

□ File No.: PS/00485/2021

## RESOLUTION OF SANCTIONING PROCEDURE

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

### BACKGROUND

FIRST: A.A.A., (hereinafter, the claimant) on their own behalf and on behalf of four other persons who listed in ANNEX 1 as claimants 1 to 4, on 07/24/2020, filed a claim with the Spanish Data Protection Agency. The claim is directed against the ASSOCIATION FOR THE PREVENTION AND STUDY OF COMPUTER CRIME, ABUSE AND NEGLIGENCE AND ADVANCED COMMUNICATIONS (APEDANICA), with NIF G80593254 (hereinafter the claimed) of which it is \*\*\*POSITION.1 D. B.B.B. onwards, (...).

The defendant asked the AEPD for access to all the claims processed on behalf of the trademark "TEBORRAMOS", (hereinafter T.B.), owned by LEGAL ERASER SL, (L.E. hereinafter), dedicated to the Internet data deletion service. That document request The items were exposed in a URL (document 1: \*\*\*URL.1), which also expanded information tion containing additional personal data to the strict request, citing two administrators from L.E. (Claimants 1 and 3), of Claimant and Claimant 2, attorneys associated with T.B.

In the copy provided - document 1 - it is read in the address \*\*\*URL.1 that the practices of T.B. are coercive, hostile, and that the business violates the fundamental right of the arts. 20, 105 and 120 of the Spanish Constitution (CE), indicating: "at least in a news case", which is of claimant 4 whom he cites by name and surname "that his (...) acknowledges that he was sentenced in a final sentence, at least for crime (...), as has already been truthfully published". TB "pretend- to censor said information" "despite the numerous resolutions of the AEPD".

Claimant points out that this judicial sentence of the year 20XX of claimant 4, has already been fulfilled "a years".

Complainant 2, in addition, \*\*\*POSITION.2, a collaborator of T.B., exercised the right to suppress

claimant data 4, via email

sent to claimed, envelope

Some publications on the website of the defendant and her \*\*\*POINT.1. Shows you the links

in which they are displayed (\*\*\*URL.2 and \*\*\*URL.3). Provide document 2, with a copy of the email and

with an attached letter in which, in addition to stating that the facts for which he was sentenced

are of 20XX, the sentence of 20XX, after he has been appointed in BOE in new destinations or

positions, in 2009, 2015 and 2018, and that disseminates the email address of the claimant 4.

from 01/17/XXXX

"Dated 02/1/2020, an email is received from B.B.B. in which it is ratified in its

publications made on" claimant 4, which is provided as document 4 (81/679) and which

contains a reference to the reasons that it considers concur to maintain the data and the

information, mentioning and identifying the claimant 4. It is also indicated (82/679) that "it may

you can be sure that I will also publish whatever you or your

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company or its client, without deleting anything, not even their card and the ID of their client if they are in the

That they send me. I will also publish any judicial or administrative file or action of

any administrative or judicial authority that admits any of their claims,

reserving any other action that may correspond to me, which I communicate to you for your

knowledge and effects" in the link \*\*\*URL.4, stating the claimant that their

request sent for the right of deletion, dated 01/17/2020, as well as the response.

The claimant states that claimant 2 filed a lawsuit on 02/10/2020 against

B.B.B. on protection of the right to honor, privacy and own image, falling to the Court of

First Instance (...), procedure XXX/2020 and provides a copy of it in document 6.

He continues explaining in the claim that "Since then they have dedicated themselves to creating new links on its web portal that disseminates them through the media with which it collaborates as "(...)" and "(...)" with the intention of damaging the image of TB, his lawyer partners and collaborators with these almost daily publications, the defendant distributed throughout the internet not only his name and surnames but that of the client of T.B.", claimant 4 "and the rest of his partners and former partners of the mercantile, attacking the privacy, honor and self-image of all of them as their data is easily accessible when making queries with your data in any of the search engines in Internet"

"He is currently responsible for the creation and direct and indirect dissemination of up to 58 links with offensive and insulting posts." Indicates the 58 links, all pdf documents, and the claimants appearing in each of them. The full content is collected in document 7 (beginning page 101). The URLs that locate the files you mention are domain \*\*\*DOMAIN.1, \*\*\*DOMAIN.2, (...). Each URL contains the writings in which the information appearing in most of them the names and surnames of the claimants.

SECOND: From the content of the 58 links referred to in the claim, the accompanying printing result of clicking on that link, with documents or packages of documents that supposedly they are contained in the respective pdf. The documents often contain accounts of briefs presented in different instances, Prosecutor's Office, Courts, Bar Association. These results that are provided printed under each URL are from the link, on the date of presentation of complaint, to which the link is associated. However, it is appreciated that the content of these URLs can have changed if they are typed in the Google search engine today, it may, for example, not figure already. It is also appreciated that there are documents that are exposed in more than one link of the 58, and that within the same pdf page, almost none have an exhibition date or time reference by which it is possible to know its chronology.

In general, in the links that it provides, as well as the documentation that appears in each one (start folio 108) including the writings, are the data of claimant 2 and claimant, as Lawyers, for criticize the activity of T.B. supporting on many occasions the reference with the claim citation mante 4, natural person, as a client and mentioning his criminal conviction data, and to a lesser extent measure of use, those of claimant 1 and 3 as Administrators of T.B.

As an example:

1. \*\*\*URL.5

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It begins on folio 108 of the claim, clicking on the link leads to a published brief of 22 folios. The first one that appears is written to the Prosecutor's Office (no date is seen). The letter contains the reference that the Prosecutor's Office has received the complaint "for alleged procedural fraud that we attach here", and mentions the data of the name and surname of the claimant 4 who was convicted by final judgment I "(...)" .

Page 2 of the 22, another letter to the Prosecutor's Office, attaching the access link of \*\*\*URL.6. The writing qualifies as procedural fraud the lawsuit filed in the Investigating Court (...), mentions the lawyers, claimant and claimant 2 in relation to that they operate for the T.B. brand, that "fraud- slowly pretend to provide a service to a public official", providing the data of claimant 4 as support to state that the fraudulent claim is part of a business perverse with signs of organized crime. Mention claimant 4 again and claimant keep 1 and 3 as administrators of L.E. The writing, like almost all writings, indicates another url different in which the same publication can be found.

Also, in the package of 22 pages, there is, from page 7, a letter containing the complaint that

B.B.B. filed in the Valencia Bar Association against the aforementioned lawyers, indi-

As is usually pointed out in all writings, that the same writing appears published in another referenced url, and citing again the claimant is cited 4.

### 3. \*\*\*URL.7

It covers a package of documents addressed to different entities, pages 154 to 180/679. start with brief addressed to the Special Prosecutor's Office against corruption and organized crime, containing the information that he has filed a claim for procedural fraud against one (...) to whom he does not identifies but "for providing his services to" claimant 4, which he identifies, indicating that he was sentenced swum for crimes (...), does not indicate the year. Other writings addressed to different agencies of the Administration of Justice requesting different questions in which it mentions claimant 4 and his conviction in reference to using the services of L.E. It also alludes to the claimant, and to the claimant. mante 2 alluding to the admission of the lawsuit filed by the latter and the rest of the claims as administrators of LE, to the Valencia Bar Association of the deontology against claimant and claimant 2 in relation to their participation in L.E., returning to mention- notify the claimant 4 , and his conviction that he contracted his services. There is also a copy of the petition of files resolved by the AEPD on L.E. in which it also contains the data of claimant 4 as a client of this entity, and his conviction. Follow in each writing indexing a Different URL in which each writing or aspect or part that reflects in the writing appears, so that the same writing can contain multiple URLs.

