

communicated personal data, in particular recipients in third countries or

international organizations;

d) if possible, the expected period of conservation of personal data or, if not

if possible, the criteria used to determine this term;

e) the existence of the right to request from the person in charge the rectification or deletion of

personal data or the limitation of the processing of personal data relating to the

interested party, or to oppose said treatment;

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

g) when the personal data has not been obtained from the interested party, any

available information on its origin;

h) the existence of automated decisions, including profiling, to which

referred to in Article 22, paragraphs 1 and 4, and, at least in such cases, information

about the logic applied, as well as the importance and consequences

provisions of said treatment for the interested party.

2. When personal data is transferred to a third country or to an organization

international, the interested party shall have the right to be informed of the guarantees

appropriate under Article 46 relating to the transfer.

3. The data controller shall provide a copy of the personal data object of

treatment. The person in charge may receive for any other copy requested by the

interested party a reasonable fee based on administrative costs. when the

The interested party submits the application by electronic means, and unless he requests

otherwise provided, the information will be provided in an electronic format of

Common use.

4. The right to obtain a copy mentioned in section 3 will not negatively affect

to the rights and liberties of others".

For its part, article 13 "Right of access" of the LOPDGDD provides that:

"1. The right of access of the affected party will be exercised in accordance with the provisions of the

Article 15 of Regulation (EU) 2016/679.

When the person in charge processes a large amount of data related to the affected party and the latter exercise your right of access without specifying whether it refers to all or part of the data, the data controller may request, before providing the information, that the data subject specify the data or processing activities to which the request refers.

2. The right of access shall be deemed granted if the data controller provide the affected party with a remote, direct and secure access system to the data personal data that permanently guarantees access to its entirety. to such effects, the communication by the person in charge to the affected party of the way in which the latter may

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Accessing said system will be enough to consider the request to exercise the right.

However, the interested party may request from the person in charge the information referring to the extremes provided for in article 15.1 of Regulation (EU) 2016/679 that are not included in the remote access system.

3. For the purposes established in article 12.5 of Regulation (EU) 2016/679, may consider the exercise of the right of access repetitive on more than one occasion during the period of six months, unless there is legitimate cause for it.

4. When the affected party chooses a means other than the one offered that involves a cost disproportionate, the request will be considered excessive, so said affected will assume the excess costs that your choice entails. In this case, it will only be required of the person responsible for the treatment the satisfaction of the right of access without undue delays”.

Modalities of exercise of the rights of the interested party

V

Article 12 "Transparency of information, communication and modalities of exercise of the rights of the interested party" of the GDPR establishes that:

- "1. The person in charge of the treatment will take the appropriate measures to facilitate the interested all 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 to a child. Information shall be provided in writing or by other means, including, if applicable, by electronics. When requested by the interested party, the information may be provided verbally as long as the identity of the interested party is proven by other means.
2. The person responsible for the treatment will facilitate the exercise of their rights by the interested party. under articles 15 to 22. In the cases referred to in article 11, paragraph 2, the person in charge will not refuse to act at the request of the interested party in order to exercise your rights under articles 15 to 22, unless you can show that you do not is in a position to identify the interested party.
3. The person responsible for the treatment will provide the interested party with information regarding their proceedings on the basis of a request under articles 15 to 22, without undue delay and, in any case, within one month of receipt of the request. This period may be extended by another two months if necessary, taking into account the complexity and number of requests. The responsible will inform the interested party of any of said extensions within a period of one month from from receipt of the request, indicating the reasons for the delay. when the interested party submits the application by electronic means, the information will be provided by electronic means when possible, unless the interested party requests that it be

facilitate otherwise.

4. If the person responsible for the treatment does not process the request of the interested party, he will inform without delay, and no later than one month after receipt of the

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application, the reasons for not acting and the possibility of presenting a claim before a control authority and take legal action.

5. The information provided under articles 13 and 14 as well as any communication and any action carried out under articles 15 to 22 and 34 they will be free of charge. When the requests are manifestly unfounded or excessive, especially due to its repetitive nature, the person responsible for the treatment may:

- a) charge a reasonable fee based on the administrative costs incurred to provide the information or communication or carry out the requested action, or
- b) refuse to act on the request.

The controller shall bear the burden of proving the character manifestly unfounded or excessive of the request.

6. Without prejudice to the provisions of article 11, when the data controller has reasonable doubts regarding the identity of the natural person who is making the request referred to in articles 15 to 21, may request that the additional information necessary to confirm the identity of the interested party. (...).

For its part, article 12 “General provisions on the exercise of rights”

of the LOPDGDD provides that:

"1. The rights recognized in articles 15 to 22 of Regulation (EU) 2016/679,

They may be exercised directly or through a legal or voluntary representative.

2. The person responsible for the treatment will be obliged to inform the affected party about the

means at your disposal to exercise the rights that correspond to you. The media

They must be easily accessible to the person concerned. The exercise of the right may not

be denied for the sole reason that the affected party opts for another means.

3. The person in charge may process, on behalf of the person in charge, the requests for exercise

made by those affected by their rights if so established in the contract or

legal act that binds them.

4. Proof of compliance with the duty to respond to the request to exercise their

rights formulated by the affected party will fall on the person responsible.

5. When the laws applicable to certain treatments establish a regime

that affects the exercise of the rights provided for in Chapter III of the

Regulation (EU) 2016/679, the provisions of those will be followed.

6. In any case, the holders of parental authority may exercise in the name and

representation of minors under fourteen the rights of access, rectification,

cancellation, opposition or any other that may correspond to them in the

context of this organic law.

