

□ File No.: PS/00538/2021

RESOLUTION OF TERMINATION OF THE PROCEDURE FOR PAYMENT

VOLUNTEER

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

BACKGROUND

FIRST: On January 3, 2022, the Director of the Spanish Agency for
Data Protection agreed to initiate a sanctioning procedure against VODAFONE
SPAIN, S.A.U. (hereinafter, the claimed party), through the Agreement that is
transcribe:

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Procedure No.: PS/00538/2021

AGREEMENT TO START A SANCTION PROCEDURE

Of the actions carried out by the Spanish Data Protection Agency before
the entity, VODAFONE ESPAÑA, S.A.U. with CIF.: A80907397, (hereinafter, "the part
claimed"), by virtue of the brief filed by D. AAA, (hereinafter, "the party
claimant"), and based on the following:

FACTS

FIRST: On 09/30/20, you had entry to this Agency, written claim
which stated, among others, the following:

"I am the holder (until now) of my mobile line ***TELÉFONO.1, number used more than 20
years and associated with my last contract until August 10 with Movistar. The facts
are:

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He had a mobile, landline and Internet contract with Movistar that expired in August. for this

reason, I decide to switch telecommunications services to Vodafone. dated 31

July, I make effective on-line the new contract with Vodafone of fiber, mobile and landline.

On August 4 they installed the fiber, no problem. On August 10, Movistar makes

potability becomes effective and my mobile line is canceled, the next day I insert the SIM of

Vodafone and the network service is not activated or anything. Given this, I ask via attention to the

customer and I appear at the Vodafone store in Tarragona. The surprise comes when

the clerk verifies data and tells me that such number is registered by Vodafone

dated July 28 with prepayment in the name of another owner.

In the store they don't know what to tell me, only that they are a franchise and they can't do

much more. I start the round of calls to 1444 (VF customer service), in each

query they tell me different things, I only make it clear that there is another holder in prepaid.

On August 13, an operator proposed to me the request for a duplicate of the

SIM and wait if it works, it arrived in later days, but there is still no line, without

network, no service. Seeing that VF (Vodafone) does not solve anything. I ask for retroportability

with Movistar in the hope that they can return my number.

They inform me on August 24 that from VF they have been denied portability

of my number. Being aware that this number will no longer be retrieved, I agree

with Movistar another SIM to be able to have services, which entails a change of

data associated with banking services, etc... I am waiting for the new SIM.

Vodafone gives me an answer, which could be a data crossing or a computer error, but

They don't find the source of the problem. They cannot cancel this prepayment, and the last

What they tell me is to wait for the number to expire.”

The following documentation is attached to the written claim:

1. Proof of records of the events before the AEPD as of August 26, 2020.

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2. Contract formalized with Vodafone on July 31, 2020

3. Screenshots made to my mobile application where it indicates that my mobile number is

***PHONE.1, with the rest of my data. Also indicates a terminal brand

that is not mine with an IMEI and a consumption fact of data that is not mine, since my

line has not had service since August 10 (portability still with movistar).

4. Appearance I made before the Mossos d'Esquadra on August 26

2020, in order to clarify the facts and power, as a minimum and for security,

report this anomaly in case there is fraudulent or future behavior behind it

illicit acts or illegal downloads with the mobile line.

5. SEPA direct debit order in the name of the claimant.

6. Screenshots of the "My Vodafone" App where you can see the personal data of the

claimant, a line data usage and IMEI numbers that do not correspond to

East.

7. Screenshots of direct Twitter messages with Vodafone Spain, where it is explained

the problem and unsuccessful responses from Vodafone.

8. Claim that was made, once all the telephone channels and Twitter to

Vodafone, sending such claim via post to Vodafone Spain. On the 28th of

August 2020. Currently, as of September 25, still no response to the

claims raised.

9. Invoice issued on September 21 by Vodafone, where I received a charge for the use of the mobile line, and a penalty for fiber installation. Such surcharges are claimed from the company and claimed from the Catalan Agency for Consum. Still no answer.

SECOND: On 11/13/20, this Agency transferred the claim to the claimed party (to the entity VODAFONE ESPAÑA SAU), to give www.aepd.es

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response to it in accordance with the provisions of article 65.4 of the Law Organic 3/2018, of December 5, on the protection of personal data and guarantee of digital rights, ("LOPDGDD").

