

□ Procedure No.: PS/00240/2019

## RESOLUTION OF PUNISHMENT PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection and in consideration to the following

### BACKGROUND

FIRST: They have been received by the Spanish Data Protection Agency (AEPD) ninety-six (96) claims against EQUIFAX IBÉRICA, S.L., with NIF B80855398, (hereinafter, the claimed or EQUIFAX) for alleged violation of the data protection regulations.

The claims deal with the treatment of the personal data of the claimants made by EQUIFAX and materialized in its incorporation to the File of Judicial Claims and Public Organizations (hereinafter, FIJ) associated with alleged debts mostly contracted, presumably, with Public Administrations Public. In general, the personal data subject to treatment linked to presumed debts appeared in documents of the Public Administrations, the entities or bodies of Public Law dependent on them or in resolutions of the jurisdictional bodies that were published through bulletins or newspapers officials, through its insertion in the bulletin boards located in the headquarters of entities or organizations or on the single judicial edictal board, with the purpose of make effective the notification of an administrative or judicial resolution.

EQUIFAX IBÉRICA, S.L., with NIF B80855398, is responsible for the FIJ. so it has recognized in any of the documents in the file, such as the letter which he sent to claimants number 36 (E/6174/2019), number 43 (E/11624/2019) and number 48 (E/2050/2020) to inform you of the inclusion of your personal data in the FIJ.

It should also be remembered that the repealed Organic Law 15/1999, on the Protection of Personal Data (LOPD) regulated in its articles 14 and 39 the Registry General Data Protection, for public consultation, which reported on the data processing, the purposes of such processing and the identity of the responsible for the treatment. In the aforementioned Registry -updated to June 2016- EQUIFAX appeared as responsible for the FIJ, being the purpose of the file and the uses provided for the "provision of capital solvency and credit services".

Although the opening agreement and the motion for a resolution indicated that they were 97 the claims made against EQUIFAX, and this is stated in the list of claimants listed in Annex I and in the description of the claims (First Background), there are actually 96 claims that make up this file, given that claimant 3 and claimant 27 are the same person who has presented at two different times different attached documentation.

Taking into consideration that we must not make any rectification in the Antecedent Second, since said Antecedent was incorporated into the list of proven facts as First Proven Fact, its content is not altered, which

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remains as it appeared in the motion for a resolution, limiting ourselves to indicating hereinafter that there are 96 and not 97 claims made against EQUIFAX that have determined the opening of this sanctioning file.

SECOND: From the examination of the claims received by the AEPD and their attached documents, the following relevant information is extracted for the purposes that we

occupy:

Claimant 1: States that EQUIFAX has included his data in the FIJ, without his authorization, for debts that are not true and without having contrasted with the City Hall the reality of the debt. Provide, among others, the following documents:

a. Letter from EQUIFAX, dated 10/14/2019, with the result of access to the FIJ.

It is associated with the personal data of the claimant (name, surnames and NIF) the following information: Under the heading "Claims from public bodies", there is no data" Under the heading "Legal Claims":

- An annotation: the \*\*\*CITY COUNCIL.1 appears as the plaintiff; What "tax debt" procedure; as means of publication "\*\*\*\*BULLETIN.1" and the date 10/11/2017.

b. The letter that the claimant sent to the respondent, dated 10/12/2019, in which He requested that his data be deleted from the FIJ, at least in a precautionary way. The letter of EQUIFAX addressed to the claimant, dated 10/24/2019, in which it denies the requested cancellation and informs you that it is not appropriate to attend to it since it has not Provided documentation that justifies the deletion of your data. (It is the letter model EQUIFAX denying the cancellation that is reproduced in the Third Fact)

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Complainant 2: Reports the inclusion of their data in the FIJ without their consent.

Provide, among others, these documents:

a. Letter from EQUIFAX, dated 11/04/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provides the following information: Under the heading "Claims from organizations public", no data. Under the heading "Judicial Claims", these annotations:

1st entry: as plaintiff the \*\*\*CITY COUNCIL.2, for a

tax debt procedure; means of publication, "\*\*\*\*BOLETIN.2" and the date of 09/02/2016.

2nd entry: plaintiff, the \*\*\* TOWN HALL.3; by a procedure of

Tax debt; means of publication, "\*\*\*\* BOLETIN.3" and the date of 09/09/2015.

3rd entry: plaintiff, the \*\*\* TOWN HALL.3; by a procedure of

Tax debt; means of publication, "\*\*\*\*BOLETIN.3" and the date on 07/06/2016.

4th entry: plaintiff, the \*\*\* TOWN HALL.3; by a procedure of

Tax debt; means of publication, "\*\*\*\*BOLETIN.3" and the date on 03/01/2017.

5th entry: plaintiff, the State Tax Administration Agency

(AEAT); for a tax debt procedure; publishing medium,

"Tax Agency Headquarters" and the date 10/20/2017.

6th entry: plaintiff the AEAT; for a tax debt procedure;

means of publication, "Tax Agency Headquarters" and the date 06/08/2018.

7th entry: plaintiff the AEAT; for a tax debt procedure;

means of publication, "Tax Agency Headquarters" and the date 07/27/2018.

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8th entry: plaintiff the AEAT; for a tax debt procedure;

means of publication, "Tax Agency Headquarters" and the date 08/12/2019.

9th entry: plaintiff the \*\*\* TOWN HALL.4; by a procedure of

Tax debt; means of publication, "\*\*\*BOLETIN.3" and the date on

11/30/2015.

10th entry: plaintiff the AEAT; for a debt proceeding

tax; means of publication, "Tax Agency Headquarters" and the date of

07/27/2018.

11th entry: AEAT plaintiff; for a debt proceeding

tax; means of publication, "Tax Agency Headquarters" and the date of

08/12/2019.

12th entry: plaintiff the \*\*\* TOWN HALL.4; for a procedure

of tax debt; means of publication, "\*\*\*BOLETIN.3" and the date

11/30/2015.

b. The letter from EQUIFAX, dated 11/12/2019, in which it denies the cancellation that

requested on 11/03/2019 and informs you that it is not appropriate to attend to it for not having contributed

documentation that justifies the deletion (It is the EQUIFAX letter model denying the

cancellation that is reproduced in the Third Fact)

Complainant 3: States in his claim that Bankia did not respond to the access

requested and that, in November 2017, when trying to arrange a loan, the Director of the Bankia branch informed him that his NIF was included in the FIJ associated with the name of a third person, who was recorded as born in \*\*\* LOCATION, 1, and that the information came from the Ministry of Development and Housing of \*\*\*LOCATION.1.

The AEPD, prior to the agreement to admit this claim for processing, transferred it to Bankia so that it could report on the reported events. In its response, Bankia sent the AEPD a copy of the letter addressed to the claimant on 02/06/2019 in which he informed him that, regarding the FIJ, as he was informed in his office, a query associated with his NIF appeared, but not with his name and surnames. He also added that the FIJ "is a database which has information about legal proceedings and claims from public bodies that is obtained of the Official State Gazette and similar bulletins of the Autonomous Communities. The information that appears in it, therefore, is not reported by Bankia, so To find out what data is processed in it, you should go to...."

Claimant 4: States that his data, associated with alleged debts with the Public Administrations, have been included in the FIJ without their authorization and without the creditor has informed him of the possibility of being included in these systems. Add that EQUIFAX has not verified the data with the Administrations. contribute, between others, these documents:

a. Letter from EQUIFAX, dated 11/05/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provide the following information:

Under the heading "Claims from public bodies":

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- An entry: Social Security claimant entity; for a debt

corresponding to the period "06/2016 – 06/2016"; being the "means of Publication" \*\*\*BULLETIN.1 and publication date 02/22/2018.

Under the heading "Legal Claims" the following are collected in the document annotations:

1st entry: plaintiff the \*\*\* TOWN HALL.1; debt procedure

tax; means of publication \*\*\*BULLETIN.1 and the date 03/23/2015.

2nd entry: \*\*\*ORGANISM.1 appears as the plaintiff; process

Tax debt; means of publication, \*\*\*BULLETIN.5 and the date of 02/23/2018.

3rd entry: plaintiff the AEAT; tax debt procedure; source of publication, "Tax Agency Headquarters" and the date of 08/08/2019.

4th entry: plaintiff the AEAT; tax debt procedure; source of publication, "Tax Agency Headquarters" and the date of 10/26/2018.

5th entry: plaintiff the General Treasury of the Social Security; urgency procedure; means of publication "\*\*\*\*BOLETIN.1" and the date

07/19/2018.

b. The letter received from EQUIFAX, dated 11/05/2019, in which it denies the cancellation that requested on 11/04/2019 and informs her that it is not appropriate to serve her since she has not Provided the documentation that justifies the deletion. (It is the EQUIFAX letter model denying the cancellation that is reproduced in the Third Fact)

Claimant 5: States that his data, associated with alleged debts with the Public Administrations, have been included in files without their authorization and that EQUIFAX has not verified the data with the Administrations. It provides, among others, this documents:

a. Letter from EQUIFAX, dated 11/14/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provides the following information: Under the heading "Claims from organizations public" "No data". Under the heading "Legal Claims" the following annotations:

1st entry: plaintiff the \*\*\* TOWN HALL.1; debt procedure tax; means of publication \*\*\*BULLETIN.1 and the date of 04/22/2014.

2nd entry: plaintiff the \*\*\* TOWN HALL.4; procedure the tax debt indication; means of publication \*\*\*BULLETIN.1 and the date of 05/20/2015.

b. The letter received from EQUIFAX, dated 11/25/2019, in which they deny the cancellation requested on 11/14/2019 and they inform you that since you have not contributed documentation that justifies the deletion, it is not appropriate to attend to your request (It is the EQUIFAX letter model denying the cancellation that is reproduced in the Fact Third)

Claimant 6: Reports the inclusion of their personal data in files of defaulters obtained from public listings such as the BOE despite not having any debt with the



Public administrations. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 11/11/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is

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provides the following information: Under the heading “Claims from organizations public”, data are not available. Under the heading “Legal Claims” are the following six annotations:

1st to 6th: AEAT as plaintiff; as a procedure, tax debt;

as means of publication, "Tax Agency Headquarters" and the dates,

respectively,

02/22/2019,

07/22/2019, 10/18/2019 and 05/24/2019.

10/26/2018,

01/18/2019,

the

b. The letter received from EQUIFAX, dated 10/21/2019, in which it responds to the access required. In it they inform you that they send "the information associated with your identifier or in your name and at the address provided by you." (It is the EQUIFAX letter model of response to the requested access that is transcribed in Fact Three)

Complainant 7: Reports the inclusion of their data in the FIJ without their consent, obtained from publications in official journals and without having verified their accuracy.

Provide, among others, these documents:

a. Letter from EQUIFAX, dated 12/13/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provides the following information: In the section "Claims from organizations public" there are no data. In the section "Legal Claims" there are five inclusions:

1st entry: plaintiff the \*\*\* TOWN HALL.3; procedure, debt tax; means of publication, \*\*\*BULLETIN.3 and the date 08/09/2017.

2nd entry: plaintiff the AEAT; procedure, tax debt; source of publication, "Tax Agency Headquarters" and the date 01/16/2014.

3rd entry: AEAT plaintiff; tax debt procedure; source of publication, "Tax Agency Headquarters" and the date 02/04/2019.

4th entry: plaintiff the \*\*\* TOWN HALL.5; debt procedure tax; means of publication, \*\*\*BULLETIN.3 and the date 02/26/2016.

5th entry: plaintiff the \*\*\* TOWN HALL.3; debt procedure tax; means of publication, \*\*\*BULLETIN.3 and the date 11/24/2017.

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b. The letter from EQUIFAX, dated 12/20/2019, denying the request for cancellation of your data from the FIJ "given that you have not provided documentation that justify the deletion, it is not appropriate to attend to your request". (Equifax letter model denying cancellation transcribed in Fact Three)

Complainant 8: Alleges the inclusion of their data in the FIJ without their consent

obtained from the publication in official newspapers, without having contracted their veracity and accuracy. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 12/11/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provides the following information: In the section "Claims from organizations public" no data. In the section "Legal claims":

- An annotation: plaintiff the \*\*\* TOWN HALL.3; procedure, debt tax; means of publication, \*\*\*BULLETIN.6 and the date 06/23/2017.

b. The letter from EQUIFAX, dated 12/11/2019, denying the cancellation of your FIJ data. (Model EQUIFAX letter denying the cancellation reproduced in the Third Antecedent)

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Complainant 9: You denounce the inclusion of your personal data in the FIJ without your consent for debts that you do not recognize as yours. It provides, among others, the following documents:

a. Letter from EQUIFAX, dated 12/27/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provides the following information: In the section "Claims from organizations public" no data. In the section "Legal claims" there is:

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1st entry: plaintiff the \*\*\* TOWN HALL.1; debt procedure

tax; means of publication \*\*\*BULLETIN.1 and the date 01/05/2014

2nd entry: plaintiff the AEAT; tax debt procedure; source of publication "Tax Agency Headquarters" and the date 01/02/2019.

3rd entry: plaintiff the \*\*\* TOWN HALL.6; debt procedure tax; means of publication \*\*\*BULLETIN.1 and the date 11/22/2019.

b. The letter received from EQUIFAX, dated 12/27/2019, in which it responds to your request for access to your FIJ data made on 12/26/2019 and they send you "the information associated with your identifier or your name and at the address provided by you". (Sample letter of response to the requested access, see Fact Three)

Claimant 10: He denounces the inclusion of his data in the FIJ for debts that are not recognize. Provide, among others, the following documents:

a. Letter from EQUIFAX, dated 11/22/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provides the following information: In the section "Claims from organizations public" no data. In the section "Legal claims":

- An annotation: plaintiff the \*\*\*ORGANISM.2; debt procedure tax; means of publication \*\*\*BULLETIN.7 and the date of 07/10/2019.

b. The letter that EQUIFAX sends you, dated 11/22/2019, in which you respond to the access requested on that same date and provides "information associated with your identifier or your name and at the address provided by you." (Model letter of response to access requested, see Fact Three.

Claimant 11: Denounces the publication of his personal data in files of solvency without your authorization obtained from public files. It provides, among others, the following documents:

a. Letter from EQUIFAX, dated 09/26/2019, with the result of access to the FIJ, in the

that associated with your personal data (name, surnames and NIF) the following is provided

information: In the section "Claims from public bodies", there is no data.

In the section "Legal claims":

- An annotation: plaintiff the \*\*\* TOWN HALL.7; procedure, debt tax; means of publication, \*\*\*BULLETIN.8 and the date 12/22/2017.

b. The letter sent by EQUIFAX, dated 09/26/2019, in which it responds to the access requested and sends you "the information associated with your identifier or your name and in the address provided by you. (Sample letter of response to the requested access, see

Made Third)

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Claimant 12: Reports the publication of their data in solvency files without their authorization from public files. It provides, among others, the following documents:

a. Letter from EQUIFAX, dated 09/27/2019, with the result of access to the FIJ, in the which, associated with the personal data of the claimant (name, surnames and NIF), is provides the following information: In the section "Claims from organizations public" no data. In the section "Legal claims":

- An entry: plaintiff the AEAT; procedure, tax debt; medium of publication, "Tax Agency headquarters" and the date 02/10/2017.

b. The letter sent by EQUIFAX, dated 09/27/2019, in which it responds to the access requested and sends you "the information associated with your identifier or your name and in the address provided by you. (Sample letter of response to the requested access, see

Made Third)

Claimant 13: Reports the publication of their data in solvency files

patrimonial, without your authorization, obtained from public files. It provides, among others, the following documents:

a. Letter from EQUIFAX, dated 11/29/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provides the following information: In the section "Claims from organizations public", no data. In the section "Legal claims":

- An entry: the \*\*\*CITY COUNCIL.8 appears as the plaintiff; What procedure, tax debt; as a means of publication, \*\*\*BULLETIN.9 and the date 05/31/2019.

b. The letter that EQUIFAX sends you, dated 11/29/2019, in which you respond to the access requested and sends you "the information associated with your identifier or your name and in the address provided by you. (Sample letter of response to the requested access, see

Made Third)

Claimant 14: Reports the publication of their data in the FIJ, without their authorization, obtained from public files. Provide, among others, the following documents:

a. Letter from EQUIFAX, dated 10/17/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provides the following information: In the section "Claims from organizations public", no data. In the section "Legal claims":

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1st entry: plaintiff the \*\*\*ORGANISM.3; procedure, debt tax; means of publication, \*\*\*BULLETIN.1 and as date 02/10/2019.

2nd entry: plaintiff the AEAT; procedure, tax debt; medium

of publication, "Tax Agency Headquarters" and as date 01/24/2018.

b. The letter from EQUIFAX, dated 10/17/2019, in which it responds to the access requested and sends you "the information associated with your identifier or your name and in the address provided by you. (Sample letter of response to the requested access, see Made Third)

Claimant 15: Reports the publication of their data in the FIJ, without their authorization, from public files. Provide, among others, the following documents:

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a. Letter from EQUIFAX, dated 11/26/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provides the following information: In the section "Claims from organizations public" no data. In the section "Legal claims":

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Annotation: plaintiff the \*\*\*CITY HALL.7; for a procedure of tax debt; means of publication, \*\*\*BULLETIN.8 and the date 02/20/2019.

b. The letter sent by EQUIFAX, dated 11/26/2019, in which it responds to the access requested and sends you "the information associated with your identifier or your name and in the address provided by you. (Sample letter of response to the requested access, see Made Third)

Claimant 16: Reports the inclusion of their data in the FIJ, without their consent, for debts that are not true. Provide, among others, the following documents:

a. Written with the EQUIFAX anagram, dated 10/14/2019, with the result of the access to the FIJ, in which associated with the claimant's personal data (name, surnames and NIF) this information is offered:

In the "Claims from public bodies" section:

- 23 annotations in which, in all of them, the claimant entity appears as the Social Security. The entries are for debts corresponding to periods monthly and correlative, the first being September 2016 and the last July 2018. The means of publication of the 23 inclusions in which it appears as Social Security creditor is always \*\*\*BOLETIN.3, being the dates of publication those between 12/01/2016 (that of the first recorded debt) and the of 09/20/2018 (the one with the last debt included)

In the section "Legal claims":

-Annotation: as plaintiff the General Treasury of the Social Security; What procedure "pressure"; the means of publication is \*\*\*BOLETIN.3 and the date 01/24/2017.

b. A letter from EQUIFAX, dated 10/14/2019, responding to the access request to your data that appears in the FIJ and sends you "the information associated with your identifier or in your name and at the address provided by you." (Sample letter of response to the requested access, see Fact Three)

c. A letter from EQUIFAX, dated 01/07/2020, responding to the cancellation requested by the claimant on 01/03/2020 and informs him that there are no inclusions associated with your data due to debts with public bodies. the claimant provides the document received from EQUIFAX on that same date, 01/07/2020, with the information included in the FIJ associated with your name, surnames and NIF. In this document there are no longer any annotations in the section "Claims from organizations public" that did appear (24 annotations) on 10/14/2019. It is only reflected in



“Court Claims” section, the aforementioned incidence.

