

□ File No.: EXP202203322

RESOLUTION OF TERMINATION OF THE PROCEDURE FOR PAYMENT

VOLUNTEER

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

BACKGROUND

FIRST: On September 9, 2022, the Director of the Spanish Agency
of Data Protection agreed to initiate sanction proceedings against COMMUNITY
OWNER R.R.R. (hereinafter, the claimed party), through the Agreement that
transcribe:

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File No.: EXP202203322

AGREEMENT TO START THE SANCTION PROCEDURE

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

FACTS

FIRST: On 03/16/2022, a document submitted to this Agency was entered
by A.A.A. (hereinafter, the claiming party), through which the claim is made
against COMMUNITY OWNER R.R.R. with NIF ***NIF.1 (hereinafter, the part
claimed), for the installation of a video surveillance system located in
*** ADDRESS.1, there being indications of a possible breach of the provisions of
the personal data protection regulations.

The reasons for the claim are the following:

“[...]

With an approximate date in the first or second quarter of the year 2021, without prejudice to

that could have occurred before, video surveillance cameras were installed integrated into a live vision system at different points of the aforementioned farm, (...). The images captured by these devices are viewed live by the security guard on duty hired by the accused.

I have had access to the last two minutes of the Meeting of Owners held on 23 May 2019 and May 31, 2018 (...), the controversial installation of the video surveillance system, and consequently does not have with the approval of the Board.

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2/15

[...]

In the cases related to the aforementioned facilities (...), neither their existence nor any other details related to the treatment of the data obtained are informed by the presence of an informative poster; and in the rest of the cases, being present, it is only visible from an area already covered by the visibility range of the devices.

[...]"

Attach the following documentation:

- Copy of two Minutes of the Ordinary General Meeting, dated 05/31/2018 and 05/23/2019.
- Photographic report of the location of the video surveillance cameras and informative posters of video-monitored area.

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5

December, Protection of Personal Data and guarantee of digital rights (in forward LOPDGDD), on 03/17/2022 the claim was transferred to the party claimed, so that it proceeds to its analysis and informs this Agency within the term of one month, of the actions carried out to adapt to the foreseen requirements in the data protection regulations.

The transfer, which was carried out in accordance with the regulations established in Law 39/2015, of October 1, of the Common Administrative Procedure of the Administrations Public (hereinafter, LPACAP) by electronic notification, was not collected by the person in charge, within the period of availability, understood as rejected in accordance with the provisions of art. 43.2 of the LPACAP dated 03/28/2022, as stated in the certificate in the file.

Although the notification was validly made by electronic means, assuming that carried out the procedure in accordance with the provisions of article 41.5 of the LPACAP, under information, a copy was sent by postal mail, which was duly notified in date 04/06/2022. In said notification, he was reminded of his obligation to relate electronically with the Administration, and they were informed of the means of access to said notifications, reiterating that, henceforth, he would be notified exclusively by electronic means.

On 05/05/2022, this Agency received a written response indicating, in synthesis, that the building has 57 video surveillance cameras, being deactivated from 04/20/2022 the gym. In addition, it provides, among others, the following documentation:

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Photographs of the monitor in which it is observed what each of the cameras, as well as the location of these and the informative posters of video surveillance area installed in the garage, garbage rooms and entrance

main access to the community.

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3/15

- Copy of the certificate issued by the secretary of the Community of Owners

on 05/03/2022 with respect to the fact that at the Ordinary General Meeting of 04/24/2017

agrees "the extension of the installation of surveillance cameras to garages and

others. Different offers will be evaluated undertaking the installation of the cameras

by an approved company and its statement to the Data Protection Agency

Data. (...)".

- Copy of the following contracts: person in charge of treatment and services of

security with security company RESET SECURITY AND SURVEILLANCE,

S.L. dated 10/11 and 17/2019, respectively; with the property manager

of the community in which it is empowered to manage the rights of the

citizens.