According to a certificate from the Electronic Notifications and Electronic Address Service, the request sent to the claimed entity, on 11/13/20, through the service of notifications NOTIFIC@, was received at destination on 11/16/20.

THIRD: On 02/12/20, by the Director of the Spanish Agency for Data Protection agreement is issued for the admission of claims processing presented, in accordance with article 65 of the LPDGDD Law, since there was no received any response from the claimed entity to the request made and to the have appreciated possible rational indications of a violation of the rules in the scope of the competences of the Spanish Data Protection Agency.

FOURTH: On 03/03/21, this Agency receives a written response from the entity Vodafone, in which, among others, it indicates:

After carrying out the appropriate investigations, Vodafone was able to verify that the incident

object of claim was due to a technical error, which had led to the process the registration of a prepaid line whose number coincided with the claimant. In this way, when the claimant transferred his line to Vodafone, both lines were crossed, meaning that the claimant did not have telephone service. However, as has been able to verify, the incident could be resolved prior to the notification of this requirement by this Agency.

In this sense, Vodafone proceeded to disconnect the "prepaid" line in order to reconcile the service, leaving the line active only for the claimant and consequently, leaving the crossing of data duly solved.

However, it has been verified that currently the claimant does not have of active services in Vodafone systems. Additionally, and as requested by the claimant, my client has proceeded to send a letter to the claimant in the

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that you are informed of the actions carried out by my client to resolve the incident. Document number 1 is provided as a copy of the letter sent

The claim has taken place because, as my client has been able to confirm, due to a completely involuntary error in the Vodafone systems, on 28 July 2020, a "prepaid" line was activated with a mobile number owned by a third client. In turn, on July 31, 2020, the claimant signed, to through the online channel, a portability of its services to Vodafone.

In this way, the registration of the claimant's postpaid line was processed, coinciding unfortunately the number of this line with which it had been activated in the

prepaid mode a few days before for the other owner. It is provided, as Document number 2 copy of the portability contract signed by the claimant.

When two SIM cards with the same number become part of Vodafone, the service in one of them, specifically the one corresponding to the claimant, was cancelled, so the service was only maintained on the prepaid line corresponding to the foreign third party.

When trying, the claimant process the retroportability of the line on date 08/25/20, this was denied since the SIM card number associated with the line according to the Vodafone systems did not match that of the application. This is because, in the systems of my client figured previously that active line, in the prepaid mode, so it was not possible to complete the portability order of the service owned by the claimant. It is provided, as Document number 3, the documentation generated about the rejected retroportability request.

once the facts had been investigated, he was able to verify that the disputed line should belong solely to the claimant had really belonged to him with previously, since he had ported it from another telephone company.

Therefore, it was concluded that the previously reported incidence was a high erroneous, having activated a "prepaid" line with an existing numbering. A

Once my principal was aware of what had happened, he carried out all the steps necessary to meet the requests of the claimant and resolved this incident as quickly as possible.

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On the other hand, the Agency indicates, in its request for information, that this incident caused the claimant to be improperly billed for the consumption of the line made by the other holder, alien to the claimant. In this regard, you want this party to clarify that, as is well reflected in the documents provided by the claimant along with his claim, at no time was a charge issued in the name of this in concept of consumption of services.

In addition, the disputed ownership of the line was associated with a prepaid contract. Prepaid lines are contracts that are paid in advance to enable the use of the purchased service, so they do not generate subsequent invoices. In this way, this party can affirm that a confusion between the invoices generated to the claimant's ownership and the charges made to the ownership of the third party.

My client became aware of this incident for the first time on last August 10, 2020 during the portability process, date on which, from the technical support department, it was possible to verify that the number phone was already active in its prepaid modality in the ID of a third party.

Once it was verified that the line corresponded to the claimant, the pertinent steps, in order to unlink the "prepaid" line from that numbering of so that the service remains available exclusively to the claimant. of this

Thus, on 09/11/20 the "prepaid" line was deactivated, unlinking it from the ID of the third party unrelated to the claimant and leaving the reconciled service in the client ID.

In this way, the diligent action on the part of my client is accredited,

the incident having been duly resolved well in advance of the

notification of the claim filed by the Claimant. Without prejudice to

above, once this request has been transferred to the offices of

my represented, from Vodafone the pertinent checks have been carried out in

relation to the matter object of the claim, verifying that the claimant, in the currently, does not maintain active services with my client, having caused low on September 25, 2020”.