Claimant 17: Complaint that EQUIFAX has not responded to the cancellation of their data of the FIJ despite having elapsed "the stipulated period of six years". Provides, among others documents, the following:

a. Letter from EQUIFAX, dated 02/21/2019, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) provides the

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following information: In the section “Claims from public bodies” there is no data. In the section “Legal claims” there is:

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1st entry: as plaintiff, the \*\*\* TOWN HALL.2; What procedure, tax debt; as "Number of Order and Court" "1408387/0 Local Management"; as publication medium, \*\*\*BULLETIN.2 and the date on 08/25/2017.

2nd entry: as plaintiff, the \*\*\* TOWN HALL.9; What procedure, tax debt; as "Number of Order and Court" "29553/000 Local Management"; as publication medium, \*\*\*BULLETIN.2 and the date on 10/03/2013.

3rd entry: as plaintiff, the \*\*\* TOWN HALL.9; What

procedure, tax debt; as "Number of Order and Court" "3892245/0

Local Management"; as publication medium, \*\*\*BULLETIN.2 and the date

on 11/30/2015.

4th entry: as plaintiff, the \*\*\* TOWN HALL.8; What

procedure, tax debt; as "Number of Order and Court" "239/0000

Local Management"; as publication medium, \*\*\*BULLETIN.9 and the date

on 09/05/2013.

b. The letter from EQUIFAX to the claimant, dated 02/21/2019, in which it denies the cancellation of your data from the FIJ for not having provided documentation that justifies the suppression. (Sample letter of response to the cancellation request, see Done Third)

c. The AEPD, prior to admitting the claim for processing, notified her to EQUIFAX on 03/27/2019 and asked her to report on the facts denounced. The respondent responds on 04/02/2019 and explains that she was unable to access the cancellation requested because the payment of the debts was not accredited.

Claimant 18: Complaint that on 02/05/2019 he requested EQUIFAX to cancel his data from the FIJ, since they appeared associated with debts with Social Security and the Non-existent AEAT. It adds that it provided EQUIFAX with the certificates issued by the General Treasury of the S.S. and by the AEAT that certify that he has no debts pending and after a month, he has not received a response. Provide a copy, among others, of the following documents:

a. Letter from EQUIFAX, dated 01/03/2019, 02/21/2019 addressed to the claimant, in which that responds to the requested access and with which it transfers a document with the information that works in the FIJ. The document contains your personal data (name, surnames and NIF) associated with this information:

In the section "Claims from public bodies", an entry in which

Social Security appears as a creditor entity; for a period included

between 4/13 to 4/13; as means of publication "SSS ELECTR (...)" is indicated and as date 07/19/2013.

In the "Judicial claims" section, a note: the AEAT as plaintiff;

as a tax debt procedure; as Auto and Court number "59300188/0

Local Administration"; as means of publication, "Tax Agency headquarters" and the date 09/08/2017.

b. Letter that the claimant sends by burofax dated 02/05/2019 to EQUIFAX and to

through which you exercise the right of cancellation. The claimant referred to EQUIFAX

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A.A.A.,

with said writing, two separate certificates issued by the General Treasury of the S.S. and by

the AEAT, Special Delegation, which prove that it has no outstanding debts as of the date

01/19/19. In both documents, the person of the claimant is identified by his

name, surnames and by the NIF. In addition, the document issued by the T.G.S.S.

incorporates this data: "\*\*\*\*DATA.1".

c. In the absence of a response from EQUIFAX to your cancellation request, the

claimant filed a claim with the AEPD of which this Agency gave

transfer to EQUIFAX to report on the facts set forth in it. The

claimed responds to the AEPD on 04/12/2019 and states:

"As of 04/12/2019 there is no registered data that can be associated with your

but

Name and address. There is an incident registered in the name of associated with an address totally different from those that the affected party has provided in his claim". "If you wish to be consulted at other addresses where you have been able to have previously resided, and thus verify with certainty whether or not it is data associated with its identity, it must facilitate a relationship between them"

"However, we inform that the identifiers that the owner provides in the Certificates of being up to date with Social Security obligations (NAF) nor do they correspond to those associated with the incidence discharged in our files, so it is not possible for us to proceed with the cancellation" (The underlined is from the AEPD)

Later, it adds that after receiving the request for cancellation of the claimant and "the necessary supporting documentation" "will be checks that there are no registered data associated with your name and address or your DNI. There is an incident in the name of A.A.A., but associated with an address different from those that the holder has provided us in his request, therefore, the response issued is that "there are no registered data associated with your identifier/name and in the address provided and that if he had resided in other addresses in which he wanted to be consulted can send us a request expressly mentioning them". (The underlined is from the AEPD)

EQUIFAX sends to the AEPD a document with the information that is in the FIJ associated with the name and two surnames of the claimant, but not his NIF, since it is not the NIF is provided because the section for that information is empty. In that document, in the Claims from Public Bodies section there is no information and in the Legal Claims section contains this annotation: as plaintiff the T.G.S.S; as a procedure, urgency; as Auto and Court number "192987/20 UNIT REC. EXECUTE."; means of publication, "SS S ELECTR ASTURIAS" and the date

04/28/2013.

Claimant 19: Reports the inclusion of their data in solvency files by a non-existent debt with the \*\*\* TOWN HALL.2. He claims to have addressed the aforementioned Town Hall in which they inform him that there are hundreds of cases like his for debts that are not true. Provide, among others, the following documents:

a. Letter from EQUIFAX, dated 03/18/2019, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) provides the

Next information:

In the section "Claims from public bodies", there is no data.

In the "Court Claims" section there is an entry: As plaintiff, the \*\*\* TOWN HALL.2; as a procedure, tax debt; as Car Number and Court, "\*\*\*\*REFERENCE.1"; as publication medium, \*\*\*BULLETIN.2 and the date

05/12/2016.

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b. A certificate issued by the \*\*\* TOWN HALL.2 on 03/21/2019, indicating the claimant, identified by his name, surnames and NIF, does not appear as a debtor of the Municipal Public Treasury for tax concepts that to date are are in the executive collection period.

Claimant 20: Reports the inclusion of their data in a file of defaulters associated with a non-existent debt with the Tax Agency. Refer to EQUIFAX negative certificate from the AEAT that proves that you are up to date with your payments. Once the claim is received at this Agency, before agreeing to its admission for processing,

He transferred it to the respondent so that she could provide information.

The following documents are in the file, among others:

a. Letter from EQUIFAX, dated 02/22/2019, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) is offered this information:

In the section "Claims from public bodies", there is no data.

In the section "Legal claims" there is a note: as a plaintiff, the

AEAT; as a procedure, tax debt; as Car and Court Number, 4472761/0

ADMON. LOCAL; as means of publication, "Tax Agency headquarters" and the date 05/09/2016.

b. EQUIFAX responded to the informative request of the AEPD on 05/14/2019. He explained that the claimant had requested access to his FIJ data on 02/22/2019. That he 03/04/2019, the claimant requested the cancellation of his FIJ data and provided "the corresponding supporting documentation for said cancellation" for which, adds, "Dated 03/13/2019 the data is cancelled."

Claimant 21: Reports the inclusion in the FIJ of his personal data associated with information that has been obtained from the BOE regarding alleged debts with Public Administrations, as well as EQUIFAX's refusal to cancel the data.

Provide, among others, these documents:

a. Letter from EQUIFAX, dated 01/13/2020, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) provides the following information: In the section "Claims from public bodies", there is no data. The section "Legal Claims" contains:

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1st entry: plaintiff's name, \*\*\* TOWN HALL.2; What  
procedure, tax debt; as publication medium, \*\*\*\*BOLETIN.2”  
and the date 02/12/2016.

2nd entry: name of the plaintiff, State Administration Agency  
Tax; as a procedure, tax debt; publishing medium,  
“Tax Agency Headquarters” and the date 12/02/2015.

3rd entry: name of the plaintiff, State Administration Agency  
Tax; as a procedure, tax debt; means of publication "Headquarters  
Tax Agency” and the date 01/28/2019.

b. Letter that EQUIFAX addresses to the claimant, dated 01/13/2020, denying the request  
cancellation of your data from the FIJ “given that you have not provided documentation that  
justifies the deletion, it is not appropriate to attend to your request” (Sample response letter  
to the cancellation request, see Fact Three)

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c. Report of the General Secretariat of the State Agency Official State Gazette,  
signed on 07/31/2019, in response to the query raised by the representative of the  
claimant about the legality of collecting the personal data that  
publishes the BOE to create a for-profit database. Report of the S.G.  
Data Protection Registry of the AEPD, dated 10/03/2019, responding to  
the query raised by the claimant's representative (reference number  
037917/2019)

Claimant 22: Complains about the inclusion of his personal data in the FIJ for a

debt with the \*\*\*ORGANISM.4 without its authorization and without this Administration

Public has communicated its data. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 12/16/2020, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) contains the

Next information:

In the "Claims from Public Bodies" section, there is no data.

In the "Legal Claims" section there is an incident: the name of the plaintiff is \*\*\*ORGANISM.4; as a procedure, tax debt; like medium of publication, "\*\*\* BOLETIN.2" and the date 08/14/2015.

b. A letter with the heading "Equifax judicial information report", regarding a query dated 12/11/2019 associated with the personal data of the claimant in the one that appears as debtor, as plaintiff the \*\*\*ORGANISM.4; What status, "embargo" and the date of 08/14/2015.

c. Two documents with the anagram of \*\*\*ORGANISMO.4, in which under the heading "Debt situation report" of the taxpayer -the claimant- is made confirm the full payment on 12/12/2019 of two debts corresponding to the IVTM.

Complainant 23: Complaint that EQUIFAX has published in a solvency file its data, without your authorization, obtained from public files. It provides, among others, these documents:

a. Letter from EQUIFAX, dated 01/14/2020, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) the following information is provided: In the section "Claims Public Organizations", there is no data. In the section "Claims Judicial" figure:

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debt

1st entry: plaintiff's name, \*\*\* TOWN HALL.5; What

process,

as a means of publication,

“\*\*\*BULLETIN.10” and the date 06/11/2015.

2nd entry: plaintiff's name, \*\*\* TOWN HALL.5; What

process,

as a means of publication,

“\*\*\*BULLETIN.10” and the date 05/08/2017.

debt

tax;

tax;

b. Letter from EQUIFAX to the claimant responding to access to the FIJ. He says he sends you

“the information associated with your identifier or your name and the address provided

for you”. (Sample letter of response to the request for access, see Fact Three)

Claimant 24: Complaint that EQUIFAX publishes in the FIJ personal data that it has

obtained, without authorization, from public files. Provides, among others, the documents

following:

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a. Letter from EQUIFAX, dated 12/19/2020, with the result of access to the FIJ, in the

that associated with the personal data of the claimant (name, surnames and NIF)

the following information is provided. In the section “Claims of

Public Organizations”, there is no data. In the section “Claims

Judicial” consists:

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1st entry: plaintiff's name, \*\*\* TOWN HALL.10; What  
procedure, tax debt; as a means of publication, \*\*\*BULLETIN.10  
and the date 05/05/2014.

2nd entry: as the name of the plaintiff appears \*\*\* TOWN HALL.10;  
as a procedure, tax debt; as a means of publication,  
\*\*\*BULLETIN.10 and the date 05/20/2015.

3rd entry: AEAT as plaintiff; for a debt proceeding  
tax; as means of publication "Tax Agency Headquarters" and the date  
07/04/2016.

4th entry: AEAT as plaintiff; for a debt proceeding  
tax; as means of publication "Tax Agency Headquarters" and the date  
10/24/2015.

5th entry: AEAT as plaintiff; for a debt proceeding  
tax; as means of publication "Tax Agency Headquarters" and the date  
03/31/2017.

b. Letter from EQUIFAX to the claimant, dated 01/19/2020 in which it responds to the  
requested access and sends you “the information associated with your identifier or your name  
and at the address provided by you” (Sample letter of response to the request for  
access, see Fact Three)

Claimant 25: Reports the publication in the FIJ of information associated with their data that was published in its day in the BOE, data processing that is not authorized by the RGPD. The following documents are in the file, among others:

a. Letter from EQUIFAX, dated 03/25/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provide the following information:

In the "Claims from Public Bodies" section:

-

14 annotations in which the claimant entity is, in all, the Security Social; for debts related to the following periods of time, correlative to each of the 14 incidents: The first, from 03/2016-03/2017. The following, by

07/2016;

08/2016;09/2016;10/2016;11/2016;12/2016;01/2017;02/2017;03/2017:04/2017;05/2017;06/2017 and 07/2017. As a means of publication, in the 14 incidents consists of "\*\*\*\* BOLETIN.3", being the publication dates from 05/23/2016, the oldest, as of 03/14/2017, the most recent.

monthly:

periods

In the section "Legal Claims" a note: As the name of the plaintiff, General Treasury of the Social Security. As a procedure, I urge.

As "Number of Order and Court", 140021/20 Unid Recau Ejec"; as a means of publication "\*\*\*\* BOLETIN.3" and the date 09/09/2016.

b. The AEPD, having received the claim and before agreeing to admit it for processing, transfer it to EQUIFAX and request information. The respondent answers the

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05/21/2019 and states that after consulting the FIJ with the data of the claimant (name, surnames and NIF) have 15 inclusions and provide the result of the access to your data in the aforementioned file. It adds that the claim of the affected "lacks supporting documentation that allows the cancellation of the data in the FIJ". And it says: "The headline refers only to the fact that the new Legal regulations in this regard do not allow the collection of this type of data from the BOE. Therefore, the data remains registered in the file". (The underlined is from the AEPD)

Claimant 26: Complaints that the FIJ contains 12 entries for debts with the Social Security associated with your name whose inclusion you have not authorized and of which has not been informed. In addition, some are older than 6 years.

The following documents are in the file, among others:

a. Letter from EQUIFAX, dated 12/19/2018, in which it responds to the access requested by the claimant and with which he sends the information that appears in the FIJ "associated with his identifier or in your name and at the address provided by you".

b. Letter from EQUIFAX, dated 12/19/2018, with the result of access to the FIJ, in which the The information provided is exclusively associated with the name and two surnames of the claimant, but not to his NIF, since the space for that data appears in white.

In the "Claims by Public Bodies" section:

12 annotations in which the "claiming entity" is, in all, the Security Social; for debts corresponding to the following time periods:

10/2012; 01/2013; 07/2013; 11/2013; 12/2013 and from January to July 2014 by monthly periods. As a means of publication, in the 12 incidents there is "SSS ELECTR (...)", being the publication dates from 05/23/2016, the oldest, as of 03/14/2017, the most recent.

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There is no information in the "Legal Claims" section.

c. Email of the claimant addressed to EQUIFAX, dated 01/28/2019, through the who exercises the right to oppose the publication of their data in the FIJ.

d. The AEPD, once received on 04/03/2019 the claim of the affected party, before of agreeing its admission for processing, transfers it to EQUIFAX requesting information about the reported facts.

The respondent responds on 05/29/2019 and states: That "After consulting the file [FIJ] from the data of D. [name and two surnames of the claimant] as of 05/29/2019

There are 10 recorded incidents associated with the holder's address \*\*\*ADDRESS.1.

Access to the file with said information is provided as document two". EQUIFAX says that in the aforementioned document it can be verified that the

Incidents older than 6 years referred to by the claimant (The underlined is from the AEPD) In the result of the access to the FIJ that the claimed -document two-, as was the case with the facilitated access on 12/19/2018 to the claimant, the claimant's NIF does not appear, but only his name and two surnames.

Regarding the request for opposition/cancellation made by the claimant, the 01/28/2019 and the refusal of the respondent to cancel the annotations, responds to the

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AEPD that "lacked supporting documentation that would allow the cancellation of data in the ..." FIJ. It adds that "The headline alleges only some aspects of the legal regulations to prove its cancellation. Consequently, the Data is kept registered in the file. It is necessary to contribute supporting documentation of payment or certificate issued by the body claimant, in this case the General Treasury of the Social Security, in which Specify to be up to date with the payment.

Complainant 27: Complaint that in 2017 BANKIA informed him of the inclusion of your data in the FIJ, denying you the requested financial operation. He then exercised right of access before EQUIFAX, which replied that there were no data your personal data included in the aforementioned file. However, in February 2019 his financial entity BANKIA continues to display your data as a debtor through the information provided by the FIJ. In particular, its NIF associated with the name and surnames of a person with this name: B.B.B.. They appear in the file, among others, the following documents:

- a. Letter from the SAC of BANKIA, dated 11/29/2018, addressed to the claimant in which reports that the data contained in the "BIJ" are not included by that entity.
- b. EQUIFAX response, dated 05/29/2019, to the informative request that directed the AEPD prior to the admission for processing of this claim.