### 4. \*\*\*URL.8

Folio 181. Clicking leads to a 23-page pdf. In the first is the petition to the Hearing Provincial that judged claimant 4 to send him the copy of the judgment and enter the name and last names of the same in relation to T.B. and that they may "have allegedly illegal agreements cough", and includes a 23-page pdf written criminal and deontological complaint that he has sent to the Prosecutor's Office.

Page 2, addressed to the Public Prosecutor's Office of the TSJ of Catalonia, containing the data of claimant 4, the

of their lawyers, and administrators, requests everything that can be known by any Prosecutor

Claimant's line 4 in relation to the Prosecutors who acted and to investigate those that he maintains

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with LE and with those who act under its brand "due to alleged crimes related to the rupture".

8.\*\*\*URL.9

Folio 244 and following of the claim. This is legal documentation relating to the claim

petition that claimant 2, represented by claimant, filed with B.B.B., which was being processed in the

Court of First Instance (...). Specifically, a summons to B.B.B. signed on

XX/XX/2020, and a Decree of the same date, in which it admits the claim and summons the party

defendant with transfer of the ordinary trial demand, on protection of the right to honor, to

privacy and the image itself to answer. The lawsuit is signed dated 02/04/2020.

In the demand that is provided, you can see the data of claimant 2, his ID number and his address

individual, represented by claimant. It can also be seen that, at the bottom of the signed demand,

digitally by claimant, the DNI that appears in said signature is clearly visible. Likewise, it

they had in the demand reference to the data of claimant 4 as a client of T.B. regarding

the two links over which he exercised his guardianship. In none of these documents is a link printed

referenced from B.B.B. or some mark that undoubtedly relates the origin of the page

as assigned to the address marked by the link.

9. [http://\\*\\*\\*URL.4](http://***URL.4)

Pages 263 and following.

It contains a copy of the email in response to the exercise of the right to suppress re-

clamoring 4 that B.B.B. send to T.B. (C.C.C.) with the previous history of the petition  
tion that he makes on 01/17/2020 and its attached documentation (fin folio 271). It is indicated in the first  
page: "requesting only prompt acknowledgment of receipt. Everything received from you will be published.  
ted \*\*\*URL.10 ".Accreditation is not provided that by entering that web address in the search engine  
the aforementioned content is reflected.

THIRD: In view of the facts denounced in the claim, of the documents provided  
by the claimant, dated 09/14/2020, written reference XXXXX/2020, the admission is agreed  
to process the claim, and "transfer to APEDANICA, and B.B.B. the claim, so that  
State what you deem appropriate.

On 10/5/2020, a letter was received from B.B.B., (42 pages) while the one addressed to  
APEDANICA by electronic means resulted in "expired" by not accessing its content.

1) He states that he has received 24 pages of which the first three are missing, ending with the  
digital signature, printed in very poor quality, without attaching any of the annexes.

2) Make "allegations", indicating:

- You have no news of the complaint filed against him, on 06/25/2020. Request a copy  
integrates in a reusable format of the entire file.
- Neither "I am aware of any prior requirement addressed to me by any representative of  
LEGAL ERASER SL, but only to ask me to delete truthful and documented information  
referred to the criminal conviction for (...)" of claimant 4. He indicates that he is defenseless  
as long as they are not provided with a copy of everything, and that "neither the criminal conviction for (...), claimant 4

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in a final judicial sentence, nor anything that I have learned from the Court of 1st Instance (...) of

his lawyers in TEBORRAMOS, has no personal data, but public and publishable because it is relating to a public official in the exercise of his position and now as (...) of the Ministry of I work at (...) and the lawyers he himself hires at a company that publishes, such as their obligation, the names of the administrators.", which, because they are "commercial positions of the company, Legal Eraser SL and the TeBorramos brand, it is obvious that who manages it can be published the business."

- "... without a final sentence I am not going to delete anything from any public official who has vantage and general interest, nor of the lawyers or the administrators of companies with which they deal. deal with the erasure that they so illegally seek".

Request:

- If the mandatory prior request is not provided by each and every one of the representatives, two by Legal Eraser's lawyer, TeBorramos, claimant, any claim is inadmissible,

At least until notified.

- That all AEPD resolutions that affect me, such as the one I am answering here, be notified to me.

by the same route and with the same format as Ref.: E/06068/2019 Exit: XXXX68/2020

and can be seen published at \*\*\*URL.11. In this sense, it was a referral agreement and

provisional file of 08/13/2020 that is addressed exclusively to B.B.B. by electronic notification

unique figure associated with its address APEDANICA.ONG@GMAIL.COM and that appears received to through the citizen folder, with the annotation "notification available in the folder or DEH of the indicated holder"

-From the answer given to the AEPD, of 5 pages, it indicates that its literal is also exposed in a

page that "references" \*\*\*URL.12 . It also associates various information attached, exposed

on the website of its ownership in the following 36 pages. These are adjacent issues that do not answer

precisely the purpose of the transfer: requests to the Prosecutor's Office, writings to the Court, to the Collegiate gio de Abogados, allegations in a judicial process. It must also be considered that in the

41 pages that are exposed and presented to this AEPD, innumerable others usually appear



written in the form of indexed references which, clicking on, leads to other content, whether of

\*\*\*DOMAIN.1 or the personal domain of B.B.B.

In the answer given and therefore in the one that is indexed on the web, there are repeated allusions

claimant 4, and again, as convicted by (...) to his status as a civil servant in va-

several occasions.

FOURTH: Through Diligence of 11/15/2021, in GOOGLE, it is verified through link 8

\*\*\*URL.9, the information contained. The result is obtained compared with the documentation

that is presented in its day in the claim. It is observed how on the date 11/15/2021, appears the

pdf file "(...)" of 18 pages, also appears, as in the complaint presented, the inde-

xation of the lawsuit, of 02/04/2020, which contains the data of claimant 2 anonymized

two through strikeout that prevents seeing the ID number and address, page 4 of 18, although if it is

sees his name and surname, assisted as a lawyer by the claimant. The reference is still seen

of claimant data 4 and appears on page 17/18 of the claim, the ID number of re-

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plaintiff, as part of the digital signature, without anonymization. In document properties, figure

created 03/24/2020, modified 12/20/2020. It is incorporated into the file as "(...)".