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The statement of allegations presented by the entity Vodafone is accompanied by a copy of the letter sent by this company to the claimant on March 3, 2021 and where he was says, verbatim, the following:

"We contacted you as a result of your claim, which has been transferred by the Spanish Agency for Data Protection in relation to the information request file E/09079/2020.

Once the appropriate checks have been carried out and the facts described have been analyzed in your claim, as requested, we inform you that the incident that gave rise to this claim was due to an inadvertent error in our systems, for which processed the registration of a prepaid line with the numbering in question, on the 28th of July 2020, which turned out to be identical to the telephone line whose portability signed on 07/31/20. According to our systems, the “prepaid” line is was activated prior to your portability, the service of your line is not could enable, since the same numbering associated with two ownerships coexisted different.

However, upon becoming aware of the incident, Vodafone carried out all pertinent steps in order to resolve what happened as quickly as possible possible. In this way, once we were able to verify that the line corresponded

only to you, we proceeded to deactivate the "prepaid" line, thus resolving the incidence. Notwithstanding the foregoing, as a result of your claim, we have been able to verify that, at present, it does not maintain active services in our company(...)".

FIFTH: On 05/27/21, this Agency requested the entity TELEFONICA DE ESPAÑA SAU, information on whether the claimant was a client of MOVISTAR, with prior to July 31, 2020, with the same mobile line number, and if applicable, modality of contract and supporting document of assignment of that number and that also confirm, if a portability of the contracted services was requested to VODAFONE between July 20 and August 10, 2020, and if applicable, the date on which that the mobile line number was made available to VODAFONE.

SIXTH: On 05/27/21, the General Subdirectorate of Data Inspection directed informative request to the entity, VODAFONE ESPAÑA SAU, under the investigative powers granted to the control authorities in article 57.1 of the C/ Jorge Juan, 6

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RGPD, and where he was required to describe the process of receiving services services for portability until the portability applicant is assigned and clarify how mo it was possible that the mobile line number coming from donor portability, TELEFÓNICA is released for assignment to a third party in preparation mode. go.

SEVENTH: On 06/16/21, the entity TELEFÓNICA sends to this Agency, writing reply to the request for information, where it states, among others, the following-

tea:

“The claimant was a client of MOVISTAR on 07/31/20. The mobile line was part of the Fusion Base, an invoice is attached that certifies the assignment of the number and confirms that portability was requested from the entity Vodafone, being effective on 08/10/20”.

EIGHTH: On 07/27/21, the respondent entity sends to this Agency, a letter of response to the request made, where it states, among others, the following:

“After making the pertinent queries in the internal systems of my client,

This Agency is informed that the claimant was a customer of Vodafone

in 2015, porting its services to Movistar in August 2018. At this point,

due to a specific failure in the system, despite porting the number to another entity, this numbering was left free to be assigned to another client.

In this regard, in July 2020 the disputed line was assigned to a prepaid customer,

taking leave in September 2020. In this interim, the claimant, on the 31st of

July 2020, signed, through the online channel, a portability of its services to

Vodafone. In this way, the registration of the Complainant's postpaid line was processed,

unfortunately deciding the number of this line with the one that had been activated in

the prepaid modality a few days before for the other holder.

Once it was verified that the line corresponded to the claimant, the

pertinent steps, in order to unlink the "prepaid" line from that numbering of

so that the service remains available exclusively to the Claimant.

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In this way, on 09/11/20 the “prepaid” line was deactivated, unlinking it from the ID of the

third party unrelated to the claimant and leaving the service reconciled with the client.

In this way, the diligent action on the part of my client is accredited,

the incident having been duly resolved well in advance of the

notification of the claim filed by the claimant.

Once this request has been transferred to the offices of my representative,

seated, from Vodafone the pertinent checks have been carried out in relation to

with the matter object of the claim, verifying that the claimant, currently

ity, does not maintain active services with my client, having caused sick leave

date September 25, 2020. Therefore, following the provisions of the allegations

tions presented at the request of the Agency E/09079/2020, the reason for the

which the mobile line from portability of the donor TELEFÓNICA DE ESPAÑA

S.A.U. be released for assignment to a third party in prepaid mode was de-

due to a totally involuntary error in the Vodafone systems”.