The respondent responds with respect to the facts set forth by the claimant:

to its

-That on that date no data that can be associated is registered "

Name and address". It adds that "there are several incidents registered in the name of

[name and two surnames of the claimant], two of them associated with other IDs that are not

correspond to Mr. C.C.C. and another associated with a completely different address than those that the affected party provides in his claim” He adds that “if you wish to be consulted in other domiciles in which he may have previously resided, and thus verify with certainty whether or not it is data associated with your identity, you must facilitate a relationship thereof”. (The underlining is from the AEPD)

-That their systems contain two files managed for the claimant (which identified by his name, two surnames and the NIF) with the references 2018/54322 and 2019/40848. Regarding the first of them, he indicates, among other things, that in the letter issued by INFORMA that the claimant sent to him was also communicated that "there was no information associated with his name and address in the FIJ." With respect to second of the files processed, of 2019, EQUIFAX says: "In this last one in Specifically, he was told that there were no data associated with his name and address, and that if he had lived in other addresses where he wanted to be consulted, he should to send us a petition expressly mentioning them". He adds: "As you can check in the searches carried out for the [FIJ] there are incidents recorded in the name of "C.C.C." but they are associated with identifiers and/or addresses that do not correspond to those provided by the owner".

-Provides a screenshot showing six name records and surnames and no NIF or NIE linked to them. Of the six records, the first three fully coincide with the data of the name and surnames of the claimant and to one of the three registries also provides an address that is located in

\*\*\*LOCATION.2. The remaining three registers differ from the data of the

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claimant, exclusively, in that they incorporate a second name -thus, in addition to X, given name is XV, XY, or XZ-One of these three records includes an address in \*\*\*LOCATION.3.

Claimant 28: Reports the inclusion of their data in the FIJ and the refusal of the demanded to meet the requested cancellation, despite the fact that it documented the absence of debt.

The AEPD, once received on 04/04/2019 the claim of the affected party, before agree on its admission for processing, transferred it to EQUIFAX and requested information about the reported facts. The respondent responds on 05/30/2019. They work in the file, among others, these documents:

a. Written with the EQUIFAX anagram, dated 04/01/2019, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) this information is provided:

In the "Claims from Public Bodies" section:

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13 annotations in which Social Security appears as the claimant entity; in the first 6 entries for debts corresponding to periods monthly and correlative between 5/2013 and 10/2013; in the remaining, for non-correlated monthly periods, the oldest of 12/2013 and the most recent of 8/2017. As a means of publication in the first 10 annotations appear "SSS ELECTR (...)" and in the last 3 "\*\*\*\*BOLETIN.3". The oldest publication date is 08/19/2013 and the most recent of 03/11/2017.



The section "Legal Claims" includes:

1st entry: the TGSS appears as the plaintiff; as a procedure, urgency;

as means of publication "SSS ELECTR (...)" and the date 02/05/2014.

2nd entry: the TGSS appears as the plaintiff; as a procedure, urgency;

as a means of publication \*\*\*BULLETIN.3 and the date 08/21/2018.

b. Letter from EQUIFAX to the claimant, dated 04/01/2019, informing him that no  
can attend to your request to cancel data from the FIJ "because you have not provided  
documentation that justifies the deletion.

c. Three certificates issued by the TGSS and electronically signed on 03/26/2019;  
04/01/2019 and 04/02/2019, in which it is stated that the claimant, identified by his  
name, surnames, NIF and NAF, is up to date with the Security obligations  
Social. These three certificates were sent by the claimant to EQUIFAX in order to  
to proceed to the cancellation of your data from the FIJ and its copy has been provided to  
this Agency by EQUIFAX with the response to the informative request made by the  
AEPD.

d. Various emails sent by the claimant to EQUIFAX, dated  
04/01/2019, 04/02/2019 and 04/09/2019, in which you requested the cancellation of your data  
of the FIJ and a letter sent by the claimant to EQUIFAX by mail, with  
identical purpose that bears an entry stamp at the headquarters of the entity claimed on  
04/01/2019.

and. Document provided by EQUIFAX containing the name and surnames of the  
claimant in two sections: in one of them, the data is associated with his NIF and his  
your mailing address. In another section, your name and surnames are not linked to NIF

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from the province of

\*\*\*LOCATION.4

any, but to an address in the town of

\*\*\* PROVINCE.1.

F. Letter from EQUIFAX dated 05/30/2019 addressed to this AEPD responding to its request

of information. It says that the claimant provided supporting documentation, issued by

Social Security, for said cancellation and that "After consulting the registered data

in the [ FIJ] it is verified that there are two annotations in the name of

a

of them associated with your DNI and another associated with an address and a NAF number that

corresponds to those provided by the holder in his request. It proceeds, therefore, to

cancel only the annotation associated with your DNI dated 04/10/2019." (The

underlined is from the AEPD)

[the claimant],

Claimant 29: Reports the publication in the FIJ of his associated personal data

to debts with Public Administrations. It emphasizes that the information had been

published in the BOE; that the file sets a term of 6 years to cancel the

annotations and that many of the debts attributed to him are from the years 2012 and

2014, some are prescribed and others appealed. They work in the file, among others,

this documents:

a. Letter from EQUIFAX, dated 03/07/2019, with the result of access to the FIJ, in the

that associated with the personal data of the claimant (name, surnames and NIF),

provide this information:

In the "Claims from Public Bodies" section:

-

3 entries in which the claimant entity is Social Security; by debts corresponding to the following periods, respectively, 4/2014, 5/2014 and from 07/25/2014 to 10/21/2014. The means of publication is, for the three incidents, "SS S ELECTR (...)" and publication dates 07/25/2014, 08/26/2014 and 10/21/2014.

In the "Legal Claims" section:

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1st entry: \*\*\*ORGANISM.1 appears as the plaintiff; What procedure, tax debt; as a means of publication, "\*\*\*\*BOLETIN.5" and the date 07/21/2014.

2nd entry: plaintiff the \*\*\* TOWN HALL.1; procedure, debt tax; means of publication \*\*\*BULLETIN.1 and the date 11/20/2013.

3rd entry: plaintiff the \*\*\*ORGANISM.1; tax debt procedure; means of publication "\*\*\*\* BOLETIN.5" and the date 01/13/2014.

4th entry: plaintiff the General Treasury of the Social Security; urgency procedure; means of publication \*\*\*BULLETIN.1 and date 02/13/2016.

5th entry: plaintiff the \*\*\* TOWN HALL.10; procedure, debt tax; means of publication \*\*\*BULLETIN.11 and the date 04/13/2018.

b. EQUIFAX letter of 03/07/2019 in which it denies the claimant the cancellation of your data from the FIJ "because you have not provided documentation that

justify the deletion. (Sample letter denying cancellation, see Background

Third)

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c. The AEPD, having received the claim and before agreeing to admit it for processing, transfer it to EQUIFAX and request information. The respondent responds on the date 06/14/2019 and states: “Currently, and after consulting the [FIJ] of the data [name and two surnames of the claimant], holder of the DNI [the claimant's NIF], we indicate that as of 06/14/2019 we are not aware of any incident associated with your name and surnames and to your address. (The underlining is from the AEPD) In this sense provides screenshots of your files in which there are no incidents related to the claimant.

EQUIFAX does not explain the reason why it now attends the cancellation.

The entity states that the claimant made five requests to cancel her personal data of the FIJ that gave rise to the processing of the corresponding files. Provide a copy of the cancellation requests, dated 03/06/2019, 03/07/2019, 03/08/2019, 03/14/2019 and 03/17/2019, and of the files managed.

It warns that in all of them the owner exercised the right of cancellation without providing no type of supporting documentation that justifies the cancellation of the data registered in said file, “hence the data was kept registered”.

Claimant 30: Complaint that you have requested EQUIFAX to cancel your data of the FIJ on dates 02/25/2019 and 03/12/2019, answering on both occasions the claimed -on dates 02/26/2019 and 03/12/2019- that there are no data in your name.

However, your financial institution continues to display through the FIJ that there are debts associated with your personal data. Provide, among others, these documents:

a. Screenshot obtained on 02/27/2019 from the monitor of the bank agent that denied the requested funding. On the screenshot, under the heading "Summary of judicial information", the date of consultation is recorded as 02/27/2019; in section "NIF/CIF" shows the NIF of the claimant; in the "Name/Company Name" section, "E.E.E."; in the section "Number of judicial incidents" "3". These three are referred to Incidents: As "Procedure" appears "Tax Debt"; as "State" "embargo"; as "Claimant" the "State Tax Administration Agency" and, respectively, the dates 07/23/2013, 10/23/2017 and 11/25/2015.

It also provides a screenshot obtained from the bank agent's monitor that denied the financing requested in 2018. The information in the record is identical to the above with the exception that the date of consultation is 08/21/2018.

b. Certificate issued by the AEAT at the request of the claimant -identified by their NIF, name and two surnames, D.D.D.- signed electronically on 08/24/2018, which leaves proof that the applicant is up to date with their obligations tax. The validity of the certificate is twelve months from the date of its expedition.

c. EQUIFAX letter dated 02/26/2019 in which it responds to the cancellation requested by the claimant on 02/25/2019 and informs him that "there are no data registered associated with your identifier/name and at the address provided by you".

d. Letter from BANCO SANTANDER, S.A., which bears the stamp of the entity with indication of the branch number and the date 03/10/2018, which indicates that no been able to grant credit facilities to the E.E.E. client, with NIF [the NIF of the claimant] upon finding in his name 3 legal incidents belonging to the State Tax Administration Agency between 2013 and 2017.

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and. The AEPD, having received the claim and before agreeing to admit it for processing, gave

her transfer to EQUIFAX and requested information. The respondent answers the

07/01/2019 that “the result of the search in the [FIJ] for D. E.E.E. it is

negative”. It recognizes that the claimant's NIF was associated with a name – E.E.E.-

- and that, due to this incident, “and given that the

that was not his

searches to the judicial file are managed by name and surname” were not located

data associated with the claimant in the files processed by virtue of their

cancellation requests. It adds that on 07/01/2019 the

claimant information.

DDD

Claimant 31: Reports the inclusion of their data in the FIJ for alleged debts

with the \*\*\*CITY COUNCIL.3, of which he has been informed through his bank entity.

caria, without the inclusion having been notified by EQUIFAX or the City Council pre-

sumply creditor has informed him of its existence. They work in the file, in-

among others, the following documents:

a. Two letters from EQUIFAX, dated 11/05/2018 and 12/12/2018, respectively,

with the information that appears in the FIJ, associated with the NIF, name and two surnames of the

claimant. The information is identical in both writings. In the section “Claim-

tions of Public Organisms” there are no data.

(In the section “Legal Claims”:

-

2 notations: Name of the plaintiff, \*\*\* TOWN HALL.3; process,

Tax debt; means of publication, \*\*\*BULLETIN.3. The publication date is on 04/05/2013 and 05/20/2014, respectively.

b. Letters from EQUIFAX, dated 11/05/2018 (file reference number 2018/251714) and 12/20/2018 (file number 2018/285508) in which responds to the requests of the claimant so that, respectively, proceed to cancel your data from the FIJ and provide you with information about the entries that appear in the file associated with your data. EQUIFAX denies the requested cancellation "because has not provided documentation that justifies the deletion. (Sample letter transcribed in Fact Three)

c. The AEPD, having received the claim and before agreeing to admit it for processing, transfers side of it to the claimed and requests information. EQUIFAX responds on 06/18/2019 that there were two files in which the claimant had exercised the right of cancellation on the FIJ, but without providing any type of supporting documentation that justified the cancellation of the data registered in it, hence the data is remained registered, and then communicates that on that same date, 06/18/2019, has proceeded to cancel the information that was in the FIJ associated with the claimant therefore, he says, "there is no other data registered in the [FIJ] associated with the name/identifier and address of the claimant".

Claimant 32: Reports the publication of their personal data in the associated FIJ to debts with Social Security that are already satisfied. It provides, among others, these documents:

a. Certificate from the General Treasury of the Social Security, signed electronically on 04/08/2019, which records that the person identified

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with the name, two surnames and NIF of the claimant and with the NAF \*\*\*DATA.2

is up to date with payment. No documentation is provided of the annotations that

work in the FIJ linked to your data. The claimant provides as address one

located at \*\*\*ADDRESS.2.

b. The AEPD, having received the claim and before agreeing to admit it for processing,

transfer it to EQUIFAX and request information. The respondent answers the

06/19/2019 and makes these statements that we transcribe:

“(…) After consulting the file of ... [FIJ] of the data of Ms. [the claimant], holder of the

DNI [that of the claimant], indicate that as of 06/19/2019 there were registered two

annotations, one of them associated with the address of \*\*\*ADDRESS.3 and the NAF [the

same digits of the NAF of the claimant] with debts to Social Security, and another of

associated with the holder's NIF, with debts from the Provincial Council and the

\*\*\* TOWN HALL.1. We provide the result of the access to the file with the data of

reference to date 06/19/2019.”

The result of access to the FIJ that EQUIFAX sends to this Agency has, as of

06/19/2019, the following characteristics:

(i) Entries for debts with Social Security are associated,

exclusively, to the name and two surnames of the claimant. The space dedicated to

NIF is empty. The following annotations appear, exclusively linked to the

name and two surnames of the claimant:

In the “Claims from Public Bodies” section:

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-  
5 entries in which the claimant entity is, in all, the Social Security;

for debts, respectively for each entry and monthly,

from January to May 2018, inclusive. The means of publication, in all, is

\*\*\*\* BOLETIN.1" in the months of April, May and June 2018.

In the "Legal Claims" section:

1 annotation: TGSS appears as the plaintiff's name; What

procedure, urgency; as means of publication, \*\*\*BULLETIN.1" and the date

04/18/2018.

(ii) EQUIFAX provides another document with the information that appears in the FIJ as of the date

06/19/2019. In this case, it is associated, in addition to the name and surname of the

claimant, also to his NIF.

In the section "Claims from Public Bodies" there is no data.

In the section "Legal Claims" there are 2 entries:

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-

1st annotation: Name of the plaintiff, \*\*\*ORGANISM.3; process,

Tax debt; means of publication \*\*\*BULLETIN.1 and the date 05/27/2019.

2nd entry: Name of the plaintiff, \*\*\* TOWN HALL.1; process,

Tax debt; as publication medium, \*\*\*BULLETIN.1 and the date

04/27/2017.

EQUIFAX states in the letter addressed to the AEPD on 06/19/2019, responding to

the informative request, that "On 06/19/2019, we proceeded to cancel all

the data recorded in the file of Legal Incidents and Claims of

Public Organizations associated with the owner, Ms. [claimant] ..." And provides captures of

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screen of their systems in which it reflects the cancellation of all the data. attached

also a copy of the letter he sent to the claimant in which he states: “I

We inform you that we have proceeded to remove the data related to your claim,

associated with your identifier/name and at the address provided by you” (The

underlined is from the AEPD)

He reports that he has paid the outstanding fines to the

Claimant 33:

\*\*\* TOWN HALL.3; that in the internal files of the City Council already appears without

debts and that, despite this, their data continues to be included in the FIJ “so that either the

City Council or EQUIFAX is responsible for not having updated data

confidential about my solvency. Provide as an address one located in

\*\*\*ADDRESS.4.

a. The AEPD, having received the claim and before agreeing to admit it for processing,

transfer it to EQUIFAX and request information. The respondent answers the

06/19/2019 in the following terms that are transcribed:

“...after consulting the [FIJ] of the data of [the claimant] holder of the DNI [that of the

claimant] we indicate that as of 06/19/2019 there is no record of any

Incident associated with your name/identifier and your address. However, if the owner

had resided in other addresses in which he wanted to be consulted, given that in the

File contains annotations in the name of [the name and two surnames of the claimant]

associated with addresses other than those provided in this claim,

You can send us a petition expressly mentioning them”. (The underline is

of the AEPD)

Claimant 34: Complains about the inclusion of his personal data in the FIJ. contribute, between others, these documents:

a. Letter from EQUIFAX dated 04/08/2019 in which your personal data appears

(name, surnames and NIF) associated with the following information. In section

"Claims from Public Organizations" there are no data. In section

"Judicial Claims":

-  
-  
-

1st entry: plaintiff the \*\*\*ORGANISM.5; as procedure, debt

tax; as means of publication, "\*\*\*\* BOLETIN.10" and the date 03/28/2016.

2nd entry: State Tax Administration Agency; procedure, debt

tax; means of publication, "Tax Agency Headquarters" and the date 02/03/2017.

3rd entry: State Tax Administration Agency; procedure, debt

tax; means of publication, "Tax Agency Headquarters" and the date 02/24/2017.

b. Letter from EQUIFAX to the claimant, dated 04/08/2019, in which it responds to the

requested access. (Sample letter response to request for access, transcribed in Done Third)

c. The AEPD, having received the claim and before agreeing to admit it for processing,

transfer it to EQUIFAX and request information. The respondent answers the

07/01/2019 and confirms that, in the FIJ, associated with the name, surnames and NIF of the

claimant there are several incidents. They are the same as those reflected in the

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EQUIFAX information dated 04/08/2019.

Claimant 35: Claims that the inclusion of their data in the FIJ violates both the LOPD as the RGPD. You state that you were not informed of the inclusion of your data in the file; that there has been no mandate from the creditor for their data to be included in the IJF; that the debt is non-existent, since it is paid; that according to information provided by the SAC of AEBOE will only be able to consult their data in the BOE if have been published in the three preceding months, and in another case, request the information prior accreditation of your identity. He adds that EQUIFAX did not respond to his cancellation request. Provide, among others, these documents:

a. EQUIFAX writings dated 04/05/2019 and 04/09/2019 with the information associated with your name, surnames and NIF -identical in both documents- that appears in the IJF. In the "Claims by Public Bodies" section:

-

2 annotations in which the Social Security appears as a claimant, for debts corresponding to the periods 09/2014 and 10/2014, respectively; as means of publication, "SS S CTR (...)" and as publication date, for both annotations, on 01/13/2015.

