

□ File No.: PS/00109/2021

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### BACKGROUND

FIRST: On February 20, 2020, an ANONYMOUS claim was received that was directs against the MINISTRY OF EDUCATION, CULTURE AND SPORTS-GENERALITY VALENCIANA with CIF S4611001A (hereinafter, the claimed one). The reasons on which the claim are that in the development of the implementation of Law 4/2018, of February 21, of the Generalitat, which regulates and promotes multilingualism in the education system Valencian, educational centers are being asked to fill out a form with Nominative data on teachers and students to find out how many speak Valencian and how many Spanish, in different areas of life, and reasons why they do not speak Valencian in different fields.

SECOND: On March 30, 2020, the Director of the Spanish Agency for Data Protection agrees to initiate investigative actions in relation to MINISTRY OF EDUCATION, CULTURE AND SPORTS OF THE VALENCIAN COMMUNITY with

In order to prove the claimed facts and if they violate data protection regulations:

On June 3, 2020, the respondent received the request from the AEPD "relating to a Complaint about inspections of linguistic customs of students, families and teachers in educational centers", requesting that they report:

- "Procedure for obtaining linguistic data and its subsequent processing.
- Inform if personal data is collected, and where appropriate, personal data collected, finalized treatment and information provided to teachers, students and holders of parental authority tad or guardianship

-Copy of the forms to be completed by educational centers.

- In the event that personal data is collected and inspection actions have been commissioned to an entity outside that Ministry, provide a copy of the service contract.”

According to the report of previous actions, dated June 23, 2020, a

“Writ of allegations stating that the action claimed is carried out in compliance with the

Law 4/2018, of February 21, of the Generalitat, which regulates and promotes the

multilingualism in the Valencian educational system, which foresees that the educational centers of second-cycle infant education and primary education, sustained with public funds,

have to elaborate and have authorized a Center Linguistic Project (hereinafter, PLC).

The forms offered for this are optional and are intended to facilitate the analysis that

the centers must carry out on the sociolinguistic situation of their educational community,

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basically the one referring to the families of the students and the teaching staff. In any case, each

The center can use the most appropriate instruments or procedures to collect this information.

information.”

They add that “the personal data collected in these forms, name and surname of the

minor are intended to avoid duplication in conducting the surveys. These data

are not subject to any subsequent treatment, since these questionnaires only

extract, anonymously, the number and percentage of knowledge of languages with character

global. These data collection forms are destroyed by each center.”

“In any case, they indicate that given the low probability of duplication of questionnaires (since

that it is the teaching staff that controls its completion) and the proportionality between the

purpose of these questionnaires and the personal data that are collected, they consider unnecessary continue collecting this personal data for which they have proceeded to modify the model of form by eliminating the fields of name and surname of the student and, at the same time, it has been incorporated an informative legend of the anonymous nature of the data that is collected, as well as as well as the purpose of this questionnaire and its voluntary nature.”

And attached to this letter:

- “Original questionnaire model
- Modified questionnaire model”

THIRD: On 03/31/2021, the Director of the AEPD agreed:

“INITIATE PUNISHMENT PROCEDURE to MINISTRY OF EDUCATION, CULTURE AND SPORT GENERALIDAD VALENCIANA, with CIF S4611001A, for the alleged infringement of articles 5.1 c) and 13 of the RGPD, in accordance with articles 83.5 a) and b) of the RGPD, in accordance with article 72.1 a) and h) of the LOPDGDD.

For the purposes specified in the art. 64.2 b) of Law 39/2015, of October 1, of the Common Administrative Procedure of the Public Administrations, the sanction that could to reciprocate would be a warning.”

FOURTH: Against the agreement, allegations were received on 04/19/2021 in which it states

1) State and regional regulations enable and legitimize the treatment of personal data not in an abstract way, but with a specific purpose, as is the case that concerns us, the preparation by each educational center supported with public funds of a Multilingual and Intercultural Education Program (PEP), which will be prepared in accordance with the needs of the socio-educational and demolingistic context of the center. To be able to exercise the educational functions correctly, the completion of a series of data is requested that They are not excessive at all, since they are necessary for the correct exercise of the function education, preparing a technical document necessary for the organization and operation from the center. And although it has not been questioned at any time, it should be noted that the

Obtaining data on linguistic uses in no case is due to reasons

ideological or involve unfavorable or discriminatory measures towards students who

state that they use one language more than another.