NINTH: In view of the reported facts, in accordance with the evidence

that is available, the Data Inspection of this Spanish Agency for the Protection of

Data considers that the processing of personal data carried out by the claimant

demanding does not meet the conditions imposed by current regulations on pro-

data protection, for which reason the opening of this sanctioning proceeding proceeds

pain

FOUNDATIONS OF LAW

I.- Competition:

By virtue of the powers that article 58.2 of Regulation (EU) 2016/679, of the Parliament-

European Act and of the Council, of 04/27/16, regarding the Protection of Natural Persons

regarding the Processing of Personal Data and the Free Movement of es-

Data (RGPD) and as established in arts. 47, 64.2 and 68.1 of the Organic Law

ca 3/2018, of December 5, on the Protection of Personal Data and Guarantee of the

Digital Rights (LOPDGDD), the Director of the Spanish Agency for the Protection of

Data is competent to initiate this procedure.

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Sections 1) and 2), of article 58 of the RGPD, list, respectively, the

investigative and corrective powers that the supervisory authority may provide to the

effect, mentioning in point 1.d), that of: "notifying the person in charge or in charge of the

treatment of alleged infringements of these Regulations" and in 2.i), that of:

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

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

case."

II.- Summary of the facts:

In the present case, Vodafone states that the problem that the claimant did not

could make use of your mobile phone number was due to a technical error of the

company, which led to the registration of a prepaid line whose number

coincided with that of the claimant, so that, when the claimant carried his line to

Vodafone, both lines were crossed, meaning that the claimant did not have

Telephone service. The events that have occurred for the error to occur have

been:

1º.- The claimant was a Vodafone customer in 2015, bringing its services to

Movistar in August 2018. According to Vodafone, at this point and due to a punctual failure

in the system of the entity, despite porting the number, it was free in the systems

Vodafone themes in order to be assigned to another client.

2º.- On 07/28/20, Vodafone assigns the line to a new prepaid customer.

3º.- On 07/31/20, the claimant signs a portability of his telephone number from Movistar again to Vodafone.

4º.- On 08/10/20 Movistar makes portability effective and cancels the mobile line of its systems.

5º.- On 08/13/20 and given the impossibility of Vodafone providing a service of line on mobile, request retroportability with Movistar.

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6º.- On 08/24/20, Vodafone denies Movistar portability.

7º.- On 09/11/20, according to Vodafone, the “prepaid” line was deactivated, separating it from the ID of the third party other than the claimant and leaving the active service with him.

8º.- On 09/25/20, the claimant cancels as a Vodafone customer.

In short, as confirmed by the respondent entity, when the claimant requests, in

August 2018, the portability of his telephone number from Vodafone to Movistar,

although the portability was carried out correctly, due to a punctual failure in the system.

issue of the Vodafone entity, the claimant's telephone number remained in this state.

“free” in the Vodafone systems and was assigned to another client in the mode

“prepaid” date on 07/28/20.

When the claimant tries to come back with his phone number, using a new

portability, to the company Vodafone, a few days after it assigns the number

to another client, the company denies portability because the number is already assigned.

to another client.

The Vodafone company, once the error produced in its systems has been detected, the 09/11/20, deactivated the "prepaid" line, unlinking it from the ID of the third party unrelated to the re-claimant and remaining active service with the claimant.

III.- On the possible lack of security measures in the entity's systems claimed.

The GDPR, in its article 32, requires data controllers to adopt the corresponding security measures of a technical and organizational nature necessary to guarantee that the processing of personal data carried out by This is in accordance with current regulations. Thus we have, as the cited article establishes that:

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1. Taking into account the state of the art, the application costs, and the nature, the scope, context and purposes of the treatment, as well as risks of probability and variable seriousness for the rights and freedoms of natural persons, the responsible and the person in charge of the treatment will apply technical and organizational measures appropriate to guarantee a level of security appropriate to the risk, which in its case include, among others:

- a) pseudonymization and encryption of personal data;
- b) the ability to ensure confidentiality, integrity, availability and resilience permanent treatment systems and services;
- c) the ability to restore the availability and access to the personal data of quickly in the event of a physical or technical incident;

d) a process of regular verification, evaluation and assessment of the effectiveness of the technical and organizational measures to guarantee the security of the treatment.

2. When evaluating the adequacy of the security level, particular account shall be taken of takes into account the risks presented by the processing of data, in particular as consequence of the accidental or unlawful destruction, loss or alteration of data data transmitted, stored or otherwise processed, or the communication or unauthorized access to said data.

