

□ File No.: EXP202208281

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 March 13, 2023, the Director of the Spanish Agency for
Data Protection agreed to start a sanctioning procedure against the JUNTA MAYOR DE
BROTHERHOODS AND BROTHERHOODS OF THE HOLY WEEK OF ELCHE (hereinafter,
the claimed party), through the Transcribed Agreement:

<<

File No.: EXP202208281

AGREEMENT TO START THE SANCTION PROCEDURE

Of the actions carried out by the Spanish Data Protection Agency and with
based on the following

FACTS

FIRST: A.A.A. (hereinafter, the claimant) on 06/27/2022 filed
claim before the Spanish Data Protection Agency (AEPD). The
claim is directed against the GOVERNMENT OF BROTHERHOODS AND BROTHERHOODS
OF THE HOLY WEEK OF ELCHE, with NIF V53110391 (hereinafter, the BOARD OF
BROTHERHOODS). The reasons on which the claim is based are the following:

He states that the Juventud Cofrade de Elche, which is a section dependent on the
JUNTA DE COFRADÍAS, organized in the years 2021 and 2022 a "Gymkhana Cofrade"
"through QR code scans that redirected to trivia in the Kahoot app."

In order to participate, it was necessary to fill out a registration form through

of Google through which personal data of the interested party was collected: the name, two last names, the date of birth and the electronic address. The complaining party indicates that "the personal data collected in the registration forms served as to create my game username in Kahoot, called [...], made up of the initials of my first and last name and the last two digits of my year of birth. Similarly, my email was used for various communications carried out during the course of the Gymkhanas Cofrades."

He states that on 05/26/2022 he sent several emails to the Section organizer of the gymkhana and the secretariat of the JUNTA DE COFRADÍAS, "as responsible for the processing of personal data registered by the entity", of the received no response, in which he asked them to proceed with the delivery of the

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

2/14

prizes of the last two Gymkhanas Cofrades, informed them of the possible commission of a crime of fraud and warned them that they kept their personal data in their files, thus violating the Data Protection regulations.

Provide these documents with the claim:

the

1. Both links to the registration forms in the gymkhanas:

-For

2021:

<https://docs.google.com/forms/d/e/1FAIpQLSf3mGiBHV8y6jXULyRYGCVrGXSpAZVfz>

[G5FuJRpSjRAkVV2eg/viewform](https://docs.google.com/forms/d/e/1FAIpQLSf3mGiBHV8y6jXULyRYGCVrGXSpAZVfz)

-For

<https://docs.google.com/forms/d/e/1FAIpQLSeGPRMJ1ljmld86azFgTJ0W3->

[RugL202Dq7uLmc24AyxueiCA/viewform](https://docs.google.com/forms/d/e/1FAIpQLSeGPRMJ1ljmld86azFgTJ0W3-RugL202Dq7uLmc24AyxueiCA/viewform)

gymkhana

gymkhana

2022:

year

year

of the

of the

the

In the form (the same for the two editions of the gymkhana) it consists in first

place, this indication:

"Registration to the Gymkhana Cofrade organized by the Youth Cofrade of the

Mayor Board of Brotherhoods and Brotherhoods of Holy Week of Elche.

Sign in to Google to save what you've done. More information."

Then there are blank spaces to fill in the name and surname,

date of birth and email. A red asterisk warns that

all of them are required.