- Copy of the "Informative clause for the treatment of personal data"

sent to all residents of the community with the notice of treatment of

data and the address where they can exercise the rights of the interested parties;

as well as the security document, the security breach protocol and

of action before the possible exercise of rights of the interested party.

THIRD: On 05/06/2022, this Agency requests the claimed party

additional documentation. Specifically, that it provides "clear and

of each perimeter camera or that captures an area outside the enclosure

of the community" and "of the capture made by the camera located on the track of

paddle tennis, as well as the approval of the same in the Owners' meeting on installation cameras in sports areas.

On 05/13/2022, a letter was received from the claimed party in which he provided the images requested, dated 05/13/2022, and where it indicates that the camera located on the runway paddle tennis "is set up expressly to monitor the entire perimeter of that area of the urbanization to cover, although circumstantially it captures images of the paddle tennis court that falls to the left of the camera and the existing path that falls to the right of the herself (...). However, an image blinding by means of a privacy mask is attached the part of the adjacent public road as well as the area of the paddle tennis court that falls within the amplitude range of the target of the same".

FOURTH: On 05/18/2022, in accordance with article 65 of the LOPDGDD,
The claim presented by the complaining party was admitted for processing.

FUNDAMENTALS OF LAW

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Competence

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter GDPR), grants each control authority and as established in articles 47, 48.1, 64.2 and 68.1 of the Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to

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4/15

initiate and resolve this procedure the Director of the Spanish Protection Agency

of data.

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

II

The image is a personal data

The physical image of a person, according to article 4.1 of the GDPR, is data personnel and their protection, therefore, is the subject of said Regulation. In article 4.2 of the GDPR defines the concept of "processing" of personal data.

The images generated by a system of cameras or camcorders are data of personal nature, so its treatment is subject to the protection regulations of data.

It is, therefore, pertinent to analyze whether the processing of personal data (image of the natural persons) carried out through the denounced video surveillance system is in accordance with the provisions of the GDPR.

II

alleged infringement

Article 6.1 of the GDPR establishes the assumptions that allow the use of processing of personal data.

Regarding treatment for video surveillance purposes, article 22 of the LOPDGDD establishes that natural or legal persons, public or private, may carry out carry out the treatment of images through systems of cameras or video cameras in order to preserve the safety of people and property, as well as their facilities.

Article 12.1 of the GDPR indicates that whoever carries out data processing personal, such as the capture of images through a system of video surveillance, must provide the interested parties with the information indicated in the Articles 13 and 14 of the GDPR.

In order that the duty of information provided for in article 12 of the GDPR is complies in a concise and understandable manner for the affected party, the aforementioned article 22 of the LOPDGDD foresees in relation to video surveillance a system of "information by layers".

In this sense, the first layer must refer, at least, to the existence of the treatment (video surveillance), the identity of the person responsible, the possibility of exercising the rights provided for in articles 15 to 22 of the GDPR and where to obtain more information on the processing of personal data.

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5/15

Second layer information should be easily available in one place accessible to the affected person, whether it is an information sheet at a reception, cashier, etc..., placed in a visible public space or in a web address, and must refer to the other elements of article 13 of the GDPR.

It is not necessary to specify the precise location of the video surveillance equipment.

This duty of information will be understood fulfilled by placing a Information device in a sufficiently visible place, and at least, at the entrances to monitored areas, whether interior or exterior. In case the space video surveillance has several accesses must have said hallmark of

video surveillance area in each of them.

This information must be provided in advance -recital 39 of the GDPR-. He

The aim is to make the context of surveillance clear.

The processing of personal data is subject to the rest of the principles of the treatment contained in article 5 of the GDPR. We will highlight the principle of minimization of data contained in article 5.1.c) of the GDPR which provides that personal data will be "adequate, relevant and limited to what is necessary in relation to for the purposes for which they are processed".