3. Adherence to an approved code of conduct under article 40 or to a certification mechanism approved under article 42 may serve as an element to demonstrate compliance with the requirements established in section 1 of the present article.

4. The person in charge and the person in charge of the treatment will take measures to guarantee that any person acting under the authority of the person in charge or the person in charge and has access to personal data can only process said data following instructions of the person in charge, unless it is obliged to do so by virtue of the Right of the Union or the Member States.

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Therefore, the known facts could constitute a violation of article 32.1.b) of the RGPD, when verifying an inadequate level of security in the systems of the Vodafone entity that caused the illicit processing of personal data transmitted in the portability, (the telephone number), since it continued to be operational in their systems, and in the end it was awarded to someone other than the claimant.

For its part, article 73.g) of the LOPDGDD, considers "serious", for the purposes of prescription: "g) The violation, as a consequence of the lack of due diligence, of the technical and organizational measures that have been implemented in accordance with the requirements of article 32.1 of Regulation (EU) 2016/679".

This infraction can be sanctioned with a fine of €10,000,000 maximum or, in the case of a company, an amount equivalent to a maximum of 2% of the global total annual turnover of the previous financial year, opting for the of greater amount, in accordance with article 83.4.a) of the RGPD.

In accordance with the precepts indicated for the purposes of setting the amount of the penalty impose, it is considered appropriate to graduate the sanction in accordance with the following Aggravating criteria established in article 83.2 of the RGPD:

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The duration of the offence, taking into account its nature, since since the claimant carried out the first portability of the number of telephone in August 2018, the defendant entity, far from proceeding to give down the number of his systems, had him operational and assigned him to a new customer in the "prepaid" mode on 07/28/20, (section a).

The negligence in the infringement, when verifying the lack of due diligence of the entity claimed in the fulfillment of its obligations with respect to the management of the personal data of the users, since it is stated, in the documentation provided by the claimant, the captures of the App of "My Vodafone" where the personal data of the claimant is seen, and the numbers IMEI that do not correspond to the claimant. The claim made on 08/28/20 via post once all attempts have been exhausted to solve the problem since 08/10/21, by phone and an invoice issued on

09/21/20, where Vodafone makes a charge for the use of the mobile line, which is not

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can use the claimant, and a penalty for fiber installation,

(section b).

the lack of cooperation with the supervisory authority demonstrated by the entity

claimed, in order to remedy the situation and mitigate the possible

adverse effects of the infraction, therefore, on 11/13/20, by this

Agency wrote to the claimed party, which according to a certificate from the

Electronic Notifications and Electronic Address Service, was

received at destination on 11/16/20, by ***NIF.1 ***B.B.B. and it's not until

more than 3 months later, on 03/03/21, when the entity sends to this Agency

answer brief, (section f).

The balance of the circumstances contemplated in article 83.2 of the RGPD, with

Regarding the infraction committed by violating the provisions of article 32.1.b) of the

RGPD allows setting an initial penalty of 20,000 euros, (twenty thousand euros).

IV.- About the presumed violation of confidentiality.

Article 5 of the RGPD establishes the principles related to the treatment of personal data.

personal data by the person in charge and/or in charge of them and in its section

1.f) specifies that: "the treatment must be carried out in such a way as to guarantee

adequate security of personal data, including protection against

unauthorized or unlawful treatment and against loss, destruction or accidental damage,

through the application of appropriate technical or organizational measures. Known as the Principle of ("integrity and confidentiality").

Therefore, the fact that the defendant entity awarded another client outside the claimant, the telephone number making unauthorized use of it because, according to what the entity affirms, of a failure in its systems, could constitute a infringement, attributable to the claimed party, for violation of article 5.1.f) of the GDPR.

Article 72.1.a) of the LOPDGDD, considers "very serious", for prescription purposes, "The processing of personal data violating the principles and guarantees established in article 5 of Regulation (EU) 2016/679."

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

In accordance with the precepts indicated for the purposes of setting the amount of the penalty impose, it is considered appropriate to graduate the sanction in accordance with the following Aggravating criteria established in article 83.2 of the RGPD:

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The duration of the offence, taking into account its nature, since

since the claimant carried out the first portability of the number of telephone in August 2018, the defendant entity, far from proceeding to give down the number of his systems, had him operational and assigned him to a new prepaid customer on 07/28/20, (section a).