Below is this paragraph:

"Compliance with Organic Law 3/2018 on personal data protection

personal and guarantee of digital rights and the European Regulation RGPD

679/2016 we inform you that your data is being processed by

part of the MAYOR BOARD OF BROTHERHOODS AND BROTHERHOODS OF THE WEEK

SANTA with NIF V53110391, with the purpose of maintaining and managing

commercial and administrative relations. The legal basis of the treatment is the

compliance with tax, commercial and accounting legislation. not provided

Assignments and/or international transfers of data. To exercise your rights

You can contact the MAYOR BOARD OF BROTHERHOODS AND BROTHERHOODS OF

EASTER WEEK domiciled at MASAMAGRELL 2, 03203 ELCHE

(ALICANTE) or by e-mail to secretaria@semanasantaelche.com in order to

to exercise your rights of access, rectification, suspension (right to be forgotten),

limitation of treatment, portability of your data, opposition and not to be object

of authorized decisions, indicating as subject "Rights Law Protection of

Data", and attaching a photocopy of your ID." (The underlining is ours)

2.-Several screenshots obtained from Instagram related to Juventud Cofrade

from Elche with announcements of the first and second "Gymkhana Cofrade".

the first gymkhana (2021):

3.-Two links to YouTube with fragments of the radio program "Elche Cofrade:

-Relative to

[https://www.youtube.com/watch?](https://www.youtube.com/watch?v=8l1p96XSUXY&list=WL&index=8)

[v=8l1p96XSUXY&list=WL&index=8](https://www.youtube.com/watch?v=8l1p96XSUXY&list=WL&index=8)) with the anagram of the Elche City Council

relative to the brotherhoods of that municipality.

-Relative to the second gymkhana (2022): [https://www.youtube.com/watch?](https://www.youtube.com/watch?v=Hb_mdLPZXSo&t=1188s)

[v=Hb_mdLPZXSo&t=1188s](https://www.youtube.com/watch?v=Hb_mdLPZXSo&t=1188s)

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

3/14

4.- Various links to Holy Week in Elche, the Junta Mayor and the Youth

Brother of Elche:

<https://semanasantaelche.com/>

<https://www.facebook.com/JuntaMayorElche/>

<https://www.instagram.com/juntamayorelche/>

<https://twitter.com/JuntaMayorElche>

<https://www.facebook.com/juventudcofrade.elche/>

https://www.instagram.com/juventudcofrade_elche/?hl=es

5.-The welcome message you received from the Cofrade Youth on 03/27/2021 at the

that they acknowledge receipt of the desire of the complaining party to participate in the gymkhana; you

They inform of their user and the rules of the game. Among them, of this:

"The Gymkhana will be done using QR codes, which you will have to scan to

solve the questions that we have proposed. By scanning the code you will access

a platform where you must enter your username and you will be able to

answer the questions."

6.-Message from the Cofrade Youth of 03/18/2022 in which they welcome you to the

II Gymkhana Cofrade, they inform you of your user (the same as in the first) and of the

Game rules, the same as in the first edition.

7.-Copy of the text of the emails that the claimant claims to have

sent to the JUNTA DE COFRADÍAS and to the Organizing Section. the two writings

They are dated 05/26/2022.

SECOND: 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 the BOARD OF

COFRADÍAS to proceed with its analysis and inform the AEPD within the period of

one month of the actions carried out to adapt to the requirements established in the

data protection regulations.

The transfer, which was carried out electronically in accordance with the rules established in the

Law 39/2015, of October 1, on the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP), was rejected. work in the file the certificate issued by the Support service of the Electronic Notifications and Authorized Electronic Address of the FNMT (in hereafter, FNMT certificate) stating that on 07/27/2022 the provision of the JUNTA DE COFRADÍAS the notification and that the rejection occurred automatic as of 07/08/2022.

The notification to the JUNTA DE COFRADÍAS was reiterated by postal mail in two occasions with unsuccessful result in both cases.

Thus, the document issued by the State Company works in the administrative file Correos y Telégrafos, S.A., "Certification of impossibility of delivery", relating to a shipment sent by the AEPD on 08/16/22, stating that it has been returned to origin due to surplus (not collected at the office) on 08/30/2022, having the following

Associated information: A first delivery attempt was made on 08/18/2022 at

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

4/14

11:14 and a second attempt on 08/22/2022 at 8:12 p.m., both with results absent. Notice was left in the mailbox.