In the "Legal Claims" section:

- An annotation: as plaintiff the TGSS; as a procedure, urgency; What means of publication, \*\*\*BOLETIN.3 and as publication date 05/23/2016.

b. Certificate from the TGSS of "Being up-to-date with Security obligations Social", signed electronically on 04/09/2019 and associated with the data of the claimant (name, two surnames, NIF and NAEF).

c. Letter from EQUIFAX, dated 04/09/2019, in which it responds to a request for

cancellation of FIJ data, dated 04/05/2019, which denies because, it says, the claimed has not proven to be up to date with the payment. Letter from EQUIFAX, dated 04/22/2019, in which it informs the claimant that it has attended to her request for cancellation dated 04/09/2019 and has proceeded to cancel the FIJ "the data associated with your identifier/your name and at the address provided by you".

d. Email from AEBOE Customer Service sent to the

claimant. On 01/18/2019, it informs you in the following terms:

"If your notification has been published in the last three months, you can consult it using

BOE:

[https://www.boe.es/tablón\\_edictal\\_unico/notificaciones.php](https://www.boe.es/tablón_edictal_unico/notificaciones.php)."

"To consult your previous notifications, you can access with a digital certificate, to the notification"

[https://www.boe.es/tablón\\_edictal\\_unico/notificaciones\\_historico.php](https://www.boe.es/tablón_edictal_unico/notificaciones_historico.php)." This service allows access without time limit, to the notification announcements that incorporate your NIF, whether it is a natural person or a legal person or entity.

To do this, you must first identify yourself through the CL@VE system (...)"

"Another option is to recover you. your notifications with a digital certificate to through the citizen folder..."

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“If you want the Citizen Service to process your request, and given that

the notification data is of a personal nature, we need you to request it from the

Citizen Service ([www.boe.es/info](http://www.boe.es/info)) making the request and

attaching a photocopy of your ID, the date of publication and the body that sent you the

notification if you know them. If you are acting on behalf of a notice, you must send us,

in addition, the authorization of the affected person”

Claimant 36: Reports the inclusion of their personal data in the FIJ due to debts

that are not true and the refusal of the entity to attend to the right of suppression of

your data. The following documents are in the file, among others:

a. Letter from EQUIFAX dated 10/18/2018 addressed to the claimant with the following text: “I

We inform you that on that date we have proceeded to register in the Incidents file

Judicial and Claims of Public Organizations the information that

then we indicate: "Court/Agency" "T.G.S.S."; "Subject- D.S.S."; "Source

of the information Official State Gazette"; "Date 10/18/2018”.

The letter is addressed to the same address that the claimant has provided to this Agency if

well, the data of the block number of the house is missing in it. The letter identifies

to the claimant by name and two surnames, but there is no NIF, NIE or NAF.

b. TGSS certificate, signed electronically on 10/30/2018, called

“Report of being up to date with Social Security obligations” referring to the

claimant, identified by name, two surnames, NIF and NAF.

c. Document from the claimant to EQUIFAX, through which he exercises the right to deletion of your data, with which you attach the certificate issued by the TGSS, and receipt accrediting the shipment addressed to the claimed through certified mail on 11/21/2018.

d. The AEDP, having received the claim and before agreeing to admit it for processing, gave transfer of it to the claimed on 06/27/2019 and requested information. EQUIFAX responds on 07/02/2019. You acknowledge that you received the claimant's deletion request on 11/21/2018 as well as the TGSS Report that proved that it was at payment current in Social Security obligations.

It states that "This request was met, proceeding to cancel the data registered in said files on December 7, 2018". Nevertheless, EQUIFAX, in the same document, makes other claims - that the documentation that it annexes comes to confirm - that they radically contradict the previous one. In the same brief affirms that it responded to the claimant's cancellation request of 11/27/2018 "Indicating that it was necessary for him to send a copy of his DNI to meet his request."

Provides a letter dated 12/07/2018 addressed to the claimant -sent by mail from 10/12/2018- in which it says: "We regret to inform you that it has not been possible to accredit the identity of the interested party. We ask that you provide additional documentation that can confirm your identity, as a legible photocopy on both sides of the DNI/NIF/CIF and proceed to attend to your request for cancellation"

Provide a document with the result of access to the FIJ on 11/27/2018. call the attention that the annotations (two incidents due to claims of the Security Social) are exclusively associated with the name and two surnames of the claimant. The space for the NIF is empty.

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Claimant 37: Complaint that EQUIFAX attributes a debt to the Security

Social that is non-existent, extreme that has accredited through a certificate of the

TGSS. The following documents are in the file:

a. Certificate from the TGSS, signed electronically on 05/23/2019, which certifies that the person identified with the name, surnames and NIF of the claimant is aware of payment in Social Security obligations.

b. The AEPD, having received the claim, before agreeing to admit it for processing, gave her transfer to EQUIFAX on 06/19/2019 and requested information. The claimed responds on 06/21/2019 and states: "Currently, after consulting the [FIJ] of the data of Mr. [the claimant] holder of the DNI [the claimant's NIF], we indicate that as of 06/21/2019 there is no record of any incident associated with its name/identifier and address. (The underlining is from the AEPD)

EQUIFAX claimed to have received two access/cancellation requests from the complainant.

One, which gave rise to expediten 2019/119599, which was dismissed for not having

Provided supporting documentation for the deletion of the data. Another, received

05/25/2019, with which he provided a certificate issued by the TGSS, and as

consequently proceeded to cancel the data on 06/04/2019.

c. There are in the file, provided by EQUIFAX, the copy of various emails

emails that the claimant sent to the respondent requesting the deletion of their

data. In all of them, he states that he sends him a Social Security certificate that

would prove that the debts attributed to him do not exist. They are all directed at

sac@equifax.es on dates 05/17/2019; 05/20/2019 and 05/25/2019.

d. EQUIFAX document with the result of access to the FIJ associated with the name,



surnames and NIF of the claimant. The documents, identical to each other, are of different dates, 05/21/2019 and 05/27/2019, and contain this information:

In the "Claims from Public Bodies" section:

-

17 entries in which the claimant entity is, in all, the Security Social; for monthly periods -from 08/2014; 11/2016; and the remaining fifteen by successive months between 01/2017 and 03/2018-; the middle of publication is, in all cases, \*\*\*BULLETIN.8 and the publication dates are 11/17/2014 the first and 05/28/2018 the last.

In the "Legal Claims" section there is an entry: As plaintiff the TGSS is listed; as a procedure, urgency; as a means of publication, "SS S ELECTR (...)" and the publication date 03/30/2015.

Claimant 38: Complaint that EQUIFAX has included her in a delinquent file for debts that are not true because they have already been paid. They work in the file, between others, these documents:

a. Report issued by the \*\*\*BODY.6., signed on 05/17/2019, which certifies that the taxpayer -the claimant, identified by her name, two surnames and NIF- does not have outstanding debts with the \*\*\* TOWN HALL.11.

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b. Written with the EQUIFAX logo, dated 05/17/2019, with the information that appears in the FIJ on that date associated with the name, two surnames and NIF of the claimant. In the "Claims from Public Bodies" section, there is no data.

In the section "Legal Claims" there is an entry: As an entity plaintiff figure \*\*\* TOWN HALL.11; as a procedure, tax debt; as a means of publication, \*\*\*BULLETIN.12. and the publication date 06/18/2018.

c. EQUIFAX letter addressed to the claimant, dated 05/27/2019, in which responds to the cancellation of your FIJ data that you had requested and informs you that "After the pertinent verifications, we have proceeded to remove from the file [FIJ] the data relating to your claim, associated with your identifier/your name and the address provided by you.

d. The AEPD, having received the claim, and before agreeing to admit it for processing, gave transfer of it to EQUIFAX and requested information on 06/19/2019. The Respondent responds on 06/21/2019 and states that on 05/16/2019 it received a request for cancellation of the claimant with which he provided supporting documentation of the non-existence of debt, therefore, on 05/27/2019, the cancellation of the annotation.

Complainant 39: Alleges that EQUIFAX has included his data in the FIJ without his consent with information obtained from the BOE, breaching both the LOPD and the GDPR. Provide, among others, these documents:

a. EQUIFAX letter addressed to the claimant, dated 05/14/2017, in which he responds to the request for cancellation of your FIJ data, which was registered in its offices on 05/13/2019, in which he informs him that "given that he has not provided documentation that justify the deletion, it is not appropriate to attend to your request".

b. Letter from EQUIFAX, dated 05/14/2019, with the information contained in the FIJ associated with the name, two surnames and NIF of the claimant. In section "Claims from Public Bodies", there is no data. In section "Judicial Claims" two annotations are collected:

-

-

1st entry: Name of the plaintiff, \*\*\* TOWN HALL.3; process,

Tax debt; means of publication, \*\*\*BULLETIN.3 and the date 08/30/2017.

2nd entry: Claimant, AEAT; procedure, tax debt; source of publication, "Tax Agency Headquarters" and the date 06/08/2016.

Claimant 40: Claims that his personal data has been included in a file of patrimonial solvency for a debt with the City Council that was paid in time and form. It certifies that it has no outstanding debts with the City Council. The

The claimant provides, among others, the following documents:

a. Written with the EQUIFAX logo, dated 05/30/2019, with the information that It appears in the FIJ associated with his name, two surnames and NIF. In section "Claims from Public Bodies", there is no data. In section

"Judicial Claims":

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- One annotation: Plaintiff the \*\*\*CITY COUNCIL.12; procedure, debt tax; means of publication, \*\*\*BULLETIN.3 and the date of publication 01/08/2016.

In the "History of Consultations" it is reported that consultations were made in the following dates: 05/29/2019; 05/28/2019; 12/13/2019; 12/10/2018 and 12/09/2018.

b. Letter from EQUIFAX, dated 06/10/2019, responding to the opposition exercised by the claimant to have their data published in the FIJ. EQUIFAX states that there are no registered data associated with your identifier/name and at the address provided by the

claimant and that "we are not aware that your data has been consulted by any

entity in the last six months. (The underlining is from the AEPD)

Complainant 41: Reports the inclusion of their data in the FIJ without their consent and

that, despite having requested EQUIFAX to cancel the entry and having

provided for this purpose a copy of the court decision that accredited the termination of the

debt, has refused to attend the cancellation. Provide, among others, these documents:

a. Ruling of the Court of First Instance No. 3 of (...), dated 06/02/2017, delivered to the

Ordinary Insolvency Procedure 115/2017, section B, which declares the

claimant -identified by her name, two surnames and NIF- in "insolvency

consecutive creditors" and provides for the "publication of this resolution (...) in the

Bankruptcy Public Registry and in the Official State Gazette and, for this purpose,

will send the corresponding edicts with the essential mentions that

establishes article 23.1 of the L.C. (...) In addition, an edict will be posted on the notice board

announcements of this Judicial Organ".

c. Order of the Court of First Instance No. 3 of (...), issued in the procedure of

Consecutive Contest 115/2017 B, dated 04/09/2019, which "Agrees on the conclusion

of the insolvency proceedings regarding Ms. [the claimant] and the concession to the

bankrupt of the benefit of definitive exoneration of unsatisfied liabilities,

proceeding to file the cars". (The underlining is from the AEPD)

d. Letter from EQUIFAX, dated 05/30/2019, with the information that appears in the FIJ

associated with the data of the claimant -name, two surnames and NIF-. In section

"Claims from Public Bodies", there is no data. In section

"Legal Claims" consists of:

-

An annotation: The identity of the plaintiff does not appear; as a procedure

indicates "voluntary contest"; "Writ and Court No." 115/2017, First Instance;

publication medium, Official State Gazette and date 11/06/2017.

and. Letter from EQUIFAX to the claimant, dated 06/08/2019, responding to her request for cancellation of your data from the FIJ, dated 05/30/2019, in which it informs you that "no it is appropriate to attend to your request" "given that you have not provided documentation that justifies the deletion".

Claimant 42: Reports the violation of his right to data protection. He has been included in the FIJ delinquent file and the requested cancellation has been denied.

These documents are in the file:

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a. Letter from EQUIFAX, dated 03/18/2019, with the information that appears on that date in the FIJ associated with the personal data of the claimant (name, two surnames and NIF). In the "Claims from Public Bodies" section, there is no data. In the "Legal Claims" section:

-

3 annotations: In all of them the name of the plaintiff is the

\*\*\* TOWN HALL.13; as a procedure, tax debt; as "Car No.

and Court", there is, respectively for each entry, "2743575/0

Local Management",

"826/000

Local Management". The medium of publication is, for all annotations,

\*\*\*BULLETIN.13 and publication dates are, respectively, 10/15/2014,

03/25/2015 and 04/16/2014.

Y

b. Letter from EQUIFAX to the claimant dated 03/18/2019 responding to the request for access to your data in the FIJ according to the usual letter model used by the entity.

c. Certificate issued by the Secretary of the \*\*\* TOWN HALL.13, signed on 03/08/2019, which attests that the claimant -identified by his name, two surnames and NIF- is up to date with the payment of its tax obligations.

d. The AEPD, having received the claim, and before agreeing to admit it for processing, gave transfer of it to EQUIFAX and requested information on 08/12/2019. The Respondent responds on 08/14/2019 and states that on 06/30/2019 the claimant requested the cancellation of your data from the FIJ and that on 07/09/2019 we proceeded to give download your data from the file and answer you. Attach a copy of the claimant's email date 06/30/2019 with which he provided a copy of the certificate issued by the City council supposedly creditor.

Claimant 43: Complaint that he received a letter from EQUIFAX in August 2019 -with reference nº 740/JU1908006269- informing you that your personal data had been been included in the FIJ. It adds that, after having exercised the rights "ARCO" and sent the required documentation to the person claimed, has not received a response despite More than a month has elapsed since your request. It provides, among others, these documents:

a. Letter from EQUIFAX with the reference number 740/JU1908006269, sent by mail mail to the same address that appears on the copy of the claimant's DNI. the letter goes addressed to Mr. G.G.G., is dated 08/22/2019 and in it informs him that in that date, this information associated with your data has been registered in the FIJ: as "Court/Body" "Provincial Delegation"; as "Issue" tax debt; What

"Source of information" Official State Gazette and date 08/21/2019.

b. The copy of three emails that the claimant sent to the SAC of EQUIFAX, dated 09/05/2019, 09/16/2019 and 09/27/2019. In the first of them, with which he annexed a copy of his ID, requested access to his FIJ data. In the other two, it was limited to remind the respondent of the request made and the time that had elapsed without receive response.

Claimant 44: Reports the inclusion of their personal data in the FIJ linked to [www.aepd.es](http://www.aepd.es)

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an alleged debt with the AEAT without EQUIFAX having verified the certainty of the debt with the Public Administration and without being notified of the inclusion. Add that you refuse to cancel your FIJ data. It provides, among others, the following documents:

a. Written with the EQUIFAX anagram, dated 10/09/2019, with the information that appears in the FIJ associated with your name, two surnames and NIF. In the section "Claims of Public Organisms", there are no data. In the "Legal Claims" section:

- An annotation: The plaintiff's name is the AEAT; the procedure, debt tax; the means of publication, "Tax Agency Headquarters" and the date 01/27/2017.

b. Letter from EQUIFAX to the claimant dated 10/09/2019 (file with reference 2019/225056), in which the requested cancellation is denied "since it has not provided documentation that justifies the deletion.

c. Email sent by the claimant to the EQUIFAX SAC on 10/09/2019

requesting the exclusion of your data from the files of the claimed with which you send copy of your residence permit.

Complainant 45: Complaint that EQUIFAX has included their data in the FIJ linked to alleged debts with the \*\*\* TOWN HALL.12. He explains that he heard about her inclusion on 10/19/2019 and that previously did not receive any communication informing you of your inclusion. Provide these documents:

a. Written with the EQUIFAX logo, dated 11/19/2019, with the information that It appears in the FIJ associated with his name, two surnames and NIF. In section "Claims from Public Bodies", there is no data. In section "Judicial Claims":

-

3 notations: The name of the plaintiff is, in the first notation, the \*\*\* TOWN HALL.14 and in the second and third the \*\*\* TOWN HALL.12; as a procedure, in the three annotations appears "tax debt"; the middle of publication is, respectively \*\*\*BOLETIN.14 and \*\*\*BOLETIN.15 and the dates on 02/09/2015 for the first and on 12/05/2018 for the second and third.

b. Letter from EQUIFAX to the claimant, dated 11/19/2018, (file with reference 2019/257542) in which it responds to the request for access (Model letter of response to the requested access, transcribed in Fact Three)

Complainant 46: Complaint that EQUIFAX has published his personal data in the FIJ violating the data protection regulations, for which it requests that they be cancelled. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 10/21/2019, with the information contained in the FIJ, on that date, associated with your personal data -name, two surnames and NIF-. In the "Claims from Public Bodies" section, there are no data. In section "Judicial Claims":



-

2 entries: In both, the plaintiff's name is AEAT; The procedure,

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Tax debt; the means of publication, "Tax Agency Headquarters" and the date,

respectively, on 12/02/2014 and 03/05/2014.

b. EQUIFAX letter addressed to the claimant, dated 10/21/2019 (number of

file of the claimed 2019/235237), in which it responds to the access to the data

listed in the FIJ. (Sample letter of response to the requested access, transcribed in

the Third Act)

Complainant 47: Complaint that EQUIFAX has published his personal data in the FIJ

violating the data protection regulations, for which it requests that they be

cancelled. Provide, among others, the following documents:

a. Letter from EQUIFAX, dated 10/21/2019, with the information that, associated with the

personal data of the claimant -name, two surnames and NIF- appears in the FIJ in

That date. In the "Claims from Public Bodies" section, there is no data. In

the "Legal Claims" section:

-

In

inclusions:

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all of them appear as plaintiff

\*\*\* TOWN HALL.3; as a procedure, tax debt; as a means of

publication, "Tax Agency Headquarters" and the date, respectively, 12/02/2014 and 05/03/2014.

b. Letter from EQUIFAX, dated 10/21/2019 (file number of the claimed 2019/235205), in which it responds to the access requested by the claimant to the data listed in the FIJ. (Sample letter of response to the requested access, transcribed in the Third Act)

Claimant 48: Complaint that EQUIFAX has included his personal data in the FIJ, linked to an alleged debt with the \*\*\* TOWN HALL.7. The City Council has certificate that there are no debts in your name. Provide these documents:

a. Letter from EQUIFAX, dated 08/24/2019, bearing the reference 740/JU1908006464, in which it informs you that on 08/23/2019 it has proceeded to register in the FIJ the following information: "Court/Agency", \*\*\* TOWN HALL.7; "Issue", tax debt; "Source of information", Bulletin State Official; "Date", 08/23/2019.

b. Certificate of the \*\*\* TOWN HALL.7, signed on 01/20/2020, in which the to state that on the date of the date there are no outstanding debts in the name of the claimant.

c. Document from the claimant addressed to EQUIFAX, dated 01/27/2020, requesting the cancellation of your FIJ data and with which you are sent the certificate issued by the City hall.

