

□ Procedure No.: PS/00276/2020

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: D.A.A.A. and D.B.B.B. (hereinafter, the claimants) on the 27th of
February 2020 they filed a claim with the Spanish Agency for the Protection of
Data. The claim is directed against D. C.C.C. with NIF ***NIF.1 (hereinafter, the
reclaimed).

The complainants state that they have been published on the website
eltaquigrafo.com by the claimed a news in which they are mentioned and made
public data of a totally personal nature of the claimants, without their
consent or prior authorization.

They add, that it is made public and included in the news without any type of
censors the name and both surnames of the claimants and the D.N.I. full of
both, associated with a piece of news and that it is an Internet web page open to everyone.
public without any restrictions.

They provide different screenshots of the published news.

SECOND: In view of the facts stated, the claim was transferred to
that the respondent reported:

1.

“The decision adopted regarding this claim.

In the event of exercising the rights regulated in articles 15 to 22
of the RGPD, accreditation of the response provided to the claimant.
two.

3.

Report on the causes that have motivated the incidence that has originated the claim.

Report on the measures adopted to prevent incidents from occurring similar, dates of implementation and controls carried out to verify their effectiveness

4. Any other that you consider relevant.”

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The claim was admitted for processing on August 26, 2020.

There is no answer by the respondent, being notified by the Correos service, on June 11, 2020, as it appears in the acknowledgment of receipt.

THIRD: On September 25, 2020, the Director of the Spanish Agency of Data Protection agreed to initiate a sanctioning procedure against the claimed, for the alleged infringement of Article 5.1.c) of the RGPD, typified in Article 83.5 of the GDPR. Said agreement was notified through the public postal operator on 8 October 2020 to the claimed.

FOURTH: Formal notification of the initiation agreement, the one claimed at the time of the This resolution has not submitted a brief of arguments, so it is application of what is stated in article 64 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations, which in its section f) establishes that in the event of not making allegations within the stipulated period on the content of the initiation agreement, it may be considered a proposal for

resolution when it contains a precise statement about the responsibility

imputed, reason why a Resolution is issued.

In view of everything that has been done, by the Spanish Data Protection Agency

In this proceeding, the following are considered proven facts:

FACTS

FIRST: On February 27, 2020, the claimants state that they have

published on the web page eltaquigrafo.com by the respondent a piece of news in which

mention and make public data of a totally personal nature of the

claimants, without their consent or prior authorization.

SECOND: It is stated that the two surnames of the

claimants and the D.N.I. complete set of both, associated with a piece of news and which is a

Internet web page open to the public without any type of restriction.

THIRD: On September 25, 2020, this sanctioning procedure was initiated for

the alleged infringement of article 5.1.c) of the RGPD, being notified on October 8,

2020. Not having made allegations, the respondent, to the initial agreement.

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of

control, and as established in arts. 47 and 48.1 of the LOPDGDD, the Director of

The Spanish Agency for Data Protection is competent to resolve this

process.

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II

It is considered that the facts denounced, that is to say that the personal data of the claimants without legitimacy for it and excessively, assumes that they are treating the data of the complainants in an excessive way, not pertinent to the purpose for which they are collected, violating their right to confidentiality of your data, is disproportionate because it is not appropriate or pertinent exposure to third parties of the complete data of the claimants, since it is not in Absolutely necessary the publication of the D.N.I.

The way to proceed can be carried out, although affecting personal data extreme caution must be exercised because it is being made known to anyone the data of the claimants through name and surnames.

III

The defendant is imputed the commission of an infraction for violation of the Article 5.1.c) of the RGPD, which states that:

"1. The personal data will be:

“c) adequate, pertinent and limited to what is necessary in relation to the purposes for those who are treated;”

The infringement is typified in Article 83.5 of the RGPD and is qualified as very serious in article 72 1 a) of the LOPDGDD.

IV

Article 83.5 a) of the RGPD, considers that the infringement of “the basic principles costs for treatment, including the conditions for consent under the articles 5, 6, 7 and 9” is punishable, in accordance with section 5 of the aforementioned article.

Article 83 of the aforementioned Regulation, with administrative fines of €20,000,000 maximum. mo 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.”

Article 58.2 of the RGPD indicates: "Each control authority will have all

the following corrective powers indicated below:

b) sanction any person responsible or in charge of the treatment with a warning

when the treatment operations have violated the provisions of this Regulation.

glament;

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

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

in a certain way and within a specified period.”

Points out in Considering 148:

“In the event of a minor offence, or if the fine likely to be imposed

would constitute a disproportionate burden for a natural person, rather than

sanction by means of a fine, a warning may be imposed. must however

Special attention should be paid to the nature, seriousness and duration of the infringement, its

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intentional nature, to the measures taken to alleviate the damages suffered,

the degree of liability or any relevant prior violation, the manner in which

that the control authority has been aware of the infraction, compliance

of measures ordered against the person responsible or in charge, adherence to codes of

conduct and any other aggravating or mitigating circumstance.”

There are no previous sanctions against the defendant, the activity of the defendant does not

It is the usual data processing, nor was it intended to obtain benefits.

Likewise, in accordance with the provisions of the aforementioned article 58.2.d) of the RGPD, the claimed party, as data controller, may be ordered to adopt of the necessary measures to remove the DNI of the claimants from publication, which is the excessive data, in accordance with the provisions of article 5.1 c) of the RGPD, as well as the provision of means of evidence accrediting compliance with what is required.

Therefore, in accordance with the applicable legislation and having assessed the criteria for graduation of the sanctions whose existence has been proven, the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE D.C.C.C., with NIF ***NIF.1, for a violation of Article 5.1.c) of the RGPD, typified in Article 83.5 of the RGPD, a sanction of warning.

SECOND: TO REQUEST D. C.C.C., with NIF ***NIF.1, so that within a period of month accredits to this body the compliance that it proceeds to:

☐ the adoption of the necessary measures to remove the DNI from publication of the claimants, which is the excessive data, in accordance with what established in article 5.1 c) of the RGPD, as well as the provision of means proof of compliance with the requirements.

THIRD: NOTIFY this resolution to D.C.C.C..

In accordance with the provisions of article 50 of the LOPDGDD, this Resolution will be made public once it has been notified to the interested parties.

Against this resolution, which puts an end to the administrative procedure in accordance with art. 48.6 of the LOPDGDD, and in accordance with the provisions of article 123 of the LPACAP, the Interested parties may optionally file an appeal for reconsideration before the Director of the Spanish Agency for Data Protection within a month from counting from the day following the notification of this resolution or directly

contentious-administrative appeal before the Contentious-Administrative Chamber of the National Court, in accordance with the provisions of article 25 and section 5 of the fourth additional provision of Law 29/1998, of July 13, regulating the Contentious-administrative jurisdiction, within a period of two months from the day following the notification of this act, as provided in article 46.1 of the aforementioned Law.

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Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP, may provisionally suspend the firm resolution in administrative proceedings if the

The interested party expresses his intention to file a contentious-administrative appeal.

If this is the case, the interested party must formally communicate this fact by

writing addressed to the Spanish Agency for Data Protection, presenting it through

Electronic Register of the Agency [[https://sedeagpd.gob.es/sede-electronica-](https://sedeagpd.gob.es/sede-electronica-web/)

[web/](https://sedeagpd.gob.es/sede-electronica-web/)], or through any of the other registers provided for in art. 16.4 of the

aforementioned Law 39/2015, of October 1. You must also transfer to the Agency the

documentation proving the effective filing of the contentious appeal-

administrative. If the Agency was not aware of the filing of the appeal

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

notification of this resolution would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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