The negligence in the infringement, when verifying the lack of due diligence of the entity claimed in the fulfillment of its obligations with respect to the management of the personal data of the users, since it is stated, in the documentation provided by the claimant, the captures of the App of "My Vodafone" where the personal data of the claimant is seen, and the numbers IMEI that do not correspond to the claimant. The claim made on 08/28/20 via post once all attempts have been exhausted to solve the problem since 08/10/21, by phone and an invoice issued on 09/21/20, where Vodafone makes a charge for the use of the mobile line, which is not can use the claimant, and a penalty for fiber installation, (section b).

Demonstration of failure to cooperate with the supervisory authority in order to remedy the violation and mitigate the possible adverse effects of the infraction because, on 11/13/20, this Agency addressed informative request to the claimed party, which according to a certificate from the Electronic Notifications and Electronic Address Service, was received at destination on 11/16/20, by ***NIF.1 ***B.B.B. and it is not until more than 3 months later, on 03/03/21, when the entity sends to this Agency written response to the request, (section f).

The balance of the circumstances contemplated in article 83.2 of the RGPD, with Regarding the infraction committed by violating the provisions of article 5.1.f) of the www.aepd.es

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aforementioned Regulation, allows setting an initial penalty of 30,000 euros, (thirty thousand euros).

V- Total initial sanction:

In accordance with the criteria indicated in the previous points, it is considered appropriate

impose a total initial penalty of 50,000 euros (fifty thousand euros): 20,000 euros

for the infringement of article 32.1.b) of the RGD, considered “serious” for the purposes of

prescription in article 73.g) of the LOPDGDD, and 30,000 euros for infraction of the

article 5.1.f) of the RGD, considered “very serious” for prescription purposes, in the

Article 72.1.a) of the LOPDGDD.

Therefore, in accordance with the foregoing, by the Director of the Agency

Spanish Data Protection,

HE REMEMBERS:

START: PUNISHMENT PROCEDURE against the entity VODAFONE ESPAÑA,

S.A.U. with CIF.: A80907397 by:

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Infringement of article 32.1.b) of the RGD, considered “serious” for the purposes of

prescription in article 73.g) of the LOPDGDD, when verifying an inappropriate

level of security in the systems of the entity Vodafone that caused a

illicit treatment of personal data transmitted in portability

Infringement of article 5.1.f) of the RGD, considered “very serious” for the purposes of

prescription, in article 72.1.a) of the LOPDGDD, when making a use not

authorized personal data of the claimant, (his telephone number), to

due to a technical failure in their systems.

APPOINT: D.C.C.C. as Instructor, and Secretary, if applicable, D^a D.D.D.,

indicating that any of them may be challenged, as the case may be, in accordance with

established in articles 23 and 24 of Law 40/2015, of October 1, on the Legal Regime

of the Public Sector (LRJSP).

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INCORPORATE: to the disciplinary file, for evidentiary purposes, the claim

filed by the claimant and his documentation, the documents obtained and

generated by the Subdirector General for Data Inspection during the

investigations, all of them part of this administrative file.

WHAT: for the purposes provided in art. 64.2 b) of Law 39/2015, of October 1, of the

Common Administrative Procedure of the Public Administrations, the sanction that

could correspond, without prejudice to what results from the instruction, it would be 60,000

euros, (sixty thousand euros):

- Penalty of 20,000 euros (twenty thousand euros), for violation of article 32.1.b)

of the RGPD, considered "serious" for the purposes of prescription in article 73.g) of

the LOPDGDD.

- Penalty of 30,000 euros (thirty thousand euros), for violation of article 5.1.f)

of the RGPD, considered "very serious" for prescription purposes, in the article

72.1.a) of the LOPDGDD.

NOTIFY: this agreement to initiate disciplinary proceedings to VODAFONE

SPAIN, S.A.U. granting a hearing period of ten business days for formulate the allegations and present the evidence that it deems appropriate.

If within the stipulated period it does not make allegations to this initial agreement, the same may be considered a resolution proposal, as established in article 64.2.f) of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP).

In accordance with the provisions of article 85 of the LPACAP, in the event that the sanction to be imposed was a fine, it may recognize its responsibility within the term granted for the formulation of allegations to this initial agreement; it which will entail a reduction of 20% of the sanction to be imposed in this procedure, equivalent in this case to 10,000 euros. with the app of this reduction, the sanction would be established at 40,000 euros, resolving the procedure with the imposition of this sanction.