Complainant 49: Complaint that EQUIFAX has included his personal data in the FIJ associated with a non-existent debt. He states that on 08/14/2019 he received from EQUIFAX a letter, with the reference 740/JU1905009652, informing him that he had given him registered in a delinquent file. Add in your writing; that the debt that EQUIFAX

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attributes corresponds to the rustic IBI of the \*\*\*ORGANISM.5; which was published in the BOE

and that such debt was paid in the past through a bank account, so it is

non-existent. The claimant has not provided any document attached to his brief of claim.

Claimant 50: Reports the inclusion of their personal data as delinquent in the FIJ

for debts with various Public Administrations that are not true and that EQUIFAX

continues to keep these annotations despite having sent him documents that

prove the non-existence of debts. He explains that the AEAT has informed him that

has nothing to do with the treatment that the person in charge of the FIJ makes of your data

personal and that is up to date in the payment of the deferment agreed in the

year 2014 of which "there are two bills left to pay, for the months of July and August".

He adds that the debt with the \*\*\*CITY COUNCIL.11, which he contracted in

the year 2012 and that he paid, through garnishment of his payroll, in the year 2014. He contributes,

among others, these documents:

a. Letter from EQUIFAX, dated 05/27/2019, with the information contained in the FIJ

associated with your personal data -name, surnames and NIF-: In the section

"Claims from Public Bodies", there is no data. In section

"Judicial Claims":

-

-

1st entry: AEAT as plaintiff; as a procedure, tax debt;

as means of publication, "Tax Agency Headquarters" and the date 04/15/2014.

2nd entry: as plaintiff the \*\*\*CITY COUNCIL.11, as a procedure,

Tax debt; as publication medium, \*\*\*BULLETIN.8 and the date

05/02/2014.

b. Certificate issued by the \*\*\* TOWN HALL.11, electronically signed on

05/22/2019, stating that there are no pending debts in the name of the

claimant.

c. Documents issued by the AEAT: (i) From the Regional Collection Unit

of the Special Delegation of (...), addressed to the claimant, in which they are notified of a

wage garnishment proceeding: Proceeding number 081421339376V, dated

09/13/2014. In it, the attachment of the net amount of salaries or

wages that were paid to the obligor in sufficient quantity to cover the amount

of the debt not deposited in the voluntary period, the ordinary coercion surcharge and the

interest and costs of the ordinary procedure, for a total amount of 229.47 euros.

The document identifies the "obliged", who coincides with the claimant and the

"payer", the company \*\*\*COMPANY.1.

(ii) AEAT Document, Special Delegation of (...); Annex II, with the rubric

"Settlement of interest on arrears resulting from the granting of the deferment". In

the document, which contains the personal data of the claimant and the reference "No.

file 081440369344S", this legend is included: "...As a consequence of the

authorization of the deferred or installment payment of the debt(s), proceed to the

corresponding liquidation of interest on arrears". It is dated 03/31/2014. (The

underlined is from the AEPD)

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Claimant 51: The claim is directed against the \*\*\*CITY COUNCIL.1 to understand the claimant who has been this Public Administration who has included in the FIJ its personal data associated with debts that are not true. In the claimant's opinion the entries in the file correspond to fines imposed by the Local Police of the

\*\*\* TOWN HALL.1. The claimant provides among other documents:

a. Abundant documentation regarding the appeals for replacement and extraordinary review filed against resolutions of the aforementioned City Council relapsed in Penalty proceedings for traffic and parking violations regulated. Several resolutions appear among the documents that the claimant provides dictated by that local entity, estimate of some of the replacement resources filed against the seizure of assets decreed by the City Council before the non-payment of fines. The appraisal resolution of the appeals for reversal is based on that the City Council had not notified the claimant of the start of the procedure for pressure to collect the amount of the fines.

b. Letter from EQUIFAX, dated 02/05/2019, with the information contained in the FIJ associated with your personal data -name, surnames and NIF-: In the section "Claims from Public Bodies", there is no data. In section "Judicial Claims":

- An annotation: the \*\*\*CITY COUNCIL.1 appears as the plaintiff; process, Tax debt; Car and Court number, an illegible reference number followed by of the Local Administration indication; means of publication, \*\*\*BULLETIN.1 and the date 01/17/2019.

Claimant 52: Reports the inclusion of their data in the FIJ associated with a debt non-existent. He states that on 05/03/2019, in the banking entity in which he requests a financial product, verify that there is an entry for debts from November 2017 linked to your data. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 05/22/2019, with the information contained in the FIJ

associated with your name, surnames and NIF: In the section "Claims of

Public Organizations", there is no data. In the "Legal Claims" section:

- An annotation: the \*\*\*CITY COUNCIL.12 appears as the plaintiff; What procedure, tax debt; as means of publication, "TEU-BOE" and the date 24/11/2017.

b. Printing a screenshot with financial information regarding the

claimant bearing the stamp of Banco Santander, S.A. and the date 06/25/2019. In one of

the lines, under the heading "Negative files (06/24/2019)" states: "Incl. Judicial; 1st

incident 11/24/2017; last incidence 11/24/2017; Worse situation, Normal".

c. Certificate issued by the \*\*\*CITY COUNCIL.12 indicating that as of the date

06/24/2019 "there is no record...debt payable in the name [of the claimant] with D.N.I. [the NIF

of the claimant] in concept of taxes, rates or municipal public prices

managed by this collection unit".

d. Various emails that the claimant sent to the EQUIFAX SAC: Dated

05/04/2019, in which in addition to requesting that they cancel that annotation, explains the

information that he has learned through the Banco de Santander entity and that after

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consult the \*\*\* TOWN HALL.12 and the DGT to find out if it exists in your name

some pending debt or traffic fines the result has been negative. Of dates

05/13/2019 and 05/15/2019 in which he informs them that he continues to wait for

clarify "what this is about that is found in your records".

and. EQUIFAX letter of 05/22/2019 in which it responds to the requested cancellation denying it for not having accredited the payment of the outstanding debt. (Sample letter denying cancellation transcribed in Fact Three)

Complainant 53: Complaints the inclusion of his personal data in the FIJ for a non-existent debt, since it was settled long ago. Highlight the consequences negative that his inclusion in the FIJ has caused him. It provides, among others, these documents:

a. Letter from EQUIFAX, dated 07/17/2019, with the information contained in the FIJ associated with name, two surnames and NIF: In the "Legal Claims" section:

- An annotation: as plaintiff, the \*\*\*CITY COUNCIL.12; What procedure, tax debt; as a means of publication, \*\*\*BOLETIN.15 and the date 04/06/2018.

It is striking that none appears in the FIJ Consultation History. Without However, in the query history of the ASNEF and ASNEF Companies files - despite the fact that they do not contain any incident associated with the claimant- they do include four inquiries made in the last six months.

b. Certificate from the Tax Management Body of the \*\*\*CITY COUNCIL.12, signed electronically on 05/16/2019, which proves that the claimant, identified by his name, two surnames and NIF, is up to date with the payment of its obligations taxes with that City Council.

Claimant 54: Reports the inclusion of their data in the FIJ, obtained from the BOE, associated with nonexistent debts. He claims to have sent the defendant proof of the payment of debts and has not canceled their data from the file. Provide a copy, among others, of these documents:

a. Letter from EQUIFAX, dated 05/13/2019, with the information contained in the FIJ associated with your name, two surnames and NIF. In the section "Legal Claims"

consists:

-

3 annotations in which it appears, as the name of the plaintiff,

\*\*\* TOWN HALL.5; as a procedure, tax debt; as a means of

publication, "\*\*\*\*BULLETIN.6" and the following dates, respectively,

10/21/2015; 06/22/2018 and 08/23/2017.

- A notation in which the plaintiff's name appears, AEAT; What

procedure, tax debt; as publication medium, Agency Headquarters

Tax and the date 08/07/2017.

b. "Certificate of being up to date with Social Security obligations", issued

by the TGSS and signed electronically on 05/08/2019. The document indicates that the

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person identified with the name, two surnames and NIF of the claimant "does not have

pending payment no claim for debts already due with the Security

Social".

c. Certificate issued by the AEAT -Special Delegation of (...)-

signed

electronically on 05/10/2019, in which he declares that the claimant -identified by

your name, two surnames and NIF- you are up to date with your obligations

tax.

d. Letter from EQUIFAX to the claimant, dated 05/22/2019, in which he responds to the

cancellation of data requested on 05/10/2019 and informs you that "after the



pertinent verifications we have proceeded to lower in the [FIJ] of the data relating to your claim, associated with your identifier/name and at the address contributed by you”.

Complainant 55: Allegation that EQUIFAX has included and maintains data in the FIJ claims of the claimant obtained from the BOE, treatment that is illegal. contribute, between others, these documents:

a. Letter from EQUIFAX, dated 08/13/2019, with the information that appears on that date in the FIJ, associated with your name, two surnames and NIF. In the section “Claims of Public Organizations”, there is no data. In the “Legal Claims” section:

-

An annotation: as plaintiff there is \*\*\*CITY COUNCIL.2; as "Number of Car and Court", tax debt; as a means of publication, \*\*\*BOLETIN.2 and the date 05/04/2016.

b. Letter from EQUIFAX to the claimant, dated 08/13/2019, (file of the claimed reference 2019/181735) in which it responds to the request received at its offices on 08/12/2019 in which -according to EQUIFAX- the claimant requested access to your FIJ data.

c. Copy of the letter, dated 08/08/2019, that the claimant sent to EQUIFAX through of email. The company "E-Guarantor" certifies the delivery to the claimed party of the written claimant and the attached documents -copies of the claimant's DNI and his representative and the report issued at the request of the claimant by AEBOE- to the address email sac@Equifax.es, as well as receipt of the letter and documentation by the claimed. In the document, the claimant requests EQUIFAX "the urgent suppression" of your FIJ personal data and does not mention access at all.

d. Report issued by the State Agency Official State Gazette (AEBOE), signed electronically on 07/31/2019, in which he responds to the query made by the

claimant about "if it is legal, if I obtain personal data published by the

BOE, "name, surnames and DNI" to create a for-profit database".

Claimant 56: Reports the inclusion of his personal data in the file of

defaulters of EQUIFAX due to an alleged debt with the AEAT that is unknown

totally. He states that if the debt were true, he would have paid it, that they have not

required payment and that the delinquency file does not specify the amount of the

alleged debt. The only document provided is the copy of the DNI.

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Claimant 57: Directs his complaint to EQUIFAX. The only document that provides

It is the copy of the ID. In the claim form, identify the "alleged creditor",

the \*\*\*CITY COUNCIL.10, and includes a single sentence: "We are not aware of any debt for being

paid with City Hall. Monthly partial payments.

Claimant 58: Reports the inclusion of their data in the FIJ due to alleged debts

with Public Administrations of which he has heard when trying, without success, to carry out

a financial transaction. He adds that EQUIFAX has denied him the cancellation of his

data and that the public entities allegedly creditors have confirmed that

has no outstanding debts. Provide a copy of the following documents.

a. Letter from EQUIFAX, dated 10/09/2019, with the information included on that date in

the FIJ associated with the name, two surnames and NIF of the claimant. In section

"Legal Claims" 8 annotations are reflected:

- Two annotations in which the \*\*\*CITY COUNCIL.3 appears as the plaintiff; the

procedure is tax debt; the means of publication, \*\*\*BOLETIN.3 and the

dates, respectively, 04/13/2016 and 09/19/2019.

- Two annotations in which the AEAT appears as the plaintiff; as a means of publication, "Tax Agency Headquarters" and the dates, respectively, 11/26/2013 and 12/30/2014.

Three annotations in which the \*\*\*CITY COUNCIL.12 appears as the plaintiff; as a procedure, tax debt; as a means of publication, \*\*\*BULLETIN.3 and, respectively, the dates 01/22/2018, 02/07/2018 and 06/12/2018.

-

- An entry in which the plaintiff's name is \*\*\* TOWN HALL.15; the procedure indicated tax debt; the publishing medium, \*\*\*BULLETIN.3 and the date 05/09/2016.

b. Letter from EQUIFAX to the claimant, dated 10/09/2019, file number of the claimed 2019/225276, in which it responds in the following terms to the request of cancellation of the FIJ data that was entered in that entity on 10/09/2019:

"Since you have not provided documentation that justifies the deletion, it is not appropriate meet your request."

Claimant 59: Reports the inclusion of their personal data in the FIJ associated with debts with Social Security and various municipalities. He adds that the debt with the Social Security is non-existent, since it was paid in 2016; that you referred to EQUIFAX supporting documentation of being up to date with payments and that, despite having answered that they canceled the annotations, the alleged debt continues to be included in the FIJ. Provide the following documents:

a. Letter from EQUIFAX, dated 09/24/2019, with the information that on that date included in the FIJ associated with the name, two surnames and NIF of the claimant. In the section "Legal Claims" there are five annotations:

-

1st entry: plaintiff's name, \*\*\* TOWN HALL.7; process,

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Tax debt; means of publication \*\*\*BULLETIN.8 and the date 09/04/2015.

2nd entry: plaintiff, the \*\*\*ORGANISM.7; procedure, tax debt;

means of publication, \*\*\*BULLETIN.8 and the date 08/14/2019.

3rd entry: plaintiff, \*\*\*CITY COUNCIL.16; procedure, debt

tax; means of publication, \*\*\*BULLETIN.8 and the date 03/28/2018.

4th entry: plaintiff, \*\*\*CITY COUNCIL.16; procedure, debt

tax; means of publication, \*\*\*BULLETIN.8 and the date 04/16/2018

5th entry: plaintiff, AEAT; procedure, tax debt; source of

publication, Tax Agency Headquarters and date 07/08/2016.

-

-

-

-

In the "Claims from Public Bodies" section:

-

10 annotations: in all of them, the claimant entity is the TGSS; by periods

monthly and correlative between 07/2014 (the first entry)

until 03/2015 (the ninth entry). The tenth entry corresponds to

October 2015. The means of publication is in all cases, \*\*\*BOLETIN.8 and

the publication date 09/10/2015 for the first nine entries and the

12/21/2015 for the tenth.

b. Copy of the email that the claimant sent to the SAC of EQUIFAX on 09/24/2019 in the stating that the Social Security debts attributed to him were paid several years before, provide a copy of the negative certificate issued by the TGSS and request the cancellation of the entry.

c. Letter that EQUIFAX addresses to the claimant, dated 10/03/2019, responding to the requested cancellation. It informs you that after the pertinent checks they have proceeded to remove from the FIJ the data related to your claim associated with your identifier, name and address provided by the claimant.

Claimant 60: Complaint through two writings (from the years 2019 and 2020 respectively) the inclusion of your personal data in the FIJ, without your consent or knowledge, associated with a debt with the \*\*\* TOWN HALL. 17., of the year 2014, of which he ignores its existence, amount and what it corresponds to. Provides the following documents:

a. Letter from EQUIFAX, dated 06/12/2019, with the information included on that date in the FIJ associated with your name, two surnames and NIF. In the section "Claims of Public Organisms" there are no data. In the section "Legal Claims" there is an annotation:

- Plaintiff, \*\*\* TOWN HALL.17; procedure, tax debt; source of publication, \*\*\*BULLETIN.16 and date 07/05/2014.

b. Letter stating that it has been sent to the address sac@equifax.es in which it states that in the EQUIFAX report dated 11/27/2019 there is an incidence of non-payment associated with your personal data due to "claims from public bodies" that are would have been made by the \*\*\* TOWN HALL.17., \*\*\*PROVINCE.2, on date 07/07/2014.

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Claimant 61: Reports the use that EQUIFAX has made of their personal data, without your consent and without any notification, for inclusion in your delinquent file

for non-existent debts. Provide a copy, among others, of these documents:

a. Letter from EQUIFAX, dated 10/17/2019, with the information included on that date in the FIJ associated with your name, two surnames and NIF. In the section “Claims of Public Organisms” there are no data. In the section “Legal Claims”

consists:

-

-

1st entry: as plaintiff, the \*\*\* TOWN HALL.2; procedure, debt tax; means of publication, \*\*\*BULLETIN.2 and the date 10/10/2016.

2nd entry: plaintiff the \*\*\* TOWN HALL.16; procedure, debt tax; publication medium \*\*\*BULLETIN.3 and date 05/11/2014.

b. EQUIFAX letter of 10/17/2019 in which it responds to the requested access according to model (see Antecedent Third)

c. Certificate issued by the \*\*\*CITY COUNCIL.2 -Municipal Executive Collection-, of 10/21/2019, in which it is indicated that the claimant -identified by name, surnames and NIF- does not appear as a debtor in the Municipal Treasury for tax concepts that, as of the date, are in the executive period of payment.

d. Certificate issued by the \*\*\* TOWN HALL.16 on 10/21/2019 stating that the claimant -identified by name, two surnames and NIF- is at the

Current payment of the Tax on Mechanical Traction Vehicles with respect to the vehicle -identified by the license plate, frame, brand, model and type- whose owner is the claimant.