This means that in a specific treatment only the data can be processed timely personal, that come to the case and that are strictly necessary to fulfill the purpose for which they are processed. Treatment must be adjusted and proportional to the purpose to which it is directed. The relevance in the treatment of data must occur both at the time of data collection and at the time of subsequent treatment carried out on them.

In accordance with the above, the processing of excessive data must be restricted or proceed to their deletion.

The application of the principle of data minimization in the field of video surveillance means that images of the public thoroughfare cannot be captured, since the treatment of images in public places, unless authorized government, can only be carried out by the Security Forces and Corps.

On some occasions, for the protection of private spaces, where cameras installed on facades or inside, may be necessary to ensure the security purpose the recording of a portion of the public thoroughfare.

That is, cameras and camcorders installed for security purposes may not be obtain images of public roads unless it is essential for said purpose, or it is impossible to avoid it due to their location. And in such a case

extraordinary, the cameras will only be able to capture the minimum portion necessary to preserve the safety of people and property, as well as its facilities.

In no case will the use of surveillance practices beyond the environment be admitted.

object of the installation and, in particular, not being able to affect public spaces

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6/15

surroundings, adjoining buildings and vehicles other than those that access the space guarded.

Installed cameras cannot get images from third-party proprietary space

and/or public space without duly accredited justified cause, nor can they affect

the privacy of passers-by who move freely through the area.

It is not allowed, therefore, the placement of cameras towards the private property of

neighbors with the purpose of intimidating them or affecting their private sphere without cause justified.

Nor can images be captured or recorded in spaces owned by third parties

without the consent of their owners, or, where appropriate, of the people who find.

Likewise, it is disproportionate to capture images in private spaces, such as such as changing rooms, lockers or rest areas for workers.

Video surveillance obligations

IV.

In accordance with the foregoing, the processing of images through a system video surveillance, to comply with current regulations, must comply with the

following requirements:

1.- Individuals or legal entities, public or private, can establish a system

video surveillance in order to preserve the safety of people and property,

as well as its facilities.

It must be assessed whether the intended purpose can be achieved in another less

intrusive to the rights and freedoms of citizens. Personal data only

should be processed if the purpose of the processing cannot reasonably be achieved by

other means, recital 39 of the GDPR.

2.- The images obtained cannot be used for a subsequent purpose

incompatible with the one that motivated the installation of the video surveillance system.

3.- The duty to inform those affected provided for in articles 12 must be fulfilled

and 13 of the GDPR, and 22 of the LOPDGDD, in the terms already indicated.

4.- The treatment of images through the installation of camera systems or

video cameras must be lawful and comply with the principle of proportionality and the principle of

minimization of data, in the terms already indicated.

5.- The images may be kept for a maximum period of one month, except in

those cases in which they must be kept to prove the commission of acts

that threaten the integrity of people, property or facilities.

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7/15

In this second case, they must be made available to the authority

competent authority within a maximum period of 72 hours from the knowledge of the

recording existence.

6.- The controller must keep a record of processing activities

carried out under his responsibility in which the information to which he makes

reference article 30.1 of the GDPR.

7.- The person in charge must carry out a risk analysis or, where appropriate, an evaluation

of impact on data protection, to detect those derived from the implementation

of the video surveillance system, assess them and, where appropriate, adopt security measures.

appropriate security.

8.- When a security breach occurs that affects the processing of

cameras for security purposes, whenever there is a risk to the rights and

freedoms of natural persons, you must notify the AEPD within a maximum period of

72 hours.

A security breach is understood to be the destruction, loss or accidental alteration or

unlawful transfer of personal data, stored or otherwise processed, or the

communication or unauthorized access to said data.

9.- When the system is connected to an alarm center, it can only be

installed by a qualified private security company

contemplated in article 5 of Law 5/2014 on Private Security, of April 4.