The transfer was reiterated once again by the AEPD by post. The document "Certification of impossibility of delivery" that works in the administrative file certifies that a shipment was made to the claimed party on 09/07/2022 that was returned to origin due to surplus on 09/20/2022. It includes the following associated information: It was made a first delivery attempt on 09/08/2022 at 10:51 a.m., with no result, and

a second attempt, with the same result, on 09/12/2022 at 2:05 a.m. it was left

notice in mailbox

THIRD: On 09/27/2022, in accordance with article 65.5 of the

LOPDGDD, the claim presented by the claimant party was admitted for processing.

The claimant was notified electronically of the admission for processing of their

claim being the date of making available and acceptance of the notification

on 09/29/2022. This is confirmed by the FNMT certificate in the file.

FOURTH: Regarding the various issues raised in the claim document

The complaining party alludes in its claim to some issues that are unrelated to

the functions that the AEPD, as an independent control authority, has

mandated by the GDPR. Issues such as that the JUNTA DE COFRADÍAS not

proceeded to deliver the promised prizes to the participants or winners of the

gymkhanas that were organized during the years 2021 and 2022 and the consequences that

may arise from that breach.

The AEPD is entrusted with supervising the application of the GDPR in order to protect

fundamental rights and freedoms of natural persons with regard to

to the processing of your personal data and to facilitate the free movement of data

personal in the Union. Article 57.1 of the GDPR attributes to it, among others, the function

of "a) control the application of this Regulation and make it apply". and the GDPR

applies (ex article 2) to the processing of personal data, in whole or in part

automated or non-automated content or intended to be included in a file.

Thus, any claim or claim unrelated to the processing of personal data

and to the protection of this fundamental right in the terms provided in

its regulatory regulations exceed the competence attributed to this Agency.

FUNDAMENTALS OF LAW

Yo

Competence

In accordance with the provisions of articles 47, 48.1, 64.2 and 68.1 of the Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of the digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Data Protection Agency.

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

5/14

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

Applicable standards

The GDPR includes in its article 5 the "Principles related to treatment" and among them, Section 1 mentions transparency (article 5.1.a):

"The personal data will be:

to)

b)

treated in a lawful, loyal and transparent manner in relation to the interested party

(<<legality, loyalty and transparency>>)

[...]"

Articles 13 and 14 of the GDPR, a manifestation of the principle of transparency, deal with

on the information that the data controller is obliged to provide to the

interested party whose data is processed and contemplates two hypotheses:

respectively, that the data had been obtained directly from the interested party or not.

Thus, article 13 of the GDPR, "Information that must be provided when the data

personal data are obtained from the interested party", it says:

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

responsible for the treatment, at the time they are obtained, will provide you with

all the information listed below:

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

representative;

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

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

of the treatment;

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

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

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

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

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

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

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

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

to the fact that they have been lent.

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

treatment will provide the interested party, at the time the data is obtained

personal data, the following information necessary to guarantee data processing

fair and transparent

a) the period during which the personal data will be kept or, when it is not possible, the criteria used to determine this term;

b) the existence of the right to request the data controller access to the personal data relating to the interested party, and its rectification or deletion, or the limitation of their treatment, or to oppose the treatment, as well as the right to portability of the data;

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

6/14

c) when the treatment is based on article 6, paragraph 1, letter a), or article 9, paragraph 2, letter a), the existence of the right to withdraw consent in at any time, without affecting the legality of the treatment based on the consent prior to its withdrawal;

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

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

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

3. When the person responsible for the treatment plans the subsequent processing of data personal information for a purpose other than that for which it was collected, will provide the

data subject, prior to said further processing, information about that other purpose

and any additional information relevant under section 2.

4. The provisions of sections 1, 2 and 3 will not be applicable when and in the

to the extent that the interested party already has the information.” (The underlining is ours)

On the alleged infringement of article 13 of the GDPR

II

It is attributed to the JUNTA DE COFRADÍAS, in its capacity as responsible for the

treatment of the data of the complaining party, an alleged infringement of article 13

of the GDPR, a precept that obliges you to provide the interested party at the time of the

collection of your personal data the information in it is detailed.