FIFTH: On 12/14/2021, the Director of the AEPD agreed

"START SANCTION PROCEDURE against B.B.B., with NIF \*\*\*NIF.1 for the alleged

violation of article 5.1.c), in accordance with article 83.5 a) and 58.2.i) of the GDPR, and

prescription effects of 72.1.a) of the LOPDGDD. "

"For the purposes specified in the art. 64.2 b) of Law 39/2015, of 1/10, on Administrative Procedure

Common Treatment of Public Administrations, (hereinafter, LPACAP) the sanction that could

to correspond would be 10,000 euros, without prejudice to what results from the instruction "

SIXTH: On 12/27/2021, the defendant requests a copy of the file that is sent to him and is

extends the claim period, and states:

-No prescriptive claim has been presented by any of the claimants.

goes, more than that of 01/17/2020, which led to the deletion of data, resolution R/00528/2021,

TD/0182/2021, resolved on 09/10/2021. The previous claim that the claimants have not made,

except for the only one of the two links in the aforementioned resolution "it should have given 30 days of term

to answer and a procedure with due guarantees, at least, similar to that of that re-

solution already complied with, must suppose nullity, which "must be declared as soon as possible"

ble", since it is a "non-remediable defect" of a guarantee, urging the instructor to com-

prove "that the claimants have directed some reliable communication, which is mandatory."

-Considers you have the right to publish truthful and publicly relevant information about the claimants

in relation to the issues that are held before him. Requests to include information on

firm judicial order (XX/2021 of 01/15/2021) that dismisses the appeal against a file of a

complaint of the claimants against B.B.B., indicating the links, one of them in the direction of B.-

B.B. and the other in \*\*\*DOMAIN.1. The relationship of said incorporation may have with

the imputed infringement, which is for revealing, publishing, or exposing the claimant's DNI, what is more,

the order itself indicates "legal reasoning" fifth: "That said, the dissemination of personal data

of the complainants, such as telephone number, address or DNI, by publishing the

briefs and complete documents presented in the Court, including all this sensitive data.

may constitute a civil tort or an administrative offence, to the extent that

violated the provisions and preventions of the Data Protection Law, or has been caused

do harm to the people affected. But it does not justify the opening of a criminal process". In

In any case, this procedure is not for the publication of complaints, sentences, nor is it discussed about

ca of the publication of the information of the claimed.

-Requests that the instructor verify, "despite not having been required to do so in due form-

except for error or omission, there is no DNI of any of the claimants in any of the domains \*\*\*DOMAIN.1 or \*\*\*DOMAIN.2 that are the responsibility of the person claimed here.”

-Also that this writing is indexed on your website, so the same allegations are seen by typing in the GOOGLE search bar the link in which the manifest is found.

SEVENTH: In expansion of allegations, on 01/5/2022, the defendant indicates:

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-Reiterates the request for nullity or annulment, "the claim has not been transferred" from the which is regulated in article 65.4 of the LOPDGDD as a prior procedure for admission to processing.

-Considers, due to the reiteration of the word honor in the claim and the documentation, that the AEPD is not competent to protect this right. Displays a range of file resolutions and guardianships of law as examples that the AEPD has archived these related issues with which it was the right of rectification and the LO 1/1982 of civil protection of the right honor, personal and family privacy and one's own image.

-Having had access to the file, he indicates that he has been informed that the claim "has led to the initiation of the file PS/...against APEDANICA and him", indicating that the responsible is he and not the entity, and asks that "APEDANICA be notified correctly or that it be completely exclude unequivocally”

EIGHTH: On 01/13/2022, allegations are received from the defendant requesting that the pore documentation to the procedure, (two annexes) in the case of a resolution of the Lawyer of Justice, of the JPI (...) of Valencia of XX/XX/2022. (appeal for replacement of various claimants against ordering procedure of XX/XX/2021. The other, a letter to the Court of First Instance cia (...) of Valencia XXX/2020 containing opposition to the appeal for reinstatement of L.E. and others.

In neither of the two is any relationship observed or explained with the specific imputation to the re-claimed in this file, in the case of the numerous disputes that they maintain, together with the personal considerations that he deserves the business of L.E. and the "censorship of the AEPD."

NINTH: On 02/14/2022, a letter from APEDANICA has entered, providing two attached files to be incorporated into the procedure.

He states that "On 02/10/2022 I received messages with notice of withdrawal of content from the Google search that can be seen in the attachments you send." The copy of the mail that ma-

If you acknowledge that you have received it, it is from GOOGLE addressed to the webmaster of the domain \*\*\*DOMAIN.1 inform-

telling you that you can no longer display some pages of your website because a request in accordance with the European Data Protection law. All pages are from domain \*\*\*DOMAIN.1 none related to the claimant's NIF and the page reflected in the link 8.

It reiterates that "It must be stated in the file that the instructor requires GOOGLE to be specify exactly everything that has already been deindexed to hide any type of information tion, or reference or result or link or data about the claimants here in the search engine Google". He states that GOOGLE is exercising censorship against the data he publishes.

It considers these facts as new facts or documents not included in the original file.

aries and asks that they be revealed to him so that he can make allegations.

"make an effective request to the Google company, responsible for the search engine (be it GOOGLE SPAIN, SL or GOOGLE IRELAND, or GOOGLE INC. or ALPHABET or whoever is responsible for the search engine that commercially want to interpose) so that everything that

It has already been de-indexed to hide any type of information, or reference, or result, or link, or information about the claimants here in the Google search engine (used as "bar of

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Google" cited in the resolution, which, by the way, does not specify who is the official who used such a thing in the AEPD, and we request that you identify yourself),

It indicates that since it has various judicial procedures and has the will to request in them your Effective judicial fabric, request a full and updated copy of PS / 485/2021 including this writing.

A copy of the file is sent to you for the second time.

TENTH: On 02/15/2022, the defendant presents writings that are a copy of the received the previous day.

ELEVENTH: On 03/16/2022, the test practice period begins, assuming that reproduced for evidence purposes:

1) The claim filed by the claimant on his own behalf and on behalf of the claimants 1 to 4 and claimant, which were contained in Annex 1 of the initiation agreement, and their documentation, the documents obtained and generated during the phase of admission to processing of the claim, which are part of procedure E/06741/2020.

2) The response to the transfer of B.B.B., and the allegations to the agreement to start the procedure referenced sanctioner, presented by B.B.B. and the documentation that accompanies them.

In addition, it is decided to practice the following tests:

3) The literal of link 8 of the claim will be accessed: \*\*\*URL.9 in the GOOGLE search engine, to verify Check if the NIF of claimant A.A.A. continues to be visible. It will be accessed and verified if it contains ne the aforementioned NIF, it will be seen on said page, if it exists, and also in "ownership of the document" to see the date of creation and modification of the document. These movements will be copied-pasted statements in word or pdf sheet reflecting the date and time in which the consultations are made. It downloads The document will be attached and associated with an investigation procedure.

4) With the claimant's NIF \*\*\*NIF.2, entered in the Google search engine, it will be searched if there is any  
any result with any web page of the defendant in which it appears directly or indirectly re-

Differentiated the NIF together with the electronic signature of the claimant. The same modality will be carried out  
of inclusion in the file than in the previous point. The objective is that the same claim data  
does not appear in other documents that the defendant exposes in other addresses, or that the  
same content has been attached in another link. In the same sense, the search will be carried out with  
the name and surname of the A.A.A. claimant.