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2) Regarding the alleged infringement of article 13 of the RGPD (duty to inform that duty

be provided when the personal data is obtained from the interested party), at the time of

student enrollment, in any cycle of non-university education, is informed of the

treatment of your personal data, reason why it is not considered that the

duty to report. However, in those actions of the Department that may

entail obtaining personal data, an informative clause will be implemented on the

processing of personal data, with a link to the corresponding activity records of

treatment.

3) The questionnaires do not ask in any case for the reasons why they did not

he speaks Valencian, and they only refer to the students.

4) In the surveys, a series of questions are asked about the level of knowledge of

each of the three languages of the people who are part of the closest family environment

narrow and close to the students, as well as the customs of using the languages of the

own students, with a view to being able to know the level of linguistic competence of the students,

level of knowledge that will ultimately influence the content of the PYP of each center (which

In accordance with article 6 of Law 4/2018, it will be prepared in accordance with the needs of the

socio-educational and demolinguistic context of the Center and with the aim of guaranteeing the achievement of

the multilingual and intercultural competences set forth in the Law.

5) About the content of what is asked and its proportionality, knowing the place of origin of parents or the language of interaction with the people with whom they are most related the student is not disproportionate, because it helps to know the sociolinguistic reality of students and families, necessary to determine the measures and decisions to guarantee the achievement of the objectives established by law.

6) The adaptation of the model of the form without name and surnames took into account the low risk that it is considered duplicity of the questionnaires, being supervised by the teachers their completion, "so that said information could be dispensed with".

FIFTH: On 10/18/2021, a resolution proposal is issued with the following literal

"That by the Director of the Spanish Agency for Data Protection is sanctioned with warning to the MINISTRY OF EDUCATION, CULTURE AND SPORTS-GENERALITY VALENCIANA, with CIF S4611001A, for the infractions of the RGPD of its articles:

- 5.1.c) of the RGPD, in accordance with article 83.5.a) and 72.1.a) of the LPDGDD.

-13 of the RGPD, in accordance with article 83.5.b), and 72.1.b) of the LOPDGDD. "

On 11/2/2021, allegations are received, stating:

"The need for educational centers supported by public funds to have a

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multilingual and intercultural education program, in which the linguistic project is inserted center (PLC), for whose preparation a series of surveys were carried out by some educational centers.

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- "Although the initial forms through which a series of data were collected

personal data, and which were later modified in view of the initial communication from the AEPD, were suitable, nor did they collect excessive information that justifies the commission of a infringement". In other words, the assessment of the control authority was assessed and considered correct, at which time the forms were modified and became anonymous. But the verification of the inappropriateness of the forms and subsequent reformulation of the same, not implies that the initial forms necessarily violated the provisions of article 5.1

c) of the RGPD. It is true that certain personal data was collected, although they are not affected the strictest privacy of the respondents, and in no case was it data specially protected, basically referring to linguistic customs, needed to build the PLC. In other words, although the initial preparation of the forms was Frankly improvable, this does not mean that it violated the regulations, as it continues considering from this educational administration. There is always room for improvement processes and forms used, and the fact that measures are implemented that contribute to a better adaptation to the regulations, it does not necessarily imply that the previous way of proceeding is necessarily incorrect, although it can be improved."

-“You have to analyze the circumstances of the specific case. Thus, article 72 of the LOPDGDD, by classify very serious infractions, makes a direct reference to article 83 of the RGPD, which establishes that the administrative fines will be effective in each individual case, proportionate and dissuasive, to point out below that for the imposition of a fine In each individual case, the following will be duly taken into account: a) Nature, gravity and duration of the infraction: The facts are not serious, since they have not been collected excessive data, nor has there been subsequent use of the same in an incorrect way or fraudulent, or unauthorized transfer to third parties. And the data has been processed only by official staff of the center, strict scope outside of which there has been no further treatment of data. b) Intentionality or negligence. It has acted at all times in the conviction that the data is necessary to be able to correctly develop the

educational function, without any other intention or different consideration. c) Measures taken to mitigate damages: There has been no damage suffered by the students as consequence of obtaining data through surveys, the content of which has been treated exclusively by official staff of the center. e) There is no repetition in the commission of infractions of the same nature as those attributed to the Ministry. f) Degree of cooperation: Following the indications or guidelines of the AEPD, we proceeded to anonymize the survey model, thus understanding that it is more scrupulous in complying with the regulations, not for understanding that it had acted incorrectly. g) The categories of Affected data: These are identification data and social circumstances, without no reference is made to special categories of data or to situations of special vulnerability."