The claimant acknowledges that he provided the JUNTA DE COFRADÍAS with his name,

surname, date of birth and email address using the

filling in a form in order to be able to participate in the "Gymkhana

Brother".

In view of what was stated by the claimant in her claim document, the

Legal basis for the processing of your data carried out by the JUNTA DE

COFRADÍAS for the aforementioned purpose would be the consent granted by it (article

6.1.a, of the GDPR).

The GDPR requires that all processing of personal data be lawful (article 5.1.a), which

which implies that at least one of the legitimizing circumstances must be present

of the treatment that are listed in article 6.1 of the GDPR, including that of the

section a): "the interested party gave his consent for the processing of his data

for one or more specific purposes".

There is no doubt that, when the claimant completed the form with her data,

he knew that the purpose for which he provided them was to be able to participate in the gymkhana.

In this regard, the claimant has explained that the form was completed at

through Google and, through it, the user of the platform was configured

"KAHOOT", necessary to participate in the game. They work in the file

electronic messages received at your email address (dated 03/27/2021 and

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

7/14

03/18/2022) welcoming you to the gymkhana and informing you of your password and the rules

by which the game was governed.

On the other hand, it is accredited that in the form through which the

The claimant's data included an informative clause whose text is reproduced

fully in the First Fact of this agreement.

Work in the file, provided by the claimant, a link to the forms of

collection of data used by the JUNTA DE COFRADÍAS. The form of the

second gymkhana, held in the year 2022, bears this heading:

"GYMKHANA COGRADE 2021 "GET TO KNOW THE HOLY WEEK IN ILICITANA"

Registration to the II Gymkhana Cofrade organized by the Youth Cofrade de la Junta

Mayor of Brotherhoods and Brotherhoods of Holy Week of Elche." below, in color

red, an asterisk and the indication "Required".

Then there are blank spaces for the name and the two

surname, date of birth and email address. In all of them there is a

asterisk in red. Below is the informative clause on the

treatment of personal data that has been transcribed in the First Fact of this

agreement.

The conclusions obtained after examining the degree of compliance that

is done in the clause inserted in the form of the informative requirements of the

Article 13 of the GDPR are the following:

a) The clause did report:

Yo. the identity and contact details of the data controller (article

13.1.a of the RGP):

"We inform you that your data is being processed by JUNTA

MAJOR OF BROTHERHOODS AND BROTHERHOODS OF HOLY WEEK with NIF

V53110391".

"Major Meeting [...] domiciled at MASAMAGRELL 2, 03203 ELCHE (ALICANTE)".

ii. the purposes of the processing for which the personal data would be used (article 13.1.c, first paragraph of the GDPR)

The informative clause stated: "your data is being processed [...] with the purpose of maintaining and managing commercial and administrative relations."

Article 13.4. of the GDPR provides that the provisions of the sections 1, 2 and 3 "when and to the extent that the interested party already has the information". For this reason, although the informative clause does not expressly mention among the purposes of the treatment to participate in the gymkhana, there is no doubt, according to what declared by the complaining party, that when he provided his personal data he knew that he consented to his treatment for that purpose.

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

8/14

iii. the recipients of the personal data, if applicable, and the intention of the responsible for transferring personal data to a third country or organization

international (article 13.1 GDPR, sections e, and f,):

"International transfers and/or transfers of data are not foreseen"

iv. that the interested parties had the right to request the data controller the access to personal data, its rectification or deletion, or the limitation of its treatment, or to oppose the treatment, as well as the right to the portability of the data (article 13.2.b, of the GDPR):