5) The defendant, B.B.B., is requested to prove the date on which he anonymized or made the  
reading of the NIF of the claimant in the copy of the demand of 02/04/2020, which the court communicated to him  
in writing dated 03/11/2020 and published at his address \*\*\*URL.9

The defendant agrees to the notification on 03/22/2022 and on 04/4/2022 it is received in writing in the  
that:

a) On what was requested in tests:

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-The defendant states: "Without having received any precise claim from the claimant, and without

that you have seen it in the entire file, that NIF was removed from your signature, dated 12/17/21,

1:10:14 as checked in the document properties, which was created on March 24

of 2020 at 13 01:34. That is, the same day that the Agency notified the opening of an ex-

disciplinary proceedings, that information that had gone completely unnoticed was crossed out, actu-

proceeding with maximum diligence and immediacy once the opening of the file was notified."

- Regarding the DNI of the claimant entered in search engines, he states that said data does not exist in

domains or links of your responsibility. It adds that said data is published in the (...)

providing the links referring to provisions published in the of (...), about (...). It states that

claimant has not dealt with having removed that link that affects him.

b) In addition, it makes the following allegations:

-The instructor considers the claim reproduced for the purposes of evidence, but reiterates that it is not

It appears throughout the file that claimants 1 to 3, nor claimant have addressed the

claimed before doing so to the AEPD, "as is mandatory". A precedent can be created

favor brands like TEBORRAMOS. It only received the claim from claimant 4. This

must give rise to the annulment of actions, being "mandatory the claim prior to the

responsible for a domain.

-What has been published by the claimants up to now is information of public interest and is

part of the right of defense as accused and defendant in various proceedings and

related to professional activity.

-He reiterates that he has received notices from Google informing him of the withdrawal of content from the search-

remains Google in accordance with the European Data Protection law, adding the URLs, and

considers that this censorship could have proceeded at the request of the claimants.

-"Thus, this defendant reiterates everything that appears in file PS/00485/2021 and,

Due to its transcendence and relevance, it is in allegations published in (...) and more published in

(...) and relevant new facts in (...) insisting that according to the instructor, it is also

check everything that has already been repeatedly requested by this defendant in those documents and

in its additions, without having any evidence until now that it has been understood, comprehended or

practiced nothing about it.

He asks that the tests carried out be transferred to him and that he be granted "hearing proceedings, preferably-

face-to-face at the headquarters or if it were impossible by phone."

TWELFTH: On 04/4/2022, the results of the tests were reflected in diligence

practiced in the brief of 03/16/2022, and that B.B.B. received on 03/22/2022, with the following

literal:

1-The link 8 of the claim is written on 04/1/2022: \*\*\*URL.9 in the GOOGLE search engine. HE

results in a pdf document of 18 pages, "(...)" associated with (...). The first

page begins with "First instance court (...), ordinary procedure XXX/2020-certificate of

summons of 03/11/2020 (in the file, document: "evidence 1 access link 8 sentence" It

also save the aforementioned pdf document in the file with the name "(...) access link 8 1

April 22". The documents are a Decree of the Justice lawyer transferring B.B.B. the

Lawsuit filed by claimant on behalf of claimant 2, with a copy of the

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demand in which the data of the claimant appears as a signatory of the demand, dated

02/4/2020 (page 17/18) and the claimant's ID number is no longer visible, which appears wrapped

in a green space.

In document properties it appears created 03/24/2020-modified 12/17/2021.

2-On 04/1/2022, the claimant's NIF \*\*\*NIF.2 is entered, in a Google search engine,

will look for any results with any web page of the defendant in which it appears directly or

indirectly referencing the NIF together with the electronic signature of the claimant. In the search

There are two results under the direction

\*\*\*DOMAIN.2

.

In the first one you see "(...)"

In the second link "(...)"

By clicking on each of the links, it appears that the page does not exist.

It is documented in the file with the name "access with ID".



3-On the same date, 04/1/2022, it was consulted on GOOGLE, with A.A.A.. It appears in docs.google.-

com, a reference to the Court of first instance (...), Google Docs, ordinary procedure

XXX/220 in which the name of claimant two appears. Clicking on the aforementioned Google Doc, figure

exposed a 29-page document. The claimant's DNI reference is not displayed.

tea. The impression of the search with the name in the file "test consultation with

name and surname" that includes the copy-paste of the document. The document is also incorporated

document of 29 pages that is titled "against forced appearance" and with that name it appears in the ex-

pending.

THIRTEENTH: On 06/13/2022, a letter from B.B.B. , in which

states:

-"writing of opposition to the admission to process of the claim" that is processed in another

file, the (...), which deals with a claim by the same claimant against the defendant

by (...) in a Court, of XX/XX/2021.

Requests that if it is admitted for processing, "the procedures initiated be suspended, at the

except PS/00485/2021", "until GOOGLE or YOU TUBE decides on the claims

of the claimant and the other representatives or clients of LEGAL ERASER".

-Refers to the instructor of this procedure and the Secretary designated in the initiation agreement

know that the claimant's business and his company use the AEPD to promote

his own image and the goodwill of his company, "requests to specify any relationship between

the AEPD and the claimant as well as other representatives of the LEGAL ERASER company".

FOURTEENTH: On 07/8/2022, a resolution proposal is issued, as follows:

"That by the Director of the Spanish Data Protection Agency, B.B.B. be sanctioned, with

NIF \*\*\*NIF.1, for a violation of article 5.1.c) of the GDPR, typified in article 83.5 a) of the

GDPR, and for prescription purposes in accordance with article 72.1.a) of the LOPDGDD, with a

fine of 10,000 euros."

FIFTEENTH: On 07/29/2022, a letter was received from the defendant stating:

a) It reiterates that the mandatory request of the claimant is missing, A.A.A. of a claim prior to the directed, "so that he has not addressed me directly, without ever formalizing any writing about what he claims here." It also points out that this fact has been ignored by the instructor, and this must give rise to the nullity and voidability of articles 47 and 48 of the LPCAP, because the "prior claim to the person responsible for a domain is mandatory", considering that the claim-tion should not have been admitted. It reiterates that this can also set precedents in favor of the marks TEBORRAMOS "with very serious consequences".