The Spanish Data Protection Agency offers through its website

[<https://www.aepd.es>] access to:

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the legislation on the protection of personal data, including the

RGPD and the LOPDGDD (section "Reports and resolutions" / "regulations"),

the Guide on the use of video cameras for security and other purposes,

the Guide for compliance with the duty to inform (both available at the

section "Guides and tools").

It is also of interest, in case of carrying out low-risk data processing, the free tool Facilitates (in the "Guides and tools" section) that, through specific questions, allows to assess the situation of the person in charge with respect to the processing of personal data that it carries out, and where appropriate, generate various documents, informative and contractual clauses, as well as an annex with measures indicative security considered minimum.

Possible administrative offense

V

The claim is based on the alleged illegality of the installation by the defendant of several video surveillance cameras at different points of the farm, located in ***ADDRESS 1; without the proper authorization of the Board of Owners.

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8/15

In addition, it warns that the reviewed property does not have the mandatory sign informative in all video-surveilled areas and, in those where it is present, It is not in a sufficiently visible place.

As proof of these statements, the claimant provided a photographic report in which shows the existence of video surveillance cameras installed in the rooms of garbage from the different portals, in the vicinity of a portal and inside from the gym and the paddle tennis court. They also show the existence of Informative signs inside the garbage rooms.

Likewise, among the matters to be dealt with in the Minutes of the Ordinary General Meeting, of

dates 05/31/2018 and 05/23/2019, which provides, there is none related to the

approval of the installation of a video surveillance system.

For its part, the defendant acknowledges that the building consists of 57 devices, except for the

of the gym that has been deactivated since April 2022, and provides a certificate

issued by the secretary of the Community of Owners on 05/03/2022 where it declares

that in the Ordinary General Meeting of 04/24/2017 it was agreed "the extension of the

installation of surveillance cameras to garages and others. Different offers will be considered

undertaking the installation of the cameras by an approved company and its declaration

to the Data Protection Agency. (...)". Regarding the informative posters of

video-surveilled area, the photographs you provide prove the existence of these hallmarks

not only in the garbage rooms, but also in the garage and at the main entrance of

access to the community.

However, in the monitor photographs of the captured images it is observed

that the perimeter cameras capture excessive public roads but they are not clear, for

which is requested to send individual photos of all perimeter cameras

exteriors, as of 05/06/2022. In your reply, you provide photographs from 16 cameras

external perimeters in which it is appreciated that they continue to capture excessive and do not

proportional to public roads, despite the fact that some have a privacy mask.

Specifically, the cameras called:

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-
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"Garage entrance B and C" capture sidewalk, road and parked vehicles.

"***ADDRESS.1" and "Camera 1" have privacy masks, but still

They continue to capture excessive public roads (sidewalks, roadways and parked vehicles).

"Pádel" has a mask, but a disproportionate outdoor area is captured

(All a dirt road).

In accordance with the evidence available at the present time of agreement to start the disciplinary procedure, and without prejudice to what results from the instruction, it is considered that the facts exposed could suppose a violation of what is established in article 5.1.c) of the GDPR, for which reason they could imply the commission of an offense classified in article 83.5.a) of the GDPR, which provides following:

Violations of the following provisions will be sanctioned, in accordance with the paragraph 2, with administrative fines of maximum EUR 20,000,000 or,

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9/15

in the case of a company, an amount equivalent to a maximum of 4% of the total annual global business volume of the previous financial year, opting for the highest amount:

a) the basic principles for the treatment, including the conditions for the consent under articles 5, 6, 7 and 9; (...)."

For the purposes of the limitation period for infringements, the infringement indicated in the previous paragraph is considered very serious in accordance with article 72.1.a) of the LOPDGDD, which states that:

"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 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

Sanction proposal

The corrective powers available to the Spanish Agency for the protection of

Data, as a control authority, are established in article 58.2 of the GDPR. Between

they have the power to impose an administrative fine in accordance with the

article 83 of the GDPR -article 58.2 i)-, or the power to order the person responsible or

processor that the processing operations comply with the

provisions of the GDPR, where applicable, in a certain way and within a certain

specified term -article 58. 2 d)-.