"To exercise your rights, you can contact the JUNTA MAYOR DE COFRADÍAS Y HOLY WEEK BROTHERHOODS domiciled at MASAMAGRELL 2, 03203 ELCHE (ALICANTE) or by e-mail to secretaria@semanasantaelche.com in order to to exercise your rights of access, rectification, suspension (right to be forgotten), limitation of treatment, portability of your data, opposition and not to be subject to authorized decisions.

v. that the interested party was obliged to provide the personal data and was informed of the possible consequences of not providing such data (article 13.2.e, of the GDPR):

On this point, we reiterate that in the form the fields to be completed with personal data carry a red asterisk that meant that the data was from mandatory completion. And, we must add that, in accordance with article 13.4 of the GDPR, "The provisions of sections 1, 2 and 3 will not be applicable when and in to the extent that the interested party already has the information". It is evident that the The claimed party knew that not providing their personal data through the completion of the form would have the consequence of not being able to participate in the gymkhana.

b) The form did not report these issues:

Yo. of the period of conservation of personal data or of the criteria to determine this term (article 13.2.a, GDPR).

ii. of the legal basis of the treatment (article 13.1.c, second paragraph).

The clause of the form said: "The legal basis of the treatment is compliance of tax, commercial and accounting legislation."

The consent given by the interested party is not mentioned as the basis of the legality of the treatment carried out with the purpose of being able to participate in the gymkhana. No However, it cannot be ignored that the claimant knew that in order to participate in the aforementioned gymkhana, it was necessary to consent to the processing of certain data personal and for that purpose consented to the treatment.

iii. that, since the treatment is based on consent, article 6, paragraph 1, letter a) of the GDPR, as is the case, the interested party had the right to withdraw the consent at any time without affecting the legality of the treatment based on the consent prior to its withdrawal (article 13.2.c, of the GDPR)

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

9/14

iv. of the right to file a claim with a control authority (article 13.2.d, of the GDPR)

In short, the JUNTA DE COFRADÍAS did not inform the interested party, through the data protection clause of the form, of the ends that are mentioned in letters a), c) second paragraph and d) of article 13, paragraph 2, of the GDPR.

The LOPDGDD, with the sole purpose of determining the limitation period that corresponds to each infraction, classifying them as very serious, serious and minor. The infringing conduct that supposes a "substantial violation" of the articles that are mentioned in sections 4 and 5 of article 83 of the GDPR, are considered serious and very serious offences, respectively, and its limitation period is 2

and 3 years. Conduct that constitutes an infringement "of a merely formal nature"

of the articles mentioned in paragraphs 4 and 5 of article 83 of the GDPR, it is

They are considered minor and their prescription period is one year.

In relation to the infringement of article 13 of the GDPR, the LOPDGDD, for the purposes of

determine the limitation period, considers it very serious, for which reason it has established

a limitation period of three years, the conduct described in article 72.1.h): "The

Omission of the duty to inform the affected party about the processing of their data

personal in accordance with the provisions of articles 13 and 14 of Regulation (EU)

2016/679 and 12 of this organic law". Also in connection with article 13 of the GDPR

considered mild, the prescription period being one year (article 74) "the

breach of the principle of transparency of information or the right to

information of the affected party for not providing all the information required by articles 13

and 14 of Regulation (EU) 2016/679". (The underlining is ours)

The JUNTA DE COFRADÍAS, having not informed the interested party at the time of

the collection of your data from all ends required by article 13 of the GDPR,

could have incurred in a violation of this provision.

Classification of the alleged infringement of article 13 of the GDPR attributed to the defendant

IV.

In accordance with the evidence available at this stage of agreement of

start of the disciplinary procedure, and without prejudice to what results from the investigation,

it is estimated that the JUNTA DE COFRADÍAS allegedly violated article

13 of the GDPR for not having informed the complaining party at the time of the

collection of your personal data from the ends referred to in letters a), c)

second paragraph and d) of section 2 of article 13 of the GDPR.