With reference to article 64 "2. When the purpose of the procedure is to determine the possible existence of an infringement of the provisions of Regulation (EU) 2016/679 and in the pre-present organic law, it will begin by means of a start-up agreement adopted on its own initiative or as consequence of claim." If the procedure is based on a claim made before the Spanish Agency for Data Protection, in advance, it will decide on your admission for processing, in accordance with the provisions of article 65 of this organic law", which does not It has been done. "If the previously mentioned non-existent communication had reached us, as is mandatory, it would not have been admitted for processing or, at least, we could have had the option tion, that the Law assists us in defending ourselves, which, for the record, we did not have. The admi-The decision of the claim is notoriously arbitrary and contrary to resolutions of the same AEPD".

b) It reiterates that the claimants intend to protect a business that "has no other purpose" than censor documented facts, published truthfully, even with criminal relevance.

c) "The only personal data, NOT professional, to which the instructor refers is in the DNI that contains has a digital signature, but printed, in a demand scanned from a very poorly printed piece of paper

that could not be detected digitally or easily by sight, and that one single

personal data, because all the others are purely professional, public and publishable”

He reiterates that this same data is visible in the (...), a fact declared by the instructor (indicates the url cited). "If the claimant is so interested in suppressing any reference to his ID, he should start by claiming (...)".

d) The amount proposed is arbitrary and disproportionate, the person being claimed is an individual that he exercises "very prudently his right to give and receive truthful information and to freely express mind opinions" that "the Instructor is perverting for the benefit of the richest and most powerful". Ade- more, "falsely attributes" "some benefit to the claimant" He requests that his situation be considered (...) and asks "to be reduced to the minimum possible"

e) Qualifies as unacceptable the statement of the proposal that the degree of responsibility is very relevant, "considering that on its website it indicates that it has completed studies related to two with the subjects of computer science, forensic expert specialty (FACEBOOK)", "comment that evidences by itself an arbitrariness and partiality against the defendant" when it does not cite and ignores that "I have dedicated a good part of my academic life, precisely, to combating tions of privacy or the improper use of personal data".

f) Requests nullity mentioning articles 47 and 48 of the LPCAP and the file, and that the "AEPD opens an investigation into all the arbitrariness and favorable treatment that has been benefited the claimant or his company acting against the abuses of the "right to be forgotten" to

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advertise and sell censorship on Google, to the detriment of the right to give and receive truthful information of some interest." Request a copy of the file.

-Provide, as a "confidential document":

a) certificate (...), submitted online, (...).

b) A resolution of (...), which recognizes the right of (...), preceded by the literal: "(...) of the request-citing party that are evaluable (...)."

SIXTEENTH: Of the actions carried out in this procedure and of the documentation in the file, the following have been accredited:

#### PROVEN FACTS

1) On 07/24/2020, a claim was entered by a claimant in his own name and in that of four other claimants, reflected in ANNEX 1, for actions contrary to the norm-protection of personal data against B.B.B. and APEDANICA-(Association for the prevention and study of crimes, abuses and negligence in computing and advanced communications). It is stated in the claim that after having accessed those claimed by the Transparency Law to resolutions issued by the AEPD of the company with a trade name WE DELETE YOU- TB- (LEGAL ERASER SL (LE) owner of TB, dedicated to request deletion or right to be forgotten, processed in the AEPD), data of the claimants have been exposed in one way or another in the 58 links it provides

2) Claimant is (...) from L.E., and Claimant 2, a collaborator of said entity as \*\*\*PUES-TO.2.

3) From this claim, for claimant 4, the rights protection procedure was resolved on 9/10/2021 due to the right to delete data not attended to formulated on 01/17/2020.

4) B.B.B. on his domain \*\*\*DOMAIN.2, he creates pages to which he adds the content he deems opportunely and that contain personal data, either in writings that he presents, that he present, which he has addressed to any addressee, such as judicial institutions, administrative you go or private The documents contain neither the date of edition nor the date of publication. The documents do not contain any informative literal on aspects of data processing contained, referred to in articles 13 or 14 of the GDPR.

5) In this specific case, in the claim link, number 8 called: \*\*\*URL.9

(page that does not correspond to the Association that B.B.B. chairs, but to his particular page in the who advertises himself as a forensic expert) appeared the copy of the lawsuit filed by claimant 2, represented by a claimant, filed on X/XX/2020 with B.B.B. Lawsuit that is processed in the Court of First Instance (...), referring to protection of the right to honor, to privacy and one's own image. The claim was admitted and referred to B.B.B. on 03/11/2020 for to answer It is corroborated in the procedure of 11/15/2021, that the copy of the demand appears exposed in said web address, typing in the Google search bar the aforementioned link 8, being able to visualize the complete NIF of the claimant on its last page, together with his signature that It comes from the lawsuit filed and was not anonymous. According to the properties of the pdf document of the exposed sentence, figure created 03/24/2020, modified 12/20/2020, in the file it appears as "(...)".

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The claimant's NIF is not visible in the aforementioned document in the access that occurred in the GOOGLE search engine as of 04/1/2022, in tests as it is crossed out in green. in properties

The document states: "created 03/24/2020-modified 12/17/2021

". The initiation agreement of this

procedure was notified to B.B.B. on 12/15/2021 according to the acknowledgment of receipt incorporated into the proceedings. B.B.B. stated in evidence that he crossed out the claimant's NIF on 12/17/2021, and that that fact had gone unnoticed.

6) According to statements by B.B.B. what you publish, the copy of the demand, constitutes the exercise of the right to publish truthful and publicly relevant information of the claimants in

relation to the issues that they maintain before him, which may be in the public interest and form part of the right of defense as accused and defendant in various proceedings and related to professional activity.

## FUNDAMENTALS OF LAW

Yo

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (Regulation General Data Protection, hereinafter GDPR), grants each control authority and according to the provisions of articles 47 and 48.1 of Organic Law 3/2018, of December 5, of Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), The Director of the Spanish Agency of Data Protection.

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 of Regulation (EU) 2016/679, in this organic law, by the regulatory provisions issued in its development and, as long as they do not contradict them, on a subsidiary basis, by the general rules on administrative procedures.

II

In a letter of 06/13/2022, B.B.B. requested that these proceedings be stayed until that GOOGLE or YOU TUBE decides on the claims of the claimant and the others representatives or clients of LEGAL ERASER" in a new and recent claim that has filed by the claimant on 03/31/2022 against the claimant in procedure 20220XXXX for (...) in a Court, of XX/XX/2021, in case of admission of this last claim.

In this regard, the causes for suspension of the procedure requested, "only in case of admission of another claim", result from the provisions of article 22 of Law 39/2015, of 1/10, of the Common Administrative Procedure of Public Administrations, (hereinafter, LPACAP). In its paragraph 2, it expresses when it would be mandatory, and in its paragraph 1, when it is

optional.

In this case, there is no circumstance that allows for this procedure to suspend your processing due to the mere fact of having filed a new claim in another matter, that it has nothing to do with the conduct that is examined in this procedure, nor is it appreciated

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that conforms to any of the reasons provided for in the aforementioned article, reason for which this procedure has to continue.

The GDPR defines

II

1) "personal data": any information about an identified or identifiable natural person ("the interested"); An identifiable natural person shall be considered any person whose identity can be determined, directly or indirectly, in particular by means of an identifier, such as by example a name, an identification number, location data, an online identifier or one or several elements of physical, physiological, genetic, psychological, identity, economic, cultural or social of said person;

2) "processing": any operation or set of operations performed on data personal data or sets of personal data, whether by automated procedures or not, such as the collection, registration, organization, structuring, conservation, adaptation or modification, extraction, consultation, use, communication by transmission, diffusion or any another form of authorization of access, collation or interconnection, limitation, deletion or destruction;

Opinion 4/2007, on the concept of personal data, adopted on 06/20 by the Group of

work 29, of Directive 95/46, analyzes in depth the concept of personal data,

indicating the reference: "are all information about an identified natural person or identifiable, considering identifiable any person whose identity can be determined directly or indirectly, in particular by means of an identification number or one or more specific elements characteristic of their physical, physiological, psychic, economic identity cultural or social. A person is considered directly identified through the name and surnames and is more individualized, when you also have another identifier, for example the DNI/NIF, through which you can obtain more information about that person.