According to the provisions of article 83.2 of the GDPR, the measure provided for in article 58.2

d) of the aforementioned Regulation is compatible with the sanction consisting of a fine

administrative.

In the present case, taking into account the facts exposed and without prejudice to what

results from the instruction of the procedure, it is considered that the sanction that

It would be appropriate to impose an administrative fine. The fine imposed shall

be, in each individual case, effective, proportionate and dissuasive, in accordance with the

Article 83.1 of the GDPR. In order to determine the administrative fine to be imposed,

to observe the provisions of article 83.2 of the GDPR, which indicates:

"2. Administrative fines will be imposed, depending on the circumstances of each

individual case, in addition to or in lieu of the measures contemplated in

Article 58, paragraph 2, letters a) to h) and j). When deciding to impose a fine

administration and its amount in each individual case shall 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

such as the number of interested parties affected and the level of damages that have suffered;

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10/15

b) intentionality or negligence in the infraction;

c) any measure taken by the controller or processor to

alleviate the damages and losses suffered by the interested parties;

d) the degree of responsibility of the controller or processor,

taking into account the technical or organizational measures that they have applied under

of articles 25 and 32;

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 whether the person in charge or the person in charge notified the infringement and, if so, in 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,

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 infringement”.

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", provides:

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

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

- a) The continuing nature of the offence.
- b) The link between the activity of the offender and the performance of data processing. personal information.
- c) The benefits obtained as a consequence of the commission of the infraction.

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11/15

- d) The possibility that the conduct of the affected party could have included the commission of the offence.

- e) The existence of a merger by absorption process subsequent to the commission of the infringement, which cannot be attributed to the absorbing entity

- f) 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 controversies between those and any interested party”.

The balance of the circumstances contemplated, with respect to the infraction committed by violating what is established in its article 5.1.c) of the GDPR, allows to set as valuation initial fine of €1,500 (one thousand five hundred euros).

VII

possible measures

If the infringement is confirmed, it could be agreed to impose on the person responsible the adoption of adequate measures to adjust its performance to the regulations mentioned in this act, in accordance with the provisions of the aforementioned article 58.2 d) of the GDPR, according to the which each control authority may "order the person responsible or in charge of the processing that the processing operations comply with the provisions of the this Regulation, where appropriate, in a certain way and within a certain specified term...”.

In such a case, in the resolution adopted, this Agency may require the responsible so that within the period to be determined:

- Evidence of having removed the camera or video camera system of the current place or accredit the regularization of the cameras in accordance with current regulations.

It is noted that not meeting the requirements of this body may be considered as an administrative offense in accordance with the provisions of the GDPR, classified as an infraction in its article 83.5 and 83.6, being able to motivate such conduct the opening of a subsequent administrative sanctioning procedure.

VIII

Conclusion

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

Spanish Data Protection,

HE REMEMBERS:

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12/15

INITIATE SANCTIONING PROCEDURE

COMMUNITY

FIRST:

OWNER R.R.R., with NIF ***NIF.1, for the alleged violation of article 5.1.c)

of the GDPR, typified in article 83.5.a) of the GDPR.

SECOND: THAT for the purposes provided in article 64.2 b) of Law 39/2015, of 1

October, of the Common Administrative Procedure of Public Administrations

(LPACAP), the corresponding sanction would be an ADMINISTRATIVE FINE

of €1,500 (one thousand five hundred euros), without prejudice to what results from the instruction.

Likewise, the imputed infringement, if confirmed, may lead to the imposition of

measures in accordance with the provisions of article 58.2 d) of the GDPR.

THIRD: APPOINT C.C.C. as instructor, (and secretary, if applicable, D.D.D.)

indicating that any of them may be challenged, if applicable, in accordance with the

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

Legal Department of the Public Sector (LRJSP).