The infringement of article 13 of the GDPR is typified in its article 83.5, which

establishes:

Violations of the following provisions will be penalized in accordance with the section 2, with administrative fines of a maximum of 20,000,000 EUR 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:

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

10/14

[....]

b) the rights of the interested parties in accordance with articles 12 to 22;”

The LOPDGDD, with the sole purpose of determining the limitation period of the infringements of the GDPR, classifies them into very serious, serious and minor and establishes for them, respectively, prescription periods of three, two and one year.

In this case, the violation of article 13 of the GDPR for which the

JUNTA DE COFRADÍAS is considered light from the point of view of classification carried out by the LOPDGDD, so that the limitation period of the presumed infraction is one year. Article 74 of the LOPDGDD provides:

”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:

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

V

Sanction proposal

Article 70 of the LOPDGDD, "Responsible Subjects", says that "They are subject to

Penalty regime established in Regulation (EU) 2016/679 and in this law

Organic: a) Those responsible for the treatments. [...]"

The corrective powers attributed to the AEPD as control authority are detailed in

Article 58.2 of the GDPR, sections a) to j), among which the precept includes

(paragraph i) the power to impose an administrative fine under article 83

of the GDPR.

Without prejudice to what results from the instruction, in the present case it would be appropriate

impose on the JUNTA DE COFRADÍAS for the alleged violation of article 13 of the

GDPR a penalty of administrative fine.

Article 83 of the GDPR, "General conditions for the imposition of fines

administrative", it says in its section 1 that the control authority will guarantee that the

imposition of fines for the infringements of this Regulation indicated in the

sections 4, 5 and 6 comply, in each individual case, with the principles of effectiveness,

proportionality and dissuasiveness.

The principle of proportionality implies a correlation between the offense and the sanction,

with the prohibition of unnecessary or excessive measures, so that it must be

fit to achieve the ends that justify it.

Violation of article 13 of the GDPR for which the party is held responsible

claimed is typified in article 83.5.b) of the GDPR, so it can be

be penalized with a fine of up to a maximum of 20,000,000 euros or, in the case of

of a company, for an amount equivalent to a maximum of 4% of the volume of

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

overall annual total business of the previous financial year, opting for the one with the highest amount.

In this case, in accordance with the principle of proportionality, it is estimated that the amount of the fine that could be imposed on the data controller, the JUNTA DE COFRADÍAS, for the violation of article 13 of the GDPR, is €1,000 (a thousand euros)

Therefore, in accordance with the foregoing, by the Director of the Agency Spanish Data Protection,

HE REMEMBERS:

FIRST: INITIATE SANCTION PROCEDURE against the GOVERNMENT OF BROTHERHOODS AND BROTHERHOODS OF THE HOLY WEEK OF ELCHE, with NIF V53110391, for the alleged violation of article 13 of the GDPR typified in article 83.5.b) of the GDPR.

SECOND: APPOINT instructor to R.R.R. and secretary to S.S.S., indicating that may be challenged, where appropriate, in accordance with the provisions of articles 23 and 24 of Law 40/2015, of October 1, on the Legal Regime of the Public Sector (LRJSP).

THIRD: INCORPORATE into the disciplinary file, for evidentiary purposes, the claim filed by the claimant and its attached documentation, as well as the documents obtained and generated by the Sub-directorate General of Inspection of Data in the actions prior to the start of this sanctioning procedure.

FOURTH: THAT, for the purposes set forth in art. 64.2 b) of the LPACAP, the sanction that could correspond would be an administrative fine for an amount of €1,000 (one thousand euros)

FIFTH: NOTIFY this agreement to the GOVERNMENT OF THE BROTHERHOODS AND BROTHERHOODS OF HOLY WEEK OF ELCHE, with NIF V53110391,

granting him a hearing period of ten business days to formulate the allegations and present the evidence it deems appropriate. In his writing of allegations must provide your NIF and the procedure number that appears in the heading of this document.

If, within the stipulated period, he does not make allegations to this initial agreement, the same may be considered a resolution proposal, as established in article 64.2.f) of the LPACAP.