The conduct that consists of making reference in a web page, \*\*\*DOMAIN.2, exposing personal data, in this case of the claimant, is an automated data processing.

Focusing on the imputation of which the present disciplinary procedure brings about,

It must indicate that in the initiation agreement, it appears repeatedly, in reference to the circumstances that cause the opening of the procedure, is none other than the proof of the

DNI/NIF data of the claimant, who also acts on his own behalf, exposed in a

lawsuit, published in the domain \*\*\*DOMINIO.2, owned by B.B.B. by date

of the decree of the court in which the claim is transferred to B.B.B., the permanence of the data of that

DNI / NIF would not have prescribed. The DNI/NIF data is alluded to both on the basis of law II,

as in the graduation of the sanction, where the data is contained in the claim, which appears in

link 8, and that it is verified that it subsists. For this reason, the request for the incorporation of data that is

occurs throughout the allegations or statements of the defendant, proceeds from actions

legal proceedings, actions of GOOGLE, etc., should be relevant and connected to the

offense that is resolved in this procedure, which is concrete and specific, and thus is outlined and has been identified.

The defendant criticizes and expresses the opinion that entities such as TB and people deserve.

that provide services or collaborate with it, which is what it uses the data that appears in the diverse and varied Urls that are in your domain.



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The pages in which the claimant performs the treatments are characterized by the expression of the opinion of the business of the erasure of data by TB and the professional facet of the people connected all, including the claimant.

The data for which this procedure is processed are exclusively for the data of the re-plaintiff, which reveals an extensive claim and in which analyzed, it was seen that contained part of his data, his NIF in a lawsuit that was filed against the defendant and that the In a few days, he exposed in his domain, through the URL, in his "alleged right to defense", and to give truthful information.

To do so, he expresses his opinions, disclosing the information to the public. To that end, even published ca full documents of the counterparty that sometimes appear with data such as number of telephone numbers, address, ID/NIF. Third party references. In this case, it was a claim presented against him, of which some data appeared crossed out, others not. It turns out then, that it is not necessary to enter the DNI/NIF of the claimant, since it does not add anything to the question of the training that you want to give regarding that business, entering a personal data that violates the principle of data minimization. In order to contribute to the debate, it is neither necessary nor pertinent that certain data is exposed, being the DNI / NIF one of them. As data treatment criteria data, before proceeding to it, the need for the data to be used in the treatment must be analysed. treatment. If in this case the purpose is to report the deletion of data, as an activity that In the opinion of the defendant, it violates other rights, the treatment of the DNI data is not necessary. NIF.

D. B.B.B., has published personal data that is not necessary, pertinent or adequate, as it has been in this case the number of the DNI / NIF of the claimant, associated with his signature

electronic, exposed, without anonymization, thus appearing in link 8. Given the way of multiplying the disclosures of information and data that are contained, this procedure however, is limited to that link and to that specific data, since it is not strange that the one claimed in the same URL contains multiple links, and that in turn these lead to others and so on, being able to link the information and the data, but in this case it is clearly determined the violation of the indicated

Due to said conduct, it is considered that B.B.B., has been able to infringe article 5.1.c) of the GDPR that indicates:

"The personal data will be:

[...]

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

The essential key to the processing of personal data is that it is only collected and subject to treatment, those who meet these characteristics, connected with the purpose of the treatment.

B.B.B. exposes a document-judicial demand- that is delivered to him by the Administration of Justice, and in which said DNI / NIF appears, which is exposed on a website that is the owner of the domain as part of content that pours on TB and related people, in this case of claimant.

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Regarding the treatment of the national identification number, the GDPR in its article 87 establishes:

"Member States may additionally determine the specific conditions for the

treatment of a national identification number or any other means of identification of general character. In this case, the national identification number or any other means of identification of a general nature will be used only with the adequate guarantees for the rights and freedoms of the data subject under this Regulation.”

Royal Decree 1553/2005, of 12/23, which regulates the issuance of the National Document of Identity and its electronic signature certificates, establishes in its article 1:

"1. The National Identity Document is a personal and non-transferable document issued by the Ministry of the Interior that enjoys the protection granted to public and official documents in the laws. Its holder will be obliged to the custody and conservation of the same.

2. Said Document has sufficient value, by itself, to prove the identity and personal data, names of its owner that are recorded therein, as well as the Spanish nationality of the same.

3. Each National Identity Document will be assigned a personal number that will have the consideration of personal numerical identifier of a general nature.

(...)” (The underlining is from the AEPD)

For its part, article 11 of the Royal Decree, under the heading "Content" indicates that "The Document The National Identity Card will graphically collect the following data from its owner: On the obverse: [...] Personal number of the National Identity Document and corresponding verification character-tooth to the Tax Identification Number.” (The underlining is from the AEPD).

Through the numerical identifier of the DNI, together with the corresponding verification character to the tax identification number, the natural person is identified in an unquestionable way. This The quality of the DNI/NIF number makes it a particularly significant piece of information. get it- The identification of the DNI/NIF is mandatory from the age of 14, its format is unique and its use in traffic legal is frequent and reiterated, with only the obligation to display it when required. given for it by the Authority or its Agents. All this can mean that if your treatment does not is accompanied by the necessary technical and organizational measures to prevent a third party from impersonating a natural person may pose significant privacy risks.

identity, honor and patrimony of the supplanted through the usurpation of identity, being able to consider highly intrusive.

Regarding the DNI, it corresponds to a person of a public nature or a person of private or professional nature, it is understood that knowledge of this data is not relevant to the effects of the purpose of the treatment of B.B.B., since without it the purpose thereof. In this case, the anonymization of said data is imposed.

The signature of a document such as the one that is the object of dissemination, a private writing of the claimant It does not need to associate the DNI/NIF of its owner, even if it is associated or included in the signature. electronic information of this, since the information and identification by the name and surname is enough that in other many writings already appear of the same.

The Constitutional Court in several of its sentences resolves that the DNI number is a personal data, and also considers that, "the object of protection of the fundamental right

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The mentality of data protection is not reduced only to the intimate data of the person, but to any any type of personal data, whether intimate or not, whose knowledge or use by a third party may affect their rights". In addition, the national identification numbers due to their great capability to easily and unequivocally relate different data about a given person na, contribute per se to a true, complete and reliable identification, clearly being the DNI data a unique identifier that identifies the person and allows its holder to be associated with the information training contained in the publication related to that DNI.

Regarding the allegation that the claimant's NIF and his name and surname are published in a (...), indicate that it is according to a specific purpose, in a public call by

Resolution of 03/24/2XXX, of the Secretary of State for Education and Universities, being

(...).