Claimant 62: Complaint to EQUIFAX for inclusion of his personal data in the FIJ linked to an alleged debt with the \*\*\*CITY COUNCIL.11 with which he has not had do any relationship. Provide, in addition to the DNI, a copy of these documents:

a. Letter from EQUIFAX, dated 05/21/2019, with the information included on that date in the FIJ associated with your name, two surnames and NIF. In the section "Claims of Public Organisms" there are no data. In the section "Legal Claims"

There is an annotation:

- Plaintiff, the \*\*\* TOWN HALL.11; procedure, tax debt; medium of publication, \*\*\*BULLETIN.16 and the date 06/13/2017.

b. A screenshot accessed from the Administration.Gob.es page, Citizen Folder, opened in the name of the claimant. The epigraph that appears on the size is the one related to the announcements in the Single Edictal Board (TEU) in which you can consult the list of notification announcements published in the BOE supplement.

The following legend appears: "No announcements have been found in the Single Board with your identifier (NIF or NIE)".

Complainant 63: Complaint that EQUIFAX has included his personal data in the FIJ for non-existent debts with the \*\*\*CITY COUNCIL.2 and with the AEAT. underline the fact

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that it has not been these Administrations that have included it in the file, but

that the IJF itself has done "motu proprio". He adds that the defendant has denied

do the requested cancellation. It provides, among other documents:

a. Copy of the email sent on 10/08/2019, at 12:12 p.m., to the EQUIFAX SAC, with

which sends them a copy of their DNI and their signed application, and asks that their data be excluded from the file.

b. EQUIFAX letter addressed to the claimant, dated 10/08/2018, in which he responds

to the request for cancellation of your FIJ data in these terms: "In relation to your

petition registered in our offices dated October 8, 2019, in which

requests cancellation of the data that is registered in the file of [FIJ] with

the documentation provided by you, we inform you that there is no record of any

no incidence. However, we send you together with this your current situation in the said file".

c. Letter from EQUIFAX, dated 10/08/2019 at 1:30:30 p.m., with the information that in

that date is included in the FIJ associated with his name, two surnames and NIF. In the apart-

do "Claims from Public Organizations" there is no data. In the section "Claim-Judicial Actions" consists of:

-

-

1st entry: plaintiff the \*\*\* TOWN HALL.2; procedure, tax debt

taria; means of publication, \*\*\*BULLETIN.2 and the date 05/09/2016.

2nd to 7th entries: in all of them the plaintiff is the AEAT; The procedure,

tax debt, the means of publication "Tax Agency headquarters" and, the dates,

respectively, 12/05/2016; 01/20/2017; 02/24/2017; 01/05/2018; 01/22/2018 and

05/18/2018.

Claimant 64: Reports the inclusion of their data in the FIJ without their authorization, data

which, he says, come from a public file. Request to unsubscribe all



information relating to debts obtained from public files. contribute,

among others, these documents:

a. Letter from EQUIFAX, dated 02/13/2020, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) provides the

Next information:

Under the heading "Legal claims" there is an entry: As

plaintiff appears the \*\*\* TOWN HALL.10; as a procedure, tax debt;

means of publication, \*\*\*BULLETIN.11 and publication date 05/20/2015.

b. A letter from EQUIFAX, dated 02/13/2020, in which it responds to the requested access

according to letter model (see Fact Three)

Claimant 65: Reports the inclusion of their data in the FIJ by EQUIFAX. contribute,

among others, these documents:

a. Letter from EQUIFAX, dated 12/18/2019, with the result of access to the FIJ, in which

associated with the personal data of the claimant (name, surnames and NIF) provides the

following information: Under the heading "Court claims" there is:

-

1st entry: As plaintiff, \*\*\*CITY COUNCIL.10; What

procedure, tax debt; medium of publication, \*\*\*BULLETIN.10 and the

publication date 03/28/2016.

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2nd entry: As plaintiff the \*\*\*CITY COUNCIL.7; What

procedure, tax debt; means of publication, \*\*\*BULLETIN.10 and

publication date 08/05/2015.

b. A letter from EQUIFAX, dated 12/18/2019, in which it responds to the requested access according to letter model (see Fact Three)

Claimant 66: Reports the inclusion of his data in the FIJ, without his authorization, data which, he says, come from a public file. He states that he exercised the right of opposition.

Request that all information related to debts that have been obtained from public files. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 01/10/2020, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) provides the following information: Under the heading "Court claims" there are:

- Six annotations in which the plaintiff is the AEAT; The procedure, Tax debt; the means of publication, "Tax Agency Headquarters", and the following

respectively:

06/09/2015;

10/16/2015; 02/17/2016; 09/23/2016; 12/02/2016 and 11/11/2014.

publication dates,

b. A letter from EQUIFAX, dated 01/10/2020, in which it responds to the requested access according to letter model (see Fact Three)

Claimant 67: Among the various issues raised, he states that he was aware, when trying to arrange a loan, that his data had been included in the

FIJ associated with debts with the \*\*\*CITY COUNCIL.10 and with the AEAT and that immediately proceeded to settle the pending debts and sent EQUIFAX the documentation that proves it. Provide, among others, these documents:

a. Certificate issued by the \*\*\*CITY COUNCIL.10, electronically signed on

02/05/2020, in which it is stated that as of 02/04/2020 it does not exist, linked to the data of the claimant, no debt pending in executive proceedings for the collection of the aforementioned City hall.

b. AEAT certificate, signed electronically on 02/06/2020, of being up to date in the payment of tax obligations.

Claimant 68: Reports the inclusion of his data in the FIJ, without his authorization, data which, he says, come from a public file. He states that he exercised the right of opposition.

Request that all information related to debts that have been obtained from public files. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 10/18/2019, with the result of access to the FIJ, in which associated with your data (name, surnames and NIF) the following information is provided:

Under the heading "Court claims" there is:

-

-

1st entry: Plaintiff the \*\*\*CITY COUNCIL.12; procedure, debt tax; medium of publication, \*\*\*BULLETIN.15, and date of publication 04/29/2016.

2nd entry: Plaintiff the \*\*\*CITY COUNCIL.12; procedure, debt tax; medium of publication, \*\*\*BULLETIN.15, and date of publication 04/21/2014.

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b. A letter from EQUIFAX, dated 10/16/2019, in which it responds to the requested access

according to letter model (see Fact Three)

Claimant 69: Reports the inclusion of his data in the FIJ, without his authorization, data which, he says, come from a public file. He states that he exercised the right of opposition.

Request that all information related to debts that have been obtained from public files. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 10/18/2019, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) is provided the following information: Under the heading "Court claims" there are:

-

-

1st entry: Plaintiff the \*\*\*CITY COUNCIL.12; procedure, debt tax; medium of publication, \*\*\*BULLETIN.15, and date of publication 04/29/2016.

2nd entry: Plaintiff the \*\*\*CITY COUNCIL.12; procedure, debt tax; medium of publication, \*\*\*BULLETIN.15, and date of publication 04/21/2014.

b. A letter from EQUIFAX, dated 10/16/2019, in which it responds to the requested access according to letter model (see Fact Three)

Claimant 70: Reports the inclusion of his data in the FIJ, without his authorization, data which, he says, come from a public file. Request to unsubscribe all information relating to debts obtained from public files. It provides, among others, these documents:

a. Letter from EQUIFAX, dated 02/20/20, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) is provided the following information: Under the heading "Court claims" there are:

-

-  
1st entry: Plaintiff the \*\*\*CITY COUNCIL.1; procedure, debt

tax; publication medium, \*\*\*BULLETIN.17, and date of publication

04/11/2015.

2nd entry: Plaintiff AEAT procedure, tax debt; source of

publication, "Tax Agency Headquarters" and publication date 08/08/2018

Claimant 71: Reports the inclusion of his data in the FIJ, without his authorization, data

which, he says, come from a public file. It denies the certainty of the debt. contribute, between

others, these documents:

a. Letter from EQUIFAX, dated 02/20/2020, with the result of access to the FIJ, in which

associated with the personal data of the claimant (name, surnames and NIF) provides the

following information: Under the heading "Legal Claims" there is an entry:

Plaintiff, the \*\*\*ORGANISM.5; procedure, tax debt; source of

publication \*\*\*BULLETIN.10 and the date 01/11/19.

Claimant 72: Reports the inclusion of their data in a list of defaulters without their

consent or knowledge for non-existent debts since they had already been

paid. Know the facts when managing a loan application. contribute, between

others, these documents:

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a. Letter from EQUIFAX, dated 02/20/2020, with the result of access to the FIJ, in which

associated with the personal data of the claimant (name, surnames and NIF) is provided

this information: Under the heading "Court claims" there is:

-1st entry: plaintiff, \*\*\*CITY COUNCIL.18; procedure, debt

tax; medium of publication, \*\*\*BULLETIN.18; publication date

01/27/2017.

-2nd entry: plaintiff "Mancomunidad de Servic Provinc."; process,

Tax debt; publication medium \*\*\*BULLETIN.18 and date 03/11/2016.

-3rd entry: plaintiff \*\*\* TOWN HALL.18; procedure, debt

tax; publication medium \*\*\*BULLETIN.18 and date 05/05/2015.

b. A letter from EQUIFAX, dated 02/21/2020, in which it responds to the requested access

according to letter model (see Fact Three)

Claimant 73: Reports the inclusion of his personal data in a list of

defaulters of EQUIFAX without their consent or knowledge for a debt

non-existent. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 02/21/2020, with the result of access to the FIJ, in the

that associated with the personal data of the claimant (name, surnames and NIF) is

provide the following information:

Under the heading "Legal Claims" an entry: plaintiff, the

\*\*\* TOWN HALL.6; procedure, tax debt; publishing medium,

\*\*\*BULLETIN.11 and date 12/11/2017.

b. Letter from EQUIFAX, dated 02/21/2020, in which it responds to the deletion request

of your FIJ data, denying it for not having provided documentation that justifies

deletion (see sample letter denying deletion, Fact Three).

Claimant 74: Reports the inclusion of his data in the FIJ, without his authorization, data

which, he says, come from a public file. It denies the certainty of the debt. contribute, between

others, these documents:

a. Letter from EQUIFAX, dated 01/09/2020, with the result of access to the FIJ, in the

that associated with the personal data of the claimant (name, surnames and NIF) is

provide the following information:

Under the heading "Legal Claims" there is an entry: as

plaintiff the \*\*\* TOWN HALL.5; procedure, tax debt; source of

publication \*\*\*BULLETIN.6 and date 12/16/2019.

b. Letter from EQUIFAX, dated 01/20/2020, in which it responds to the deletion request of your FIJ data, denying it for not having provided documentation that justifies deletion (see sample letter denying deletion, Fact Three).

Claimant 75: He denounces the inclusion of his data in the FIJ for debts that are not true. Provide, among others, the following documents:

a. Letter from EQUIFAX, dated 10/25/2019, with the result of access to the FIJ, in the that associated with the personal data of the claimant (name, surnames and NIF) is provide the following information:

Under the heading "Legal Claims" there is an entry: as

plaintiff the \*\*\*ORGANISM.8; procedure, tax debt; source of

publication \*\*\*BULLETIN.3 and date 02/10/2017.

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b. Certificate issued by the Directorate General of Taxes of the Autonomous Community, signed electronically on 11/26/2019, in which it is indicated that “with the data obtained in the Executive Collection of the Autonomous Community of (...) has no debts in executive period, and if it has them, they are postponed, fractioned or their suspension, or there are credits in their favor that guarantee their collection.

c. Letter from EQUIFAX, dated 10/25/2019 responding to the request for access to the FIJ

(according to model, see Fact Three)

Claimant 76: Reports the inclusion of their data in the FIJ associated with a debt

with a Town Hall. He denies that it was that Administration who

communicated your data to the file. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 02/17/2020, with the result of access to the FIJ, in which

associated with the personal data of the claimant (name, surnames and NIF) provides the

Next information:

Under the heading "Legal Claims" there is an entry: as

plaintiff the \*\*\* TOWN HALL.11; procedure, tax debt; source of

publication \*\*\*BULLETIN.16 and date 08/11/2017.

b. Documentation accrediting having requested the cancellation of the FIJ data

on 01/16/2020 and EQUIFAX's response, dated 02/25/2020, in which it denies the

suppression requested for not having provided documentation that justifies it (according to

sample letter denying the cancellation, see Fact Three)

Claimant 77: Reports the inclusion of their data in the FIJ made by EQUIFAX,

associated with alleged debts with public bodies. It provides, among others, these

documents:

a. Letter from EQUIFAX, dated 12/11/2019, with the result of access to the FIJ, in which

associated with your personal data (name, surnames and NIF) the following is provided

Information: Under the heading "Legal Claims":

-

-

1st entry: plaintiff, the \*\*\*ORGANISM.9; procedure, debt

tax; means of publication, \*\*\*BULLETIN.19 and date 07/15/2019.

2nd entry: plaintiff, the \*\*\* TOWN HALL.19; procedure, debt

tax; means of publication, \*\*\*BULLETIN.19 and date 04/13/2018.



b. Certificate signed by the head of the Office of Tax Management and Inspection of the

\*\*\*ORGANISM.9, signed on 02/13/2020, indicating that there are no receipts

pending collection and that two installments are in force for the payment of

debts detailed in the document.

Complainant 78: Complaint that a financial entity with which he intended to contract a

mortgage loan has provided you with information from, as you have been informed,

of a non-existent file - "ASNEF JUDICIAL" - referring to several debts in your name

contracted with Public Administrations that are not true because they are already settled.

Provide, among others, these documents:

a. Screenshot provided by the financial institution regarding the debts

associated with your person. The heading contains "Summary of judicial information"; the

consultation date is 02/20/2020; the search criteria used are the NIF,

name and two surnames of the claimant. Three annotations are reflected for "Incidences

Judicial" being the date of last update on 05/14/2018. These consist

annotations:

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1st entry: plaintiff the AEAT; procedure, tax debt; condition,

embargo; date 05/17/2017.

-2nd and 3rd entry: plaintiff the \*\*\* TOWN HALL.12; process

Tax debt; status, embargo and dates, respectively, 03/11/2017 and

05/09/2018.

b. Copy of the email received from \*\*\*EMAIL.1, dated 02/24/2020 in which

They communicate that there is no pending debt in an executive situation as of today associated with your person.

Claimant 79: Reports the inclusion of his data in the FIJ, without his authorization, data which, he says, come from a public file. He affirms that he exercised the right of opposition before the claimed Provide, among others, these documents:

a. Letter from EQUIFAX, dated 02/27/2020, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) provides the

Next information:

Under the heading "Legal Claims" there are 2 entries. In both, as plaintiff, appears the AEAT; as a procedure, tax debt; like medium of publication "Tax Agency Headquarters" and the dates, respectively, 09/07/2015 and 03/04/2019.

b. EQUIFAX response, 02/27/2020 to access to the FIJ (according to the letter model, see Made Third)

Claimant 80: Reports the inclusion of their data in the FIJ at the request of EQUIFAX for a debt with Social Security that is not true, as it is appealed in the administrative process. nistrative He adds that he was not informed of the inclusion of his data in the FIJ and that EQUIFAX denied the requested cancellation despite having sent him a copy of the appeal. so of appeal presented against the resolution of the Social Security. contribute, between others, these documents:

a. Letter from EQUIFAX, dated 12/14/2018, with the result of access to the FIJ, in the that associated with your personal data (name, surnames and NIF) the following is provided information:

Under the heading "Claims from public bodies":

-

33 annotations being in all of them the claimant entity, Social Security.

cial; the publication medium, \*\*\*BULLETIN.8; the publication date 09/18/2017. The 33 entries correspond to debts accrued for pe-monthly periods being the oldest date of 12/2014 and the most recent cient of 04/2017.

Under the heading "Legal Claims", there is an entry: as plaintiff the TGSS; means of publication \*\*\*BULLETIN.8 and the date of publication 04/18/2018.

b. EQUIFAX letter of 11/29/2018 in which it responds, denying it, to the request of cancellation of the claimant for not having provided documents that justify their suppression. (letter according to the model collected in Fact Three)

c. The AEPD, prior to the admission for processing of this claim, gave transfer of it to EQUIFAX. The respondent responds in writing dated 02/18/2019, in which after acknowledging that the incidents that have been detailed in the FIJ appear in [www.aepd.es](http://www.aepd.es)

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the point to precedent, states the following: "In response to the request for cancellation of the owner, we proceed on 02/18/2019 to cancel said data, in such a way that so that after discharge, there is no record of any other incident associated with D. [the crying] in the file... [FIJ]" (The underlining is from the AEPD).

Claimant 81: Reports the inclusion of his data in the FIJ, without his authorization, data which, he says, come from a public file. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 02/10/2020, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) provides the

Next information:

Under the heading "Legal Claims" there is an entry: as a lawsuit

before the \*\*\* TOWN HALL.7; procedure, tax debt; medium of publication

\*\*\*BULLETIN.8 and date 08/16/2018.

b. EQUIFAX response, dated 02/18/2020, denying the requested deletion for not having provided documentation that justifies it (according to the denial letter model). winning the cancellation, see Fact Three)

Claimant 82: Reports the inclusion of his data in the FIJ, without his authorization, data which, he says, come from a public file. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 02/25/2020, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) provides the

Next information:

Under the heading "Legal Claims" there is an entry: as a lawsuit

Dante AEAT; procedure, tax debt; means of publication "Sede Agencia Tributaria" and date 10/1/2018.