In accordance with the provisions of article 85 of the LPACAP, you may recognize your responsibility within the period granted for the formulation of allegations to the present initiation agreement, which will entail a reduction of 20% of the sanction that should be imposed in this proceeding. With the application of this reduction, the sanction would be established at €800 (eight hundred euros), resolving the procedure with the imposition of this sanction.

In the same way, you may, at any time prior to the resolution of this procedure, carry out the voluntary payment of the proposed sanction, which

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

12/14

will mean a reduction of 20% of its amount. With the application of this reduction, the sanction would be established at €800 (eight hundred euros) and its payment will imply the termination of the procedure, without prejudice to the imposition of the measures corresponding.

The reduction for the voluntary payment of the penalty is cumulative to the corresponding apply for acknowledgment of responsibility, provided that this acknowledgment

of the responsibility is revealed within the period granted to formulate allegations at the opening of the procedure. Voluntary payment of the referred amount in the previous paragraph may be done at any time prior to the resolution. In this case, if both reductions were to be applied, the amount of the penalty would remain set at €600 (six hundred euros).

In any case, the effectiveness of any of the two aforementioned reductions will be conditioned to the withdrawal or resignation of any action or appeal via administrative against the sanction.

In the event that you choose to proceed with the voluntary payment of any of the amounts indicated above (€600 or €800), you must make it effective by depositing in an account IBAN number: ES00-0000-0000-0000-0000-0000 opened in the name of the Spanish Data Protection Agency at the bank CAIXABANK, S.A., indicating in the concept the reference number of the procedure that appears in the heading of this document and the reason for reducing the amount to which welcomes.

Likewise, you must send proof of income to the General Subdirectorate of Inspection to continue with the procedure in accordance with the quantity entered.

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; in accordance with the provisions of article 64 of the LOPDGDD.

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

Mar Spain Marti

Director of the Spanish Data Protection Agency

>>

935-170223

SECOND: On April 12, 2023, the claimed party has proceeded to pay the penalty in the amount of 600 euros making use of the two reductions provided in the Commencement Agreement transcribed above, which implies recognition of the responsibility.

THIRD: The payment made, within the period granted to formulate allegations to the opening of the procedure, entails the waiver of any action or appeal via against the sanction and acknowledgment of responsibility in relation to www.aepd.es

C / Jorge Juan, 6

28001 – Madrid

sedeagpd.gob.es

13/14

the facts referred to in the Commencement Agreement.

FUNDAMENTALS OF LAW

Yo

Competence

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, 48.1, 64.2 and 68.1 of the Organic Law 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 Protection Agency of data.

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

Termination of the procedure

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

Common for Public Administrations (hereinafter, LPACAP), under the heading

"Termination in disciplinary proceedings" provides the following:

"1. Initiated a disciplinary procedure, if the offender acknowledges his responsibility,

The procedure may be resolved with the imposition of the appropriate sanction.

2. When the sanction has only a pecuniary nature or it is possible to impose a

pecuniary sanction and another of a non-pecuniary nature but the

inadmissibility of the second, the voluntary payment by the presumed perpetrator, in

any moment 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 offence.

3. In both cases, when the sanction is solely pecuniary in nature, the

The competent body to resolve the procedure will apply reductions of at least

20% of the amount of the proposed penalty, these being cumulative among themselves.

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 resource against the sanction.

The percentage reduction provided for in this section may be increased

according to regulations."

According to what has been stated,

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

14/14

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: DECLARE the termination of procedure EXP202208281, in

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

SECOND: NOTIFY this resolution to the GOVERNMENT OF THE COFRADIES AND
BROTHERHOODS OF THE HOLY WEEK OF ELCHE.

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 as prescribed by

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

Common of Public Administrations, interested parties may file an appeal

administrative litigation before the Administrative Litigation 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.

Mar Spain Marti

Director of the Spanish Data Protection Agency

936-040822

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es