On the other hand, it is also observed that the references that contain information and data of the

claimant are recorded in pages of the claimant in which there is no date of publication

any, but neither does it contain any informative literal about the origin of the data that is

expose, or ends referring to the information (art. 13 and 14 of the GDPR), which are compatible with

the purposes of the processing carried out by the claimant. The claimant, signatory of the claim

appears like this with his ID / NIF that the defendant exposes, constituting this the imputed infraction

as part of the data minimization principle. On the other hand, also in terms of data from

judgments, article 236.3 quinquies of Organic Law 6/1985, of 1/07, of the

Judiciary (LOPJ), which indicates:

3. The personal data that the parties know through the process must be processed by

these in accordance with the general data protection regulations.

This obligation also applies to the professionals who represent and assist the parties, as well as

like any other who intervenes in the procedure.”

IV.

The fundamental right to data protection, in the words of the Constitutional Court in its

Judgment 292/2000, of 11/30 (F.J. 7 first paragraph) "... consists of a power of disposition and

control over personal data that empowers the person to decide which of those data

provide to a third party, be it the State or an individual, or which can be collected by this third party, and

which also allows the individual to know who owns that personal data and for what, being able to

oppose such possession or use. These powers of provision and control over the data

personal data, which constitute part of the content of the fundamental right to the protection of

data are legally specified in the power to consent to the collection, obtaining and access

to personal data, its subsequent storage and treatment, as well as its use or uses

possible, by a third party, be it the state or an individual (...)."

Regarding the declaration of the defendant that he is not aware of any requirement, request or prior requirement, as if he knew of the guardianship exercised by claimant 4 for suppression of their data, it must be indicated that the claim presented by the claimant, in addition to alluding to to said claimant 4 and the lack of attention to his right, is a generic, broad and open as shown by the 58 links that contain data from the claimants, which the The claimant himself indicates and also sends, in case any aspect violates the regulations, and that the

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AEPD appreciates that one of the links contains a piece of information, the DNI/NIF of the claimant, which does not respect the principle of data minimization. Claimant 1 did not exercise any right against the claimed and therefore it is the reason that there is not what the defendant calls "claim previous ", which in the LOPDGDD calls "claim referring to the lack of care within a period of the rights established in articles 15 to 22 of the GDPR" (art 69.3 GDPR):

"3. When a complaint has been submitted to the Spanish Data Protection Agency claim that referred, among other issues, to the lack of attention within the deadline of the rights established in articles 15 to 22 of Regulation (EU) 2016/679, the Agency Española de Protección de Datos may agree at any time, even before to the initiation of the procedure for the exercise of the sanctioning power, through reasoned resolution and prior hearing of the person responsible for the treatment, the obligation to attend the right requested, continuing the procedure regarding the rest of the issues object of the claim."

This occurs, therefore, within the collection and storage of information and data of the claimant that the defendant uses to expose on the web, and that even in the

same pages offers other links with more information, data and documents, for which it has to respect the principles of the GDPR, among which is data minimization.

The documents are created without the knowledge of those affected and they do not offer any information about the GDPR. Along with this, article 63 of the LOPDGDD establishes the cases in which an affected person claims for "his request to exercise rights", which is not this case, as well as when "investigating the existence of a possible infringement of the provisions of the aforementioned GDPR and this Organic Law", this being the case giving rise to this proceeding. Thus, the claimant is not required to always exercise or there is an action to claim the exercise of rights of the

Articles 15 to 22 of the GDPR. The claimant's claim alludes to the infringement of the GDPR, and correlates with the provisions of article 77 of the GDPR. This does not give rise to defenselessness when a hearing has been given and allegations have been made throughout the procedure. Therefore, it is not considered that it incurs in any of the causes of nullity or voidability, nor is it imposed as mandatory in this case given the background information expressed. Regarding the fact that the transfer of the claim is mandatory, neither does the LOPDGDD oblige said transfer, as can be deduced from the term: "may", which is contained in article 65.4 of the LOPDGDD.

Article 83.5 of the GDPR indicates:

V

"5. Violations of the following provisions will be penalized, in accordance with the paragraph 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:

to)

the basic principles for treatment, including the conditions for consent ment in accordance with articles 5, 6, 7 and 9;"

Article 72 of the LOPDGDD states:

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"1. Based on what is established in article 83.5 of Regulation (EU) 2016/679,

are 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 in violation of the principles and guarantees established in Article 5 of Regulation (EU) 2016/679.

SAW

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

"d) order the controller or processor that the processing operations

comply with the provisions of this Regulation, where appropriate, of a given manner and within a specified period

"i) impose an administrative fine in accordance with article 83, in addition to or instead of the measures measures mentioned in this section, according to the circumstances of each particular case;

The defendant knows the technologies and makes use of them, as well as the doctrine in matters data publication, and usually processes personal data, usually using also references from \*\*\*DOMAIN.1, (...), or the APEDANICA Association, also being its

\*\*\*POINT.1. Given the entity of the facts, in which he forewarns that everything will be published, all the data, including the DNI if they are sent, and the high degree of intrusion that the display implies. DNI/NIF on the internet, the sanctioning procedure of an admissible fine is considered justified. nistrativa.



The fine imposed must be, in each individual case, effective, proportionate and dissuasive, in accordance with the provisions of article 83.1 of the GDPR. In order to determine the fine administrative procedure to be imposed, the provisions of article 83, section 2 of the GDPR, which states:

VII

"2. Administrative fines will be imposed, depending on the circumstances of each case. individually, in addition to or in lieu of the measures contemplated in article 58, paragraph 2, letters a) to h) and j). When deciding the imposition of an administrative fine and its amount in each individual case will be duly taken into account:

- a) the nature, seriousness and duration of the offence, taking into account the nature, scope or purpose of the processing operation in question as well as the number of affected stakeholders and the level of damages they have suffered;
- b) intentionality or negligence in the infraction;
- c) any measure taken by the controller or processor to alleviate the damages suffered by the interested parties;
- d) the degree of responsibility of the data controller or processor, given account of the technical or organizational measures that they have applied under Articles 25 and 32;

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- e) any previous infringement committed by the controller or processor;
- f) the degree of cooperation with the supervisory authority in order to remedy the infringement and mitigate the possible adverse effects of the infringement;

- g) the categories of personal data affected by the infringement;
- h) the way in which the supervisory authority became aware of the infringement, in particular if the controller or processor reported the infringement and, if so, to what extent;
- i) when the measures indicated in article 58, paragraph 2, have been ordered previously against the person in charge or the person in charge in relation to the same matter, compliance with said measures;
- j) adherence to codes of conduct under article 40 or to mechanisms of certification approved in accordance with article 42, and
- k) any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits obtained or losses avoided, directly or indirectly, through the offence".

For its part, in relation to letter k) of article 83.2 of the GDPR, the LOPDGDD, in its article 76, "Sanctions and corrective measures", establishes:

"1. The sanctions provided for in sections 4, 5 and 6 of article 83 of Regulation (EU) 2016/679 will be applied taking into account the graduation criteria established in the section 2 of said article.

2. In accordance with the provisions of article 83.2.k) of Regulation (EU) 2016/679 also may be taken into account:

- a) The continuing nature of the offence.
- b) Linking the offender's activity with data processing
- c) The benefits obtained as a consequence of the commission of the infraction.
- d) The possibility that the conduct of the affected party could have led to the commission of the personal. infringement.
- e) The existence of a merger by absorption process subsequent to the commission of the violation, which cannot be attributed to the absorbing entity.

f) The affectation of the rights of minors.

g) Have, when it is not mandatory, a data protection delegate.

h) Submission by the person responsible or in charge, on a voluntary basis, to alternative conflict resolution mechanisms, in those cases in which there are disputes between those and any interested party”.