7. The actions carried out by the data controller will be free of charge

to respond to requests to exercise these rights, without prejudice to the

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provided in articles 12.5 and 15.3 of Regulation (EU) 2016/679 and in the sections 3 and 4 of article 13 of this organic law”.

In the present case, AMADEUS has not duly addressed the exercise of the access rights requested by the complaining party, since it has been limited to send him an email with instructions that were useless to him. AND it was only confirmed that your account and the personal data associated with it had been deleted and that it had no data about him once it was obtained. knowledge that he had filed a claim with the authority of data protection, months later after having requested the exercise of these rights.

Therefore, in accordance with the evidence available in this moment of resolution of the disciplinary procedure, it is considered that the facts known are constituting an infringement, attributable to AMADEUS, for violation of article 12 of the GDPR, in conjunction with article 15 of the GDPR.

Classification of the infringement of article 12 of the GDPR

SAW

The aforementioned infringement of article 12 of the GDPR supposes the commission of the infringements typified in article 83.5 of the GDPR that under the heading "General conditions for the imposition of administrative fines" provides:

Violations of the following provisions will be sanctioned, in accordance with the paragraph 2, with administrative fines of maximum EUR 20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the total annual global business volume of the previous financial year, opting for the highest amount:

(...)

b) the rights of the interested parties in accordance with articles 12 to 22; (...)"

In this regard, the LOPDGDD, in its article 71 "Infracciones" establishes that

"The acts and behaviors referred to in sections 4,

5 and 6 of article 83 of Regulation (EU) 2016/679, as well as those that result

contrary to this organic law".

For the purposes of the limitation period, article 74 "Infringements considered minor" of

the LOPDGDD indicates:

"The remaining infractions of a legal nature are considered minor and will prescribe after a year.

merely formal of the articles mentioned in sections 4 and 5 of article 83

of Regulation (EU) 2016/679 and, in particular, the following: (...)

c) Failure to respond to requests to exercise the rights established in articles

15 to 22 of Regulation (EU) 2016/679, unless the provisions apply

in article 72.1.k) of this organic law"

Penalty for violation of article 12 of the GDPR

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For the purposes of deciding on the imposition of an administrative fine and its amount,

In accordance with the evidence available at the present time of

disciplinary procedure resolution, it is considered that the offense in question

is serious for the purposes of the GDPR and that it is appropriate to adjust the sanction to be imposed accordingly.

in accordance with the following criteria established in article 83.2 of the GDPR:

As aggravating factors:

- The duration of the infringement (section a): the complaining party exercised its

right of access and deletion on October 4, 2018 and was given a appropriate response only on September 11, 2020, when the knowledge of the claim filed with the control authority, although on December 17, 2018 and January 28, 2019 were sent to you instructions that were not useful to the complaining party, without obtaining no subsequent response from AMADEUS.

As mitigations:

- Communication was sent to the complaining party indicating that their account and their personal data had been deleted (section c).
- The adoption of measures to avoid similar incidents in the future (section c).

Likewise, it is considered appropriate to graduate the sanction to be imposed in accordance with the following criteria established in section 2 of article 76 "Sanctions and measures corrective measures" of the LOPDGDD:

As aggravating factors:

- Linking the activity of the offender with the performance of treatments of personal data (section b).

The balance of the circumstances contemplated in article 83.2 of the GDPR and 76.2 of the LOPDGDD, with respect to the offense committed by violating what is established in the Article 12 of the GDPR, allows a penalty of €5,000 (five thousand euros) to be set.

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

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE AMADEUS IT GROUP, S.A., with NIF A84236934, for a violation of Article 12 of the GDPR, typified in Article 83.5 of the GDPR, a fine of 5,000.00 euros (FIVE THOUSAND EUROS).

SECOND: NOTIFY this resolution to AMADEUS IT GROUP, S.A.

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THIRD: Warn the penalized person that they must make the imposed sanction effective

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

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

Common of Public Administrations (hereinafter LPACAP), within the payment period

voluntary established in art. 68 of the General Collection Regulations, approved

by Royal Decree 939/2005, of July 29, in relation to art. 62 of Law 58/2003,

of December 17, by means of its income, indicating the NIF of the sanctioned and the number

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

restricted number ES00 0000 0000 0000 0000 0000, open in the name of the Agency

Spanish Data Protection Agency at the bank CAIXABANK, S.A.. In the event

Otherwise, it will proceed to its collection in the executive period.

Once the notification has been received and once executed, if the execution date is

between the 1st and 15th of each month, both inclusive, the term to make the payment

voluntary will be until the 20th day of the following or immediately following business month, and if

between the 16th and the last day of each month, both inclusive, the payment term

It will be until the 5th of the second following or immediately following business month.

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

Resolution will be made public once the interested parties have been notified.

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 reversal before the Director of the Spanish Agency for Data Protection within a period of one month from count 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 for in article 46.1 of the referred Law.

Finally, it is noted that in accordance with the provisions of art. 90.3 a) of the LPACAP, may provisionally suspend the firm resolution in administrative proceedings if the The interested party expresses his intention to file a contentious-administrative appeal.

If this is the case, the interested party must formally communicate this fact through writing addressed to the Spanish Data Protection Agency, presenting it through of the Electronic Registry of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other registries provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. You must also transfer to the Agency the documentation proving the effective filing of the contentious appeal-administrative. If the Agency was not aware of the filing of the appeal contentious-administrative proceedings 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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