-“The information for students has not been provided optimally, although it is considered that yes, the minimum requirements set out in article 13 of the RGPD have been met, when informing in the time of student enrollment. However, it has been found as a result of initial requirement formulated by the AEPD the margin for improvement in terms of information facilitated to the interested parties, and multiple forms are being adapted, telematic and in paper format, to more rigorously comply with the duty to inform. Therefore, although the duty of information has not been fulfilled in the best possible way, this does not imply that it has been omitted

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in its most basic aspects, which implies that there has been no infringement of the provided in article 13 of the RGPD.”

-Requests to file the proceedings, considering that although no action has been taken in the

most suitable way, this has not entailed the violation of the alleged regulations, and assessing also the diligence in the actions of the Ministry, the lack of intentionality, the null diffusion of data nor illegitimate use of the same, the easy identification of the students in exercise of the educational function, as well as the reduced scope in which the activities have been carried out. actions presumably constituting infringement.

## PROVEN FACTS

FIRST: The claimed party has established by Law 4/2018, of 02/21, of the Generalitat, by the which regulates and promotes multilingualism in the Valencian educational system, within its programming the need to develop by each educational center supported with public funds for second-cycle early childhood education (3 to 6 years of age) and education primary (beginning at 6 years of age), a Center Linguistic Project (PLC). For the preparation of the PLC will take into account aspects of the center: socio-educational context and demolinguistic, trying to obtain a global knowledge in the center of the percentages of Knowledge of language referred to families and students.

SECOND: The respondent carries out an analysis of the sociolinguistic situation of her educational community, referring to students, their families and environment by carrying out surveys to the students, making available for this purpose for the educational centers that they carry out, some forms, which can be obtained online, and that the teachers carry out with students to obtain information regarding the sociolinguistic context of the student and their environment.

THIRD: The form is called "sociolinguistic situation. Linguistic survey of use of languages" and must be filled in by hand: course, name and surnames, course to which incorporates.

The following sections follow:

-Environment closest to the student: family origin:

To answer "place of origin of the mother or guardian", "place where he currently lives",



"since when". In the same sense for the father.

-Knowledge of Valencian, is divided into columns to answer about "the father/guardian", the "mother/guardian" and the option of "other people, grandparents, caregiver, new partner of one of the fathers". For each one, there is the option of "can write", "can speak", "speaks it", "does understand", "do not understand". The same for the "knowledge of Spanish" section, and "knowledge of English".

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-People with whom the student usually relates in Valencian, with two

Answers: with whom you have a direct and frequent relationship or with whom you have a sporadic not so frequent.

-Language of family relationship, with "a family" or with "another family, if applicable", apart from response Valencian, Spanish, both, or "other specify"

-Finally, three questions: Watch programs, movies in Valencian, listen to the radio in Valencian, second: it has books, music in Valencian and third, what language does it use in the activities outside the center.

FOURTH: The form lacks any information about data processing, purpose, transparency or rights to exercise.

FIFTH: The respondent indicates that the data collected in the forms is extracted results on the number and percentage of knowledge of languages globally, "of anonymously" and that are destroyed by each center. The defendant stated, after receiving the initial agreement, that the constancy of the name and surnames in the questionnaires considers it "unnecessary", and has modified the form model that it makes available online to

schools.

SIXTH: The respondent indicated that the proof of name and surnames in the questionnaire was done to avoid "the risk of duplication of the questionnaires". After the modification of the forms in which the name and surname data no longer appear, the respondent indicates that as of now filling it in is voluntary on the part of the students.

## FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of the RGPD recognizes to each control authority, and as established in arts. 47 and 48.1 of the LOPDGDD, the Director of the Agency

Spanish Data Protection is competent to resolve this procedure.

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II

The Organic Law 2/2006, of 3/05, on Education, establishes in the first epigraph of its twenty-third additional provision that "teaching centers may collect data of their students that are necessary for the exercise of their educational function.

Said data may refer to the origin and family and social environment, to characteristics or personal conditions, the development and results of their schooling, as well as those other circumstances knowledge of which is necessary for the education and guidance of students".

Law 4/2018, of 02/21, of the Generalitat, which regulates and promotes multilingualism in the Valencian educational system, aims to regulate the teaching and vehicular use of the curricular languages, ensure mastery of multilingual and intercultural skills of the

Valencian students and promote the presence in the educational itinerary of languages not existing curricula in schools. Its article 6 prescribes that "1. All the educational centers sustained with public funds from the Valencian educational system will apply the PLURILINGUAL AND INTERCULTURAL EDUCATION PROGRAM 2. The Program of multilingual and intercultural education will be developed according to the needs of the context socio-educational and demolinguistic of the center and with the aim of guaranteeing the achievement of the multilingual and intercultural competencies established in this Law."

The center's linguistic project, PLC, specifies in each educational center the organization of the teaching and vehicular use of languages, the normalization of Valencian and the promotion of multilingualism, taking into account the characteristics of the center and the context where it is locates and articulates and specifies the application of the Multilingual Education Program.

For the elaboration of this PLC, the centers have to start from the analysis of the situation sociolinguistics of their educational community, basically that referring to the families of the students and teachers. The defendant creates a form for this purpose that can be obtained on their website for schools to use as a model. The form must be filled in hand, and in this case it is done in class before the teacher who supervises it in order, among other that there are no duplications of forms filled out by the same student, being also

This is an alleged reason for filling in the identifying data argued by the claimed. As for this argument, it lacks justification if it is made in class precisely, given that each student who fills it out will only have distributed one, and only will present one, and at the same time, there may be other means so that this does not occur. alleged duplicity that do not relate to the duplicity.

The purpose of these questionnaires is to know in a global way, accumulate, in the center the percentages of language knowledge of minors and, therefore, their specific reality sociolinguistics, it is not an individualized instrument but it is data that is collected to plan and know the whole, which means that it is not necessary to know personal data,

as it is proven that when the global data is collected, the identification questionnaires are destroy.

It is, therefore, a pedagogical instrument that is carried out exclusively from each center educational and with the specific purpose of knowing, from the linguistic point of view, what is its

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sociolinguistic reality. The need to collect data and analyze it is not disputed, but to

This does not require the correlation of the student with the questionnaire.

III

The defendant is charged with the infringement of article 5.1.c) of the RGPD, which indicates:

“Personal data will be:

c) adequate, pertinent and limited to what is necessary in relation to the purposes for which are processed ("data minimization");

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Regarding the principle of the need to process personal data, it can be said that

any data processing implies per se and from the start, the restriction of the right

fundamental, when collecting and disposing of them by the person in charge.

personal. According to jurisprudence, due to the impact that the processing of personal data

supposes for a series of fundamental rights, the limitation of the fundamental right to

protection of personal data must be strictly necessary. This implies that if the achievement of the intended purposes can be done without processing personal data, it will be. This route is preferable and will mean that it is not necessary to carry out any data processing, which will mean that such a right, with the limitations that it entails, would not be in contention as there was no data. The collection, storage and use constitute per se a limitation of the right of data protection that must comply with the regulations. This requires first of all analyzing and ensure that the collection of data is necessary for the established or intended purpose and that is proportional. This need must be justified in the documentation of compliance that the person in charge must have in accordance with article 5.2. of the GDPR. The necessity must deal with whether personal data is processed on the basis of evidence objectively, according to the purposes it must determine, if these data are inescapably required data or if the purpose can be fulfilled without processing that personal data. In the present. In this case, the Law provides for the preparation of a language plan for which no any individualization, knowing the global state of the sociolinguistic situation, being the survey the result of the sum of the students, without reference or need of individualization in the surveys.