In accordance with the precepts transcribed, for the purpose of setting the amount of the fine to imposed in the present case for the infringement of article 83.5.a) of the GDPR, of which holds B.B.B. responsible, the following are considered concurrent as aggravating circumstances factors that reveal greater unlawfulness and/or guilt in the conduct:

-Article 83.2.a) GDPR: "Nature, seriousness and duration of the infringement taking into account account the nature, scope or purpose of the processing operation in question as well such as the number of interested parties affected and the level of damages they have suffered”.

This is the referenced exposure of the data to which B.B.B. has access and knowledge, in this case, the copy of the claim, judicial document between parties, presented by the counterparty that contained personal data, which was transferred on 03/11/2020 for a purpose,

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as he stated, of his defense, and to provide information, a demand that had not yet been resolved, that he had reproduced from the few days of receipt, and exposes in his domain through a url. In any case, the DNI/NIF reflected is not relevant, be it for the purposes of right of information, freedom of expression or for purposes of transparency.

The treatment operation carried out on the web supposes a high damage because it is a way universal access that can be carried out by anyone anywhere on the use

of a data that is not provided directly for said purpose by the affected party. The claimed creates the copy in your domain, in downloadable pdf format, which makes the issue more serious.

-Article 83.2.b) GDPR. "Intentional or negligent infringement": Aspect that relates the execution of the action to the subject, in the sense of not only the imputability of the infraction to the person responsible, but the fact of being able to aggravate or reduce the sanction according to the degree of guilt. Regarding the imputability to the responsible subject, the principle of guilt, prevents the admission in the penalizing administrative law of strict liability, if It is also true that the absence of intentionality is secondary, since this type of infringements are normally committed due to negligent or negligent action, which is enough to integrate the subjective element of guilt. In this specific case, there is a accused intentionality in the publication of everything received, by using in this case as in others, the advance notice that indicates to claimant and claimant two, that: "in the response that receive", "is going to publish everything, including the DNI" and this is how it occurs in link 8, in the domain \*\*\*DOMAIN.2.

-Article 83.2.d) GDPR. "Degree of responsibility of the person responsible, taking into account the technical or organizational measures that have been applied by virtue of articles 25 and 32;" The DNI, in accordance with article 87 of the GDPR "will be used only with the guarantees appropriate for the rights and freedoms of the interested party", in accordance with the GDPR.

-Article 83.2.g) GDPR. "Categories of personal data affected by the infringement": The data is the DNI/NIF number, DNI that without being a special category data, if it deserves a particularized protection due to its nature, especially in relation to the fact that it is produces the unequivocal identification of a person, and the risk of impersonation of identity that its disclosure may imply.

-Article 76.2 a) of the GDPR "The continuing nature of the infringement", since the document exposed was forwarded to B.B.B. according to the date of signature of the Decree, on 03/11/2020, including the pdf document as created 03/24/2020, modified 12/20/2020, and pre-exists on 11/15/2021.

-Article 76.2.b) LOPDGDD. "Linking the offender's activity with the performance of processing of personal data": This is not an occasional processing of personal data, but of a certain habituality.

Accompany the claimed, documentation on their income for the purpose of adjusting the sanction to its economic capacity. It is verified that in the law of general budgets of the State for 2021, the (...) established by the General Budget Law, were the following: (...)

By proportionality it is usually understood, colloquially, the reduction of the sanction imposed.

However, this does not necessarily have to be so: proportionality means adequacy, measure, weighting and balance. Therefore, this principle is violated not only when maintains the excess committed, but also when it is unjustifiably reduced by more than

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what is due, since in this case it would lead to the ineffectiveness of the sanction, depriving it of the effects persuasive that it can offer. That is why article 29.3 of the Law

40/2015, when regulating the principle of proportionality, uses the expression "due suitability and the need for the sanction to be imposed and its adequacy to the seriousness of the fact constituting the infringement".

Based on the salary of the claimed party, the amount imposed may be considered disproportionate, although several aggravating factors are added, so that in application of the principle of proportionality, it is appropriate to reduce it to the amount of 5,000 euros, to maintain the character proportionate and at the same time dissuasive that must be guaranteed with the imposition of fines administrative. Considering the exposed factors, the valuation reached by the fine for the imputed offense is 5,000 euros.

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

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE B.B.B., with NIF \*\*\*NIF.1, for a violation of article 5.1.c) of the

GDPR, typified in article 83.5 a) of the GDPR, and for prescription purposes in accordance with the article 72.1.a) of the LOPDGDD, a fine of 5,000 euros.

SECOND: NOTIFY this resolution to B.B.B., by sending ANNEX 1.

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

This resolution is enforceable, in accordance with the provisions of art. 98.1.b) of the

LPACAP, within the voluntary payment period established in art. 68 of the General Regulation of

Collection, approved by Royal Decree 939/2005, of 07/29, in relation to art. 62 of the

Law 58/2003, of 12/17, through its entry, indicating the NIF of the sanctioned party and the number of procedure that appears in the heading of this document, in the restricted account no.

ES00 0000 0000 0000 0000 0000, opened in the name of the Spanish Agency for the Protection of Data in the banking entity CAIXABANK, S.A.. Otherwise, it will proceed to its collection in executive period.

Once the notification has been received and once executed, if the execution date is between the days 1 and 15 of each month, both inclusive, the term to make the voluntary payment will be until the 20th day of the following or immediately following business month, and if it is between the 16th and last of each month, both inclusive, the payment term will be until the 5th of the second following month or immediately subsequent business

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

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

Against this resolution, which puts an end to the administrative process in accordance with art. 48.6 of the LOPDGDD, and in accordance with the provisions of article 123 of the LPACAP, interested parties may optionally file an appeal for replacement before the Director of the Agency

Spanish Data Protection Agency within a month from the day following the notification of this resolution or directly contentious-administrative appeal before the Chamber of Administrative Litigation of the National Court, in accordance with the provisions of article

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25 and in section 5 of the fourth additional provision of Law 29/1998, of 13/07, regulating of 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 aforementioned Law.

Finally, it is noted that in accordance with the provisions of art. 90.3 a) of the LPACAP, it may be provisionally suspend the final resolution in administrative proceedings if the interested party expresses his intention to file a contentious-administrative appeal. If this is the case, the interested party must formally notify this fact by writing 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 LPCAP. You must also transfer to the Agency the documentation proving the effective filing of the contentious-administrative appeal. if the Agency was not aware of the filing of the contentious-administrative appeal in the period of two months from the day following the notification of this resolution, it would the injunction has ended.

Mar Spain Marti

Director of the Spanish Data Protection Agency

938-120722

APPENDIX 1

Claimant A.A.A.

Claimant 1 D.D.D.

Claimant 2 C.C.C.

Claimant 3 E.E.E.

Claimant 4 F.F.F.

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