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Similarly, you may, at any time prior to the resolution of this procedure, carry out the voluntary payment of the proposed sanction, which will entail a reduction of 20% of the amount of this, equivalent in this case to 10,000 euros. With the application of this reduction, the sanction would be established in 40,000 euros and its payment will imply the termination of the procedure.

The reduction for the voluntary payment of the penalty is cumulative with the corresponding apply for the acknowledgment of responsibility, provided that this acknowledgment of the responsibility is revealed within the period granted to formulate

arguments at the opening of the procedure. The voluntary payment of the referred amount in the previous paragraph may be done at any time prior to the resolution. In this case, if it were appropriate to apply both reductions, the amount of the penalty would be set at 30,000 euros (thirty thousand euros).

In any case, the effectiveness of any of the two reductions mentioned will be conditioned to the abandonment or renunciation of any action or resource in via administrative against the sanction.

If you choose to proceed to the voluntary payment of any of the amounts indicated above, you must make it effective by depositing it in account N° ES00 0000 0000 0000 0000 opened in the name of the Spanish Agency for the Protection of Data in Banco CAIXABANK, S.A., indicating in the concept the number of reference of the procedure that appears in the heading of this document and the cause of reduction of the amount to which it is accepted. Also, you must send the proof of admission to the Subdirector General for Inspection to continue with the procedure in accordance with the amount entered.

The procedure will have a maximum duration of nine months from the date of the start-up agreement or, where appropriate, of the draft start-up agreement.

Once this period has elapsed, it will expire and, consequently, the file of performances; in accordance with the provisions of article 64 of the LOPDGDD.

Finally, it is pointed out that in accordance with the provisions of article 112.1 of the LPACAP, there is no administrative appeal against this act.

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Director of the Spanish Agency for Data Protection.

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SECOND: On January 25, 2022, the claimed party has proceeded to pay of the sanction in the amount of 40,000 euros using one of the two reductions provided for in the Start Agreement transcribed above. Therefore, it has not acknowledgment of responsibility has been confirmed.

THIRD: The payment made entails the waiver of any action or resource in via against the sanction, in relation to the facts referred to in the Home Agreement.

FOUNDATIONS OF LAW

Yo

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter RGPD), grants each control authority and as established in articles 47 and 48.1 of the Law Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions regulations issued in its development and, as long as they do not contradict them, with a subsidiary, by the general rules on administrative procedures."

II

Article 85 of Law 39/2015, of October 1, on Administrative Procedure

Common to Public Administrations (hereinafter LPACAP), under the rubric

"Termination in sanctioning procedures" provides the following:

"1. Started a sanctioning procedure, if the offender acknowledges his responsibility, the procedure may be resolved with the imposition of the appropriate sanction.

2. When the sanction is solely pecuniary in nature or it is possible to impose a pecuniary sanction and another of a non-pecuniary nature, but the

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inadmissibility of the second, the voluntary payment by the alleged perpetrator, in any time prior to the resolution, will imply the termination of the procedure,

except in relation to the replacement of the altered situation or the determination of the compensation for damages caused by the commission of the infringement.

3. In both cases, when the sanction is solely pecuniary in nature, the competent body to resolve the procedure will apply reductions of, at least, 20% of the amount of the proposed sanction, these being cumulative with each other.

The aforementioned reductions must be determined in the notification of initiation of the procedure and its effectiveness will be conditioned to the withdrawal or resignation of any administrative action or recourse against the sanction.

The reduction percentage provided for in this section may be increased regulations."

According to what was stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: TO DECLARE the termination of procedure PS/00538/2021, of

in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to VODAFONE ESPAÑA, S.A.U.

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

Resolution will be made public once it has been notified to the interested parties.

Against this resolution, which puts an end to the administrative procedure as prescribed by

the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of the Public Administrations, the interested parties may file an appeal

contentious-administrative before the Contentious-administrative Chamber of the

National Court, in accordance with the provisions of article 25 and section 5 of

the fourth additional provision of Law 29/1998, of July 13, regulating the

Contentious-Administrative Jurisdiction, within a period of two months from the

day following the notification of this act, as provided in article 46.1 of the

aforementioned Law.

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