The achievement of the legitimate objective pursued does not offer more advantages if data is used personal that if they are not used, and the treatment of data implies risks with the themselves, and ultimately an unjustified intrusion compared to the other option. The proof of necessity of the treatment for any limitation of the exercise of rights to the protection of personal data must be strict, and they must be treated only in the strictly necessary cases, since in principle, any treatment operation of data (such as the collection, storage, use, disclosure of data) established by the legislation limits the right to the protection of personal data, regardless of whether that limitation may be justified.

The infraction occurs not because excessive information was collected, but because the excessive is itself

the processing of personal data, the use of names and surnames in the questionnaires that he has carried out, as he acknowledges, since not being precise or necessary for the established purpose, its inclusion and treatment violates the aforementioned principle. If the purpose is can get as it seems, since the measures to anonymize the forms continues fulfilling the purposes of the questionnaires, and without specifying the data, it would not have been necessary to identifying verification of what is answered with the personal data. By doing so, it restrict fundamental rights not being necessary. Before using personal data, it is must assess the purpose of the treatment within the norm that establishes it and document because or because the personal data will be specified, in this case of minors, to purposes that are not considered administrative, such as the formalization of the registration, a list of attendance or qualifications, for the specific purpose of the data and information that is collected

It is thus accredited that the use of nominative forms does not fulfill the purpose of processing data in accordance with the principle of article 5.1.c) of the RGPD, since it is not relevant and excessive identification of each person who completes it.

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IV

Regarding the information duties of the data collection, purpose, exercise of rights, chos, absent in the model of the form offered, supposes a violation of article 13 of the RGPD on the information that must be provided to the interested party at the time of collection of your data, establishing the following:

1. When personal data relating to him is obtained from an interested party, the person in charge

of the treatment, at the moment in which these are obtained, will provide you with all the indi-

each below:

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

tant;

b) the contact details of the data protection delegate, if any;

c) the purposes of the treatment to which the personal data is destined and the legal basis of the treatment.

treatment;

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

case;

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

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

following information necessary to ensure fair and transparent data processing:

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

ble, the criteria used to determine this term;

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

personal data related to the interested party, and its rectification or deletion, or the limitation of

its treatment, or to oppose the treatment, as well as the right to the portability of the data.

data;

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

e) if the communication of personal data is a legal or contractual requirement, or a requirement

site necessary to sign a contract, and if the interested party is obliged to provide the

personal data and is informed of the possible consequences of not providing such

the data;

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

referred to in article 22, sections 1 and 4, and, at least in such cases, significant information

about applied logic, as well as the importance and anticipated consequences of di-

Cho treatment for the interested party.

3. When the data controller plans the further processing of personal data

data for a purpose other than that for which they were collected, will provide the interested party, prior to such further processing, information about that other purpose and any information relevant additional information pursuant to paragraph 2.

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

The respondent considers the obligation fulfilled when the registration was made, at the beginning of the course. so, at which time the data processing that includes the entire educational stage is reported.

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tive and for the purpose of providing the public service of education. Refers to the type clause that refers to purposes that do not correspond to that of the form: “student admission”

Within the education service there are different modalities, and in the case of minors age, the information on the data that is collected and the purpose becomes more important, especially when they are questionnaires, without prejudice to the information to the parents of said collection pre-ready to be carried out.

The defendant's thesis of compliance with the duty to inform is not specific, since when where the data is collected is when according to the purposes for which the data is to be reported. Nope This allegation, which supposes the use of specific information at a given moment, can be accepted. specifically to cover all the data collection of the period, nor would it serve as such information. Likewise, the purposes of “public service of education” are very generic. cas, and the specific use to be made of the data must be specified.



It is considered that the infringement of the aforementioned article 13 of the RGPD is accredited, considering that if in the future it will not collect data that makes it identifiable or identifies the student, nor is there way of relating their responses to their identity, it makes no sense to implement clauses information on data protection.

On the imposition of another measure less serious than the sanction, of warning, not economic mica that is imposed, and the manifestations of the use of the data, evaluating the circumstances that may concur in the infraction, it must be indicated that the infraction occurs and the concurrence rrence of data processing by officials, or that there was no intentionality, etc., does not su- they put any reduction of the illegality, which concurs, adding that two in- fractions. Added not only is the use of irrelevant data, but also the lack of information mation, as a guarantee that their treatment implies.