Under the heading "Claims from Public Bodies" there are 7 entries:

In all of them the claimant is Social Security; the means of publication \*\*\*BOLE-

TIN.15; publication dates between 04/24/2018 and 02/01/2019; for debts of avenged for monthly and consecutive periods between 01/2018 and 04/2018 and the 10/2018.

b. EQUIFAX response, dated 03/05/2020, denying the requested cancellation for not having provided documentation that justifies it (according to the denial letter model). winning the cancellation, see Fact Three)

Claimant 83: Reports the inclusion of his data in the FIJ, without his authorization, data

which, he says, come from a public file. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 02/27/2020, with the result of access to the FIJ, in which associated with the personal data of the claimant (name, surnames and NIF) provides the

Next information:

Under the heading "Legal Claims" there are 3 entries. In all

they appear as plaintiff the AEAT; as a procedure, tax debt; What

means of publication, "Tax Agency Headquarters" and the dates, respectively,

05/20/2014; 01/08/2016 and 06/28/2019.

b. EQUIFAX letter, 03/06/2020, addressed to the claimant in which it says: "I agree

with your request for opposition/cancellation, since you have not provided documentation

that justifies the deletion, it is not appropriate to attend to your request." (continues according to model

of letter denying cancellation, see Fact Three. The underlining is from the AEPD)

c. The AEPD, prior to admitting the claim for processing, requested the

EQUIFAX information on the facts presented by the claimant. the claimed

responded in writing dated 02/18/2019 in which it acknowledges the existence of the

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tions in the FIJ associated with the personal data of the claimant and pronounces in

the following terms: "In response to the cancellation request of the holder, the

dated 02/18/2019 to the cancellation of said data, in such a way that, after making

discharge, there is no record of any other in the name of D. [the claimant] in the [FIJ]" (He underlines

is from the AEPD)

Claimant 84: Reports the inclusion of his data in the FIJ, without his authorization, data

which, he says, come from a public file. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 02/27/01/30/2020, with the result of access to the FIJ, in the that associated with your data (name, surnames and NIF) the following information is provided-tion:

Under the heading "Legal Claims" there are:

-

14 annotations in which the plaintiff is the AEAT; procedure, debt tax; the means of publication, "Tax Agency Headquarters" and the dates of publication are between 01/06/2015 (the oldest) and the 05/11/2018 (most recent)

- An entry in which the plaintiff is the \*\*\* TOWN HALL.3; pro-tax debt transfer; the means of publication \*\*\*BULLETIN.3 and the date of publication 02/20/2017.

b. Letter from EQUIFAX, dated 01/30/2020 in which it responds to your request for access to the FIJ (according to letter model, see Fact Three)

Claimant 85: Reports the inclusion of their personal data in the FIJ linked to debts with Public Administrations without your consent and the transfer of your data by EQUIFAX to third parties. He adds that he exercised the right of suppression on 02/20/2020 which was denied without justification. Provide, among others, these documents:

a. Letter from EQUIFAX, dated 02/20/2020, with the result of access to the FIJ, in which associated with your data (name, two surnames and NIF) the following information is provided-tion: Under the heading "Legal Claims" there are:

-

4 annotations in which the plaintiff is the AEAT; procedure, debt tax; the means of publication, "Tax Agency Headquarters" and the dates of publication are between 09/07/2015 (the oldest) and

01/23/2017 (most recent)

- An entry in which the plaintiff is the \*\*\*CITY COUNCIL.20 the pro-tax debt transfer; the means of publication \*\*\*BOLETIN.11 and the fe-publication date 09/30/2016.

b. Letter from EQUIFAX, dated 03/02/2020, in which it denies the cancellation of your cough requested on 02/20/2020 (according to the letter model, see Fact Three)

Claimant 86: He denounces the inclusion of his data in the list of delinquent FIJ due to debts older than five years, so they would be prescribed. Add that EQUIFAX has denied the cancellation of the entries due to lack of evidence. contribute, among others, these documents:

a. Letter from EQUIFAX, dated 03/16/2020, in which the data of the claim is associated mante (name, two surnames and NIF) the following information is provided:

Under the heading "Legal Claims" there are:

-

2 annotations: the AEAT appears as the plaintiff; as procedure, debt tax; means of publication "Tax Agency Headquarters" and the dates, respectively, 12/11/2015 and 02/12/2016.

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2 annotations: as plaintiff the TGSS; medium of publication SS Y ELECTR. (...) and the dates 11/17/2014 and 06/19/2014.

Under the heading "Claims from Public Bodies":

- Two annotations: as claimant the S.S.; means of publication, respective mind, SS S ELECTR. (...) and \*\*\*BULLETIN.8. It is noted that this second annotation is for an amount of 2.50 euros. The publication dates are respectively, on 11/17/2014 and 04/04/2016.

b. Letter from EQUIFAX, dated 03/16/2020, in which it responds to the cancellation request claimant denying it, because he has not provided documents that justify the suppression.

Complainant 87: The Catalan Data Protection Authority sends documentation relating to the claimant, in particular, the following:

a. Negative certificate issued by the \*\*\* TOWN HALL.7 and signed on 05/05/2020 in which it is stated that the claimant, identified by his name, first surname and NIF, has no outstanding debts in the executive period according to the databases of municipal collection.

b. Letter from EQUIFAX, dated 05/04/2020, in which the data of the claim is associated mante (name, two surnames and NIF) the following information is provided: Under the heading "Legal Claims" appears a notation: as plaintiff appears the \*\*\* TOWN HALL.7; the procedure is tax debt; the publication medium \*\*\*BULLETIN.8 and publication date 02/20/2019. .

Claimant 88: Claims to have previously filed claims with "DPS@AEPD" and PTFP@correo.Gob.es from which he expects a response and with which attached 28 files. In this statement of claim, it sets forth, among other issues, that EQUIFAX informed him of the existence of an entry in the FIJ associated with his data and linked to debts with Social Security, without the information being provide the amount of the outstanding debt. Add that you have applied to the TGSS on several occasions -the last one on 03/28/20- a deferral of the debt.

Claimant 89: Reports the inclusion of your personal data without your consent



in the FIJ linked to alleged debts with Public Administrations. contribute, between others, these documents:

a. EQUIFAX letter, dated 05/20/2020, in which associated with the data of the re-claimant (name, two surnames and NIF) the following information is provided:

Under the heading "Legal Claims" there are:

-

3 annotations: plaintiff the AEAT; procedure, tax debt; medium of publication "Tax Agency Headquarters" and the dates, respectively, 04/09/2019; 05/06/2019 and 05/27/2019.

1 annotation: plaintiff the \*\*\* TOWN HALL.5; medium of publication \*\*\*BULLETIN.8 and the date 11/27/2015

1 annotation: plaintiff the \*\*\* TOWN HALL.7; medium of publication \*\*\*BULLETIN.8 and the date 05/02/2015.

1 annotation: plaintiff (...); means of publication \*\*\*BULLETIN.8 and the date 11/11/2017.

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Claimant 90: Reports the inclusion of their personal data in the FIJ associated with debts with Public Administrations that, he says, "are inaccurate or non-existent". Apor-ta, among others, these documents:

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a. EQUIFAX letter, dated 03/11/2020, in which associated with the data of the re-claimant (name, two surnames and NIF) the following information is provided:

Under the heading "Legal Claims" there are:

-

1 annotation: plaintiff the AEAT; procedure, tax debt; source of publication "Tax Agency Headquarters" and the date 09/10/2018.

1 annotation: plaintiff the \*\*\* TOWN HALL.1; medium of publication \*\*\*BULLETIN.1 and the date 02/20/2018.

-

Claimant 91: Reports the inclusion of their personal data in the FIJ for a presumptuous debt with a City Council and for the transfer of his data to third parties without him or the City Council have authorized such communication. It provides, among others:

a. EQUIFAX letter, dated 03/04/2020, in which associated with the data of the claimant (name, two surnames and NIF) contains this information: Under the heading "Claims Judicial" an annotation, being the plaintiff the \*\*\* TOWN HALL.21; the procedure lying, tax debt; the means of publication, \*\*\*BULLETIN.15 and the date 03/09/2018.

b. EQUIFAX letter of 03/13/2020 denying the cancellation requested for not making have provided documentation that justifies the deletion (model transcribed in Antecedent third party)

Claimant 92: Claims that his personal data has been included in the FIJ for alleged debts with the TGSS and the AEAT without their knowledge. Add that EQUIFAX He probably obtained the data from the Official Gazettes, but, he says, he has not verified the veracity of the information because the debts are either inaccurate or do not exist. contribute, among others, these documents:

a. Letter sent by EQUIFAX on 03/10/2020 in which it responds to the request for can-

deletion of their data from the FIJ, denying it for not having provided documentation that justify the deletion (model transcribed in Antecedent Third)

Complainant 93: Complaint that EQUIFAX has included his personal data in the FIJ linked to debts with the AEAT without their authorization or that of the AEAT. contribute, between others:

a. Letter from EQUIFAX, dated 03/04/2020, in which associated with your data (name, two surnames and NIF) appears under the heading "Legal Claims" an annotation.

The AEAT appears as the plaintiff; procedure, tax debt; means of publication tion, "Tax Agency Headquarters" and the date 07/20/2015.

b. Letter from EQUIFAX, dated 03/12/2020, in which it responds, denying it, to the request deletion of their data from the FIJ for not having provided documentation that justifies such deletion (model transcribed in Antecedent Third)

Claimant 94: Reports the inclusion of your personal data in the FIJ for a alleged debt to the \*\*\*ORGANISM.10, without their consent or that of the Deputation. He adds that he requested the deletion of his data from EQUIFAX on 03/02/2020 and was denied. It provides, among other documents:

a. Letter from EQUIFAX, dated 03/03/2020, with the information contained in the associated FIJ gives his name and two surnames, but not his NIF, since in the document of EQUIFAX lacks this information In the section "Legal Claims" there is an annotation tion. As plaintiff, the \*\*\*ORGANISM.10; procedure, tax debt; medium of publication, \*\*\*BULLETIN.20 and the date 06/10/2017.

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b. Letter from EQUIFAX, dated 03/11/2020, in which it denies the cancellation requested cited for not having provided documents justifying the deletion.

Complainant 95: Complaint that EQUIFAX has included his personal data in the FIJ for an alleged debt with the TGSS that is non-existent. He adds that he has requested the one claimed, unsuccessfully, to correct the mistake made.

a. It provides, among other things, a copy of the letter addressed to EQUIFAX, sent by certified mail. notified on 04/04/2019, in which you request the cancellation of your data from the file. Certified negative certificate of the TGSS, signed electronically on 11/30/2018, which certifies that is up to date with payment.

b. The AEPD, before agreeing to admit this claim for processing, addressed Equifax requested information on the facts exposed by the claimant.

The respondent responded in writing dated 06/14/2019 in which she stated that, in the date of receipt of the informative request from the AEPD, on 06/13/2019, "there was re-registered an incident with the \*\*\* TOWN HALL.22 and that on 06/13/2019 has proceeded to cancel said annotation". (The underlining is from the AEPD)

Complainant 96: He denounces the inclusion of his data in the FIJ which, he says, comes causing that in recent years the banking entities deny him the financing that he requests, since they receive a report from EQUIFAX with data that he has not facilitated and whose existence was unknown.

a. The claimant provides, among other documents, a letter from EQUIFAX, dated 02/14/2019, in which associated with your personal data (name, two surnames and NIF) contains this information: Under the heading "Legal Claims" a note, the plaintiff being the \*\*\* TOWN HALL.22; the procedure, tax debt; the means of publication, \*\*\*BULLETIN.6 and the date 07/26/2017.

b. The AEPD, before agreeing to admit this claim for processing, addressed EQUIFAX requesting information on the facts exposed by the claimant. the re-

called responded in writing dated 06/14/2019 in which he stated that, in the fe-  
date of receipt of the informative request from the AEPD, on 06/13/2019, "there was a re-  
registered an incident with the \*\*\* TOWN HALL.22 and that on 06/13/2019 has  
proceeded to cancel said annotation". (The underlining is from the AEPD)

Claimant 97: Reports the incorporation of his personal data to the FIJ carried out,  
as stated, by the \*\*\* TOWN HALL.23 for a non-existent debt.

THIRD: The letter model used by EQUIFAX when the RGPD was already  
effective application -since 05/25/2018- to deny claimants the deletion  
of your personal data from the FIJ, of which there are numerous examples in the file  
administrative, included these paragraphs that we reproduce below:

"(...) These data have been obtained from PUBLIC ACCESS SOURCES. Yes

If you wish to expand the information provided here, you can do so by contacting the Agency  
Public that appears in the abbreviated report.

The entities that use this file will be able to compare their name, surnames and  
NIF/NIE with that of the person requesting an operation and in the event that there is  
a discrepancy (same NIF/NIE with another name and surname) may prevent the  
use your NIF/NIE in said request. To help entities that consult the

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file to prevent delinquency and analyze their solvency, as well as to help  
to the prevention of fraud and prevent them from supplanting your identity in operations,  
products or services not requested by you. The data included in this file

They may also be treated anonymously for analysis

statistics.

The data included will be canceled or unsubscribed once you have made the payment of the debts and justify said payment to us by means of a certificate issued by the Public Body in question or with a judgment in its favour, and in all case, 6 years from the date on which your data was published (origin of the information)” (Underlining is from the AEPD)

The model letter used by EQUIFAX to respond to requests for access to the data included in the FIJ after the GDPR became effective (since 05/25/2018), of which there are numerous examples in the file, has the following text:

It begins by informing the affected party that they are sending "information associated with their identifier or in your name and at the address provided by you." "Attached we send you formal access to the file so that you can check the data that is are currently registered. We also attach the Consultation History, which consists of all the information related to the entities that, where appropriate, have consulted their data in the last six months."

"These data have been obtained from PUBLIC ACCESS SOURCES. if you wish expand the information provided here, you can do so by contacting the Public Organization contained in the summary report.

The entities that use this file will be able to compare their name, surnames and NIF/NIE with that of the person requesting an operation and in the event that there is a discrepancy (same NIF/NIE with another name and surname) may prevent the use your NIF/NIE in said request. To help entities that consult the file to prevent delinquency and analyze their solvency, as well as to help to the prevention of fraud and prevent them from supplanting your identity in operations, products or services not requested by you. The data included in this file

They may also be treated anonymously for analysis

statistics.

The data included will be canceled or unsubscribed once you have made the payment of the debts and justify said payment to us by means of a certificate issued by the Public Body in question or with a judgment in its favour, and in all case, 6 years from the date your data was published (origin of the information)." (The underlining is from the AEPD)

In both letters, EQUIFAX affirms that the personal data of those affected included in the FIJ they were obtained from public access sources; relates the purposes of data processing that it carries out; required as a condition for ending the treatment of the data that their owners prove the payment of the debt through document issued by the corresponding official body or through a judgment and informs that the data thus obtained will be processed for 6 years computed from the date they were published, "information origin".

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At the same time, they also work on the file -exclusively linked to the claimants 36, 43 and 48- the letters that EQUIFAX sent them on 10/18/2018, 08/22/2019 and 08/24/2019, respectively, informing them of the inclusion of their data in the IJF. In that model letter, the respondent provided the following information:

<< What is the file of judicial claims and Public Organisms?

It is a file owned by the company EQUIFAX IBÉRICA, S.L., with CIF ..., which contains data on legal claims, in which you appear as

defendant, and claims from public bodies in which you appear as debtor with organizations such as the General Treasury of the Social Security (TGSS), Town Halls or the Tax Agency, and which are published on the website of the TGSS, Public Registries, Official Provincial Bulletins, of the Communities Autonomous, of the State, in the annexes published in said Bulletins and media social communication. This file has its legal basis in the legitimate interest of the entities, which need to know the debts or claims of a natural person or to give security to commercial traffic, prevent delinquency and assess the patrimonial solvency of said persons, with whom they have or will have relations commercial, credit and periodic or deferred payment.

What is my data used for?

To help the entities that consult the file to prevent delinquency and analyze their solvency, as well as to help prevent fraud and prevent them from impersonating your identity in operations, products or services not requested by you. The entities that use this file will be able to compare their name, surnames and NIF/NIE with that of the person requesting an operation and in the in case there is a discrepancy (same NIF/NIE with another name and surname) may prevent your NIF/NIE from being used in said request. The data included in this file may also be treated anonymously to perform analysis statistics.

How long can I be included in the Judicial Information file and

Claims from Public Organizations?

The data included will be canceled or unsubscribed once you have made the payment of the debts and justify said payment to us by means of a certificate issued by the Public Body in question or with a judgment in its favour, and in all case, 6 years from the date your data was published (origin of the



information)

Who can see my data?

In general, entities in the financial sector, insurance, telecommunications, supplies of energy or that provide deferred or periodic payment services with which it has any contract in force or if they need to consult your data to study any request you have made.

How do I exercise my rights of access, rectification, cancellation, limitation and opposition for free?

You can send us an email to the address [sac@equifax.es](mailto:sac@equifax.es) or by sending us a letter to the Apdo. de Correos 10546, 28080 in Madrid. Please don't forget to read the back of this letter "Requirements for the exercise of rights". (...)

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Can I file an official claim?

You can go to the Spanish Agency for Data Protection and submit a claim if it considers it [www.agpd.es](http://www.agpd.es) . Likewise, we provide you with the data of contact of the Data Protection Delegate [dpo@equifax.es](mailto:dpo@equifax.es) >> (The underlined is of the AEPD)

FOURTH: Start Agreement.

On 07/24/2020, the Director of the Spanish Data Protection Agency agrees to initiate a sanctioning procedure against the claimed party, in accordance with the provisions in articles 63 and 64 of Law 39/2015, of October 1, on the Procedure Common Administrative of Public Administrations (hereinafter, LPACAP), by the

alleged infringement of articles 6.1 and 5.1.d) of the RGPD, both typified in the article 83.5.a) of the RGPD.