FOURTH: INCORPORATE into the disciplinary file, for evidentiary purposes, the

claim filed by the claimant and its documentation, as well as the

documents obtained and generated by the Sub-directorate General of Inspection of

Data on actions carried out prior to the start of this

sanctioning procedure.

FIFTH: NOTIFY this agreement to COMMUNITY OWNER R.R.R.,

with NIF ***NIF.1, granting a hearing period of ten business days so that

Formulate the allegations and present the evidence that you consider appropriate. In its

pleadings must provide your NIF and the procedure number that appears

at the top of this document

If, within the stipulated period, he does not make allegations to this initial agreement, the same

may be considered a resolution proposal, as established in article

64.2.f) of Law 39/2015, of October 1, on the Common Administrative Procedure of

Public Administrations (hereinafter, LPACAP).

In accordance with the provisions of article 85 of the LPACAP, in the event that the

sanction to be imposed other than a fine, may recognize its responsibility within the

term granted for the formulation of allegations to the present initiation agreement; it

which will entail a reduction of 20% of the sanction that should be imposed in

this procedure, equivalent to €300 (three hundred euros). With the application of

this reduction, the penalty would be set at €1,200 (one thousand two hundred euros),

resolving the procedure with the imposition of this sanction.

In the same way, it may, at any time prior to the resolution of this

procedure, carry out the voluntary payment of the proposed sanction, which

will mean a reduction of 20% of its amount, equivalent to €300 (three hundred

euro). With the application of this reduction, the penalty would be established at €1,200.

(one thousand two hundred euros) and its payment will imply the termination of the procedure.

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The reduction for the voluntary payment of the penalty is cumulative to the corresponding apply for acknowledgment of responsibility, provided that this acknowledgment of the responsibility is revealed within the period granted to formulate allegations at the opening of the procedure. Voluntary payment of the referred amount in the previous paragraph may be done at any time prior to the resolution. In this case, if both reductions were to be applied, the amount of the penalty would remain set at €900 (nine hundred euros).

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

In the event that you choose to proceed with the voluntary payment of any of the amounts indicated above (€1200 or €900), you must make it effective by depositing in the account number ES00 0000 0000 0000 0000 0000 opened in the name of the Agency Spanish Data Protection Agency at the bank CAIXABANK, S.A., indicating in the concept the reference number of the procedure that appears in the heading of this document and the reason for reducing the amount to which welcomes.

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

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

After this period, its expiration will occur and, consequently, the file of performances; in accordance with the provisions of article 64 of the LOPDGDD.

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

Mar Spain Marti

Director of the Spanish Data Protection Agency

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SECOND: On September 23, 2022, the claimed party has proceeded to the payment of the penalty in the amount of 900 euros making use of the two reductions provided for in the initiation Agreement transcribed above, which implies the recognition of responsibility.

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

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FUNDAMENTALS OF LAW

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In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter GDPR), grants each control authority and as established in articles 47, 48.1, 64.2 and 68.1 of the Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Protection Agency of data.

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

II

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

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

"Termination in disciplinary proceedings" provides the following:

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

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

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

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

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

any moment prior to the resolution, will imply the termination of the procedure,

except in relation to the replacement of the altered situation or the determination of the

compensation for damages caused by the commission of the offence.

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

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

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

The aforementioned reductions must be determined in the notification of initiation

of the procedure and its effectiveness will be conditioned to the withdrawal or resignation of

any administrative action or resource against the sanction.

The percentage reduction provided for in this section may be increased

according to regulations."

According to what has been stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: DECLARE the termination of procedure EXP202203322, in

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

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15/15

SECOND: NOTIFY this resolution to OWNER COMMUNITY

R.R.R.

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

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

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

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

Common of Public Administrations, interested parties may file an appeal

administrative litigation before the Administrative Litigation Chamber of the

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

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

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

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

referred Law.

Mar Spain Marti

Director of the Spanish Data Protection Agency

936-040822

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