Article 83.5 of the RGPD indicates:

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

the basic principles for treatment, including the conditions for consent

a)

lien pursuant to articles 5, 6, 7 and 9;

b)

the rights of the interested parties under articles 12 to 22;"

Article 58.2 of the RGPD provides: "Each control authority will have all the following corrective powers indicated below:

b) send a warning to any person responsible or in charge of the treatment when the treatment operations have violated the provisions of this Regulation;

d) order the person in charge or in charge of the treatment that the treatment operations comply with the provisions of this Regulation, where appropriate, of a given in a manner and within a specified period;"

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Applicable to both offenses, in this case because the alleged offender is an organ of a

Autonomous Community, article 83.7 of the RGPD indicates:

"Without prejudice to the corrective powers of the supervisory authorities under article 58, paragraph 2, each Member State may lay down rules on whether and in what measure, impose administrative fines on authorities and public bodies established in that Member State"

The Spanish legal system has chosen not to fine entities

public, as indicated in article 77.1. c) and 2. 4. 5. and 6. of the LOPDDGG: "1. The regime established in this article will be applicable to the treatments that are responsible or in charge:

c) The General Administration of the State, the Administrations of the communities autonomous and the entities that make up the Local Administration.

2. When those responsible or in charge listed in section 1 commit any of the infractions referred to in articles 72 to 74 of this organic law, the authority of data protection that is competent will issue a resolution sanctioning them with warning. The resolution will also establish the measures to be adopted to that the conduct ceases or the effects of the infraction that had been committed be corrected.

The resolution will be notified to the person in charge or in charge of the treatment, to the body of which

depends hierarchically, where appropriate, and those affected who had the status of interested, if any.

4. The data protection authority must be notified of the resolutions that fall in relation to the measures and actions referred to in the preceding sections.

5. They will be communicated to the Ombudsman or, where appropriate, to the analogous institutions of the autonomous communities the actions carried out and the resolutions issued under the this article.

6. When the competent authority is the Spanish Agency for Data Protection, this will publish on its website with due separation the resolutions referring to the entities of section 1 of this article, with express indication of the identity of the person in charge or in charge of the treatment that had committed the infraction.”

SAW

Article 72 of the LOPDGDD states:

"1. Based on the provisions of article 83.5 of Regulation (EU) 2016/679, considered very serious and will prescribe after three years the infractions that suppose a substantial violation of the articles mentioned therein and, in particular, the following:

a) The processing of personal data violating the principles and guarantees established in the Article 5 of Regulation (EU) 2016/679.

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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.”

Therefore, in accordance with the applicable legislation,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ADDRESS THE DEPARTMENT OF EDUCATION, CULTURE AND SPORTS-

GENERALIDAD VALENCIANA, with CIF S4611001A, for an infraction of article 5.1.c) of the

RGPD and article 13 of the RGPD, in accordance with articles 83.5 a) and b), typified to

effects of prescription in the LOPDGDD, articles 72.1 a) and h) of the RGPD, a sanction of

warning, as stated in article 58.2.b) of the RGPD.

SECOND: NOTIFY this resolution to the DEPARTMENT OF EDUCATION,

CULTURE AND SPORTS - VALENCIAN GENERALITY

THIRD:

in accordance with the provisions of article 77.5 of the LOPDGDD.

COMMUNICATE this resolution to the OMBUDSMAN, of

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

will make it 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 Agency

Spanish Data Protection Authority within a month from the day following the

notification of this resolution or directly contentious-administrative appeal before the Chamber

of the Contentious-administrative of the National High Court, in accordance with the provisions of the

article 25 and in section 5 of the fourth additional provision of Law 29/1998, of 13

July, regulatory of the Contentious-administrative Jurisdiction, in the term of two months to

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

of the aforementioned Law.

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

provisionally suspend the firm resolution in administrative proceedings if the interested party expresses his/her

intention to file a contentious-administrative appeal. If this is the case, the interested party must formally communicate this fact in writing addressed to the Spanish Agency for Data Protection, presenting it through 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 will also need to transfer the Agency the documentation that proves 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 terminate the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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