The initiation agreement indicates that, without prejudice to what results from the instruction,

The sanctions that could be imposed would be the following:

For the infringement of article 6.1 RGPD, in accordance with article 58.2.i) RGPD, fine

administration of three million euros. In accordance with article 58.2.f) RGPD, the

Prohibition of the continuation of the data processing carried out through the FIJ, which

would imply closing the file. It is also indicated that, pursuant to article 58.2.g)

RGPD, the claimed party could be ordered to proceed with the suppression of all the

personal data associated with the alleged debts that are subject to treatment

through the FIJ.

For the infringement of article 5.1.d) RGPD, in accordance with article 58.2.i) of the RGPD, fine

administration of three million euros. In accordance with article 58.2.f) RGPD, the

Prohibition of the continuation of the data processing carried out through the FIJ, which

would imply closing the file. It is also indicated that, pursuant to article 58.2.g)

RGPD, the claimed party could be ordered to proceed with the suppression of all the

personal data associated with the alleged debts that are subject to treatment

through the FIJ.

FIFTH: Notification of the start agreement.

The initiation agreement is notified to the claimed party by electronic means on the date

07/24/2020. The notification is accepted on 07/30/2020. Both ends remain

accredited by the certificate of the Notification Service Support service

Electronic Address and Authorized Electronic Address issued by the FNMT-RCM (as

successively, FNMT) that appears in the file.

SIXTH: Allegations to the initial agreement: Request for extension of the term of

allegations and a copy of the file.

On 08/04/2020, the Agency received a document from the respondent in which requests, under articles 32.1 and 53.1.a) of the LPACAP, the extension of the term to formulate allegations to the agreement to initiate the sanctioning procedure and the Delivery of a copy of the administrative file. Provide with your letter a copy of the notarial public deed granted on 05/04/2012 in which the claimed confers power to D.D.P.R. so that, acting on your behalf and representation, you can make use, among other faculties, of those necessary to intervene in such a condition in all procedures of the sanctioning file that concerns us.

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The AEPD, in writing dated 08/12/2020, agrees to extend, for the maximum allowed legally, the period initially set to present allegations and refers to the requested a copy of the administrative file. The notification of the writing and the Delivery of the copy of the file was made by postal courier since the volume of the file makes it impossible to send it by electronic means. work in the procedure the proof of the MRW company that proves that the documents were received by the claimed party on 08/12/2020.

SEVENTH: Allegations to the initiation agreement: Written allegation.

On 08/19/2020, the letter of allegations to the initiation agreement presented by the respondent in which it requests that it be issued resolution declaring the nullity of full right of the procedure.

Subsidiarily, that the file of the procedure be agreed. and subsidiarily with respect to the previous request, that a warning or reprimand or

significantly reduce the amount of the sanction provided for in the settlement agreement.

beginning.

It puts forward the following arguments in support of its claims:

The first allegation deals with the defenselessness caused to EQUIFAX as consequence of having set in the agreement to open the procedure the amount of the sanction instead of expressing in said agreement, only, the limits of the possible penalty to be imposed. Other circumstances that in his opinion would have caused defenselessness, nullifying the procedure, are the following: not having had the opportunity to express your opinion about the circumstances that could result applicable to the case; the summary motivation of the aggravating circumstances that is made in the initial agreement and the one that has been substantially affected the impartiality of the instructor in clear breach of the phase separation principle instructor and sanction.

The second allegation is under the rubric "Of the defenselessness of EQUIFAX due to access late to the administrative file and its content". In it he explains the helplessness suffered as a result of having seen limited and reduced ostensibly his ability to formulate "complete and informed". In this regard, he highlights two facts: the late delivery of the copy of the file, which was transferred on 08/12/2020, one business day before the the ordinary term of ten working days expires, therefore, although the Body The sanctioning party agreed to extend the term until 08/20/2020, the period of time in which that has been able to access the documentation was only 6 business days.

Secondly, it highlights that the copy of the file suffers from various defects that imply, at least, the need to "proceed to the suppression of a large part of the Background of the agreement itself". These deficiencies would be following: (i) The submitted file refers to a limited number of the

claims that are mentioned in the initial agreement, since there is no such claim file or any document related to 43 claimants. (ii) It include in the file, at least three claims that are not related to the object of the file.

Regarding the claims that do appear in the documentation of the file administrative data that the AEPD sent to it, the respondent draws the conclusion that these

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are not related to the substantive issues contained in the foundations of the initial agreement “since practically all of them referred to the exercise by the interested parties of their rights of access and deletion” Classifies the claims formulated, on which documentation was provided in the copy of the file that was sent, in the following groups:

(i) Those in which the interested party exercises before the AEPD a right that has not been previously exercised before EQUIFAX. (ii) Those in which the claimant has requested the deletion of your data from the FIJ and EQUIFAX has responded to your request. (iii) AND others in which the interested parties exercise their right of access before EQUIFAX, which is attended, and without contacting EQUIFAX, request the exercise of the right of suppression directly before the AEPD "alleging issues such as that the treatment is not was based on their prior consent, that the collection of the data was not lawful. data from bulletins and official newspapers or even that the Administration author of the publication expressed its disagreement with the very existence of the FIJ". A) Yes, qualifies as bad faith the actions of the representative of several claimants who, with

regardless of whether the respondent had complied with the exercised right of access, did not hesitate to send the AEPD a claim that had nothing to do with the right initially exercised.

The entity concludes that of the 47 claims that appear in the file, it gave full satisfaction of the right that the claimant exercised before it, although, in occasions, the interested party addressed a claim to the AEPD that was unrelated with what was requested before EQUIFAX.

The third allegation deals with the regulations pre-existing the RGD and the actions of the AEPD in relation to the FIJ. The respondent says that “[..] as recognized by the The Agreement itself, the substantive rules whose violation is attributed to my client are not have changed in terms of their content as a result of the reform operated by the GDPR”. Analyze the similarities and differences between the text of article 6.1.f) of the GDPR and article 7.f) of Directive 95/46; indicates that the reasoning contained in the recitals of the RGD about the requirements of legitimate interest and how carry out the necessary weighting to verify your application derives directly of the jurisprudence issued by the CJEU in its ruling of 10/24/2011 (issues C-468/10 and C-469/10, Asnef, Fecemed) that declares the direct effect of the Article 7.f) of Directive 95/46. It also refers to the Group document Working Group of article 29 (hereinafter, GT29) “Opinion 6/2014 on the concept of Legitimate interest of the data controller under article 7 of Directive 95/46/EC”.

Considers that the data processing carried out by the FIJ was lawful under the previous regulations and that “starting from the similarity, if not identity, between the regulations previously in force and the one contained in the text of the RGD, it is necessary to have taking into account that systems such as the FIJ appeared expressly recognized in the article 29.1 of the “LOPD. “[...] that the alleged treatment carried out by my

client [...] was not only not contrary, but expressly protected in the regulatory framework in force prior to the entry into force of the RGPD [...]. He adds that the regulatory framework has not been altered, but on the contrary reiterated, with the entry in force of the RGPD.

Regarding the actions of the AEPD, it says that "This legality was not only known by that AEPD, but that it came repeatedly to highlight it,

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dictating numerous resolutions in which he considered perfectly in accordance with the data protection regulations the behavior of Equifax" in conducts

Totally similar to those that are now the subject of the sanctioning file. mentions the resolutions issued in TD/00724/2015 and TD/02085/2016.

It indicates that the data processing carried out through the FIJ "has not only been been carrying out during the validity of all low data protection regulations the view, science and patience of the AEPD, but that it has repeatedly blessed occasions the legality of said treatment that is now anathematized by the very institution". "If this is so and the AEPD declared the legality of a treatment that now is considered radically opposed to data protection regulations, it would be possible conclude, with the greatest respect, that this institution collaborated necessarily in the perpetration of such radically illicit conduct with the consequent damage to the fundamental right that it has as its mission essential to guarantee and protect.

Regarding the action of the AEPD after the entry into force of the RGPD, it indicates

that this Agency is perfectly aware of "the existence of information similar to the FIJ" because the Code of Conduct presented by the Multisector Information Association (ASEDIE) to the which belongs to EQUIFAX and whose first version was presented on 05/24/2018 and the last in May 2020.

It invokes the bankruptcy of the principle of legitimate expectations in which the AEPD has incurred, which now considers illegal behaviors that it previously considered fully legal. bankruptcy of legitimate expectations would determine the absence of a culpabilistic element in the conduct of the claimed party and, consequently, proceed to file the proceedings. He specifies that this is so because, even when the change of criteria is based in a normative change, the normative reform has left unchanged the precepts in which previously the Agency founded the legality of the FIJ. Consider that they are fulfilled all the necessary requirements to assess the violation of the principle of trust legitimate in the terms described in the STS 02/22/2016 (cassation appeal 1354/2014) Invokes the SAN of 02/04/2009 (appeal 304/2007) which maintains that the breach of the principle of legitimate expectations must lead to the annulment of the resolution sanctioning object of the appeal.

It also denounces the disproportionate nature of the measures that the AEPD intends to adopt: "excessive sanctions" and "completely irreversible" measures. Y explains that the imposition of a sanction in the amount established in the initial agreement of the procedure would imply that this company left the market "for the benefit of other competing companies that handle the same information". draw attention on the fact that the AEPD has decided to "adopt the measures of greatest severity provided for in the data protection regulations" when the RGPD offers control authorities a wide range of corrective measures (article 58). to it In addition, article 83 RGPD expressly provides, in the event of a breach



regulation, the possibility of not imposing an administrative fine and sanctioning

any other corrective measures of article 58 RGPD.

The fourth allegation is headed "Of the legal basis of the treatment of the FIJ".

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The claim refers, in the first place, to the implications that derive from the

regulation of reuse of public sector information, Law 37/2007, of 16

November, of reuse of information of the Public Sector (LRISP) and indicates that "the

sources from which it has collected the data to which the claims refer

formulated and, in general, the data included in the FIJ, expressly enable the

reuse of said information. Therefore, it concludes, the aforementioned LRISP, without prejudice

of the application of its article 4.6, does not constitute an obstacle for the collection of

data that she makes. Mentions for this purpose the general conditions of reuse

of the BOE website and adds that, in the other sources used, the

conditions of each one allow reuse as long as the

current legislative framework and, in particular, the RGPD and the Intellectual Property Law.

Reiterates that there is a legal concept of publicly accessible sources -as

evidence, says the defendant, the mention made of them in the STJUE of

11/24/2011 and in the ASIEDIE Code of Conduct project presented to the AEPD

in May 2020- that "imply the possible knowledge and access by any

person to the information they contain and that the fact that

information is available to any person makes the processing of data

that they could include affects the private and family life of the interested parties to

which the data refer to an enormously less degree than would be produced when the data does not come from such sources, which allows the weighting required by article 6.1.f) RGPD can operate more easily for the benefit of the legitimate interest of the person responsible for processing such publicly accessible data".

On the principle of necessity, he shows his disapproval with the reference that the start agreement made to the STJUE of 12/16/2008 (case C-524/2016) and the judgment of the ECHR of 03/25/1983 and proposes, for the interpretation of the concept of necessity, resort to the criteria followed by the T.C. to analyze the proportionality of a measure restrictive of a fundamental right.

Regarding the requirements to apply the legal basis of article 6.1.f) RGPD, In accordance with the doctrine of the GT29 in Opinion 6/2014, it mentions the following:

1. Existence of a legitimate interest of the data controller or of any third.
2. Compliance with the principle of necessity linked to the principle of suitability.
3. The favorable result of the weighting. Only when it is possible to consider that the impact on the rights of the interested parties is tolerable in view of the result obtained by the treatment, it can be carried out.

Next comments on the characteristics of each of the weighting terms and the factors that should be taken into consideration in the mandatory weighting.

Remember the link that exists between the concepts of purpose and legitimate interest and criticizes the considerations made by the initial agreement on the basis of the comment of Opinion 6/2014 of the WG29. It then goes on to describe the legitimate interest satisfied with the treatment of the data carried out by the FIJ. Distinguish a double interest legitimate: an interest linked to the evaluation of the solvency of those affected -of which would be EQUIFAX holders, the third parties that access the data and the borrowers and consumers- and a legitimate interest linked to the prevention of fraud. summon legal regulations, opinions, circulars and reports on which it considers it is based

the legitimate interest that each of them holds.

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It dedicates a section to “the weighing of the prevalence of the legitimate interest in the present case”. He affirms that there are multiple elements that lead to the conclusion that the “legitimate interest of Equifax, its user companies and the company itself in the treatment of the data of the FIJ prevails over the rights and interests of the debtors to whom the data refer. Mention for these purposes the following items:

a. That the LOPD included a rule that determined the prevalence of the aforementioned interest legitimate because, "article 29.1 of the aforementioned law referred expressly to the legality of the processing of data in these systems. And remember that, regarding the treatment at that we refer to, there has not been a substantial change in the applicable regulations, but that "the legal bases and principles applicable to the treatment remain unalterable as a result of the entry into force of the GDPR”.

b. The regulation of the LOPDGDD. In this sense, it indicates that the aforementioned Law recognizes the prevalence of legitimate interest by establishing a presumption in favor in the credit information systems and adds that in these systems "the legitimate interest that justifies the treatment is identical to that pursued by the FIJ” from which it concludes that is an indication of the weighting in favor of the legitimate interest that we examine, "even when there is no regulation in the new Law similar to the old article 29.1 of the LOPD.” It goes on to state that “the fact that the impact on the rights and interests of the interested parties as a result of the processing of their data in the FIJ

is substantially similar to that generated by the processing of your data in the systems of credit information, with respect to which the prevalence of interest is presumed legitimate, must be considered an evident indication of the prevalence of the interest legitimate in this case.”

c. The jurisprudence of the CJEU, which specifies in the aforementioned STJUE of 11/24/2011.

d. The attitude of the AEPD, which, he says, has been "until now recognizing the legality of these systems without having carried out a requirement, warning or warning some addressed to my principal, as has been analyzed in the third allegation of this written." It also adds that through the draft Code of Conduct that promotes ASIEDIE the AEPD has learned that an examination of the prevalence of the legitimate interest of the entities that manage these information systems information.

In the opinion of the respondent, the evidence cited, together with the fact that they were fulfilled their understanding of the requirements established by the GT29 in its Opinion 6/2014, accredited sufficiently the legitimate interest whose prevalence it defends. For this reason, he explains the entity, continued with the treatment through the FIJ and considered it unnecessary to carry out an analysis of the specific legitimate interest for the FIJ because “[...] the regulations themselves carry out the weighting of interests applicable to the treatment regulated in article 20 of the LOPDGDD was already sufficient to replace the adoption of this measure”. AND invokes to reinforce its argument the citation of article 35.10 of the RGPD: “[...] when the treatment in accordance with article 6, paragraph 1, letters c) or e), is based law in Union law or in the law of the Member State that applies to the data controller, such Law regulates the specific operation of treatment or set of operations in question, and a data protection impact assessment as part of an assessment

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of general impact in the context of the adoption of said legal basis, the sections”

It states that in 2019 it prepared a "weighting report" in order to

“minimize the impact of treatment below the standards required by the

treatment by adopting additional measures to those that would be sufficient to

consider applicable the provisions of article 6.1.f of the RGPD.” It requires that some

of these measures have already been implemented, others are in the implementation phase and others

are under development for future adoption. between updates

that he claims to have entered is the "notification of inclusion of the data to

the interested parties, in the same terms established for the information systems

in article 20.1 c), second paragraph of the LOPDGDD” because, it affirms, that the

approval of the LOPDGDD “supposed the disappearance of the exemption from the duty of

inform that the jurisprudence had already expressly recognized in relation to the

information systems contained in article 29.1 of the LOPD.”

On the concurrence of "reasonable expectations of the interested party" shows its

discrepancy with what is indicated in the initiation agreement and affirms that "the interested party not only

has the reasonable expectation that their data may be consulted, but that

reasonably expects to be fortunate that access to the

themselves so that whoever contracts with him does not have real knowledge of his

capital solvency and credit.

The last issue commented on in the framework of his fourth allegation – “From the basis

legal treatment of the FIJ”- refers to the exercise by the interested parties of their

rights of suppression and opposition. In this sense, he criticizes the following paragraph included in the startup agreement:

“There are very numerous communications that the claimants addressed to EQUIFAX in which they requested the cancellation of their personal data. If it had been consistent with the alleged legitimate interest in which, in his opinion, the data processing performed, EQUIFAX should have qualified those requests as an exercise of the right of opposition.

It manifests the claim that such a surprising affirmation would lead, as the only logical conclusion, to deprive the interested party of the possibility of exercising the right of suppression in any manifestation of those provided for in article 17.1 of the RGPD that differs from the right of opposition, thus obliging him to invoke the reasons related to your particular situation that justify your request. Therefore, says the entity, "reached the conclusion that the right of suppression is not derogated in the modalities other than the right of opposition", it complied with the requirements established in the data protection regulations, so that "when the requests demanded the deletion on the mere basis that the interested party did not had given its consent, Equifax could not attend to the request, since said consent is not required in this case, as has been stated repeatedly". "In the same way, when the alleged falsehood or inaccuracy of the data, Equifax did nothing but comply with the requirements of the data protection regulations when requesting the contribution by the applicant of the information that proves the inaccuracy, given that, otherwise, proceeding the data from an official newspaper, it was not possible to conclude without further ado that the data was illegal".

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In the fifth allegation of the allegation brief to the initial agreement, "On the compliance by Equifax with the principle of data accuracy", reiterates, first term, that, with respect to this principle, the RGPD has not introduced modifications in relation to what the Directive established, neither in the enunciation of the principle nor in its consequences, and that the AEPD, until the publication of this initiation agreement, "considered at all times the IJF fully respectful of the provisions of the personal data protection regulations, in which it already clearly appeared collected the aforementioned principle of accuracy (articles 6.1.d) of the Directive and 4 d) of the LOPD)" Therefore, it considers that the initial agreement implies that the Agency has adopted a "new criterion" which concludes that the action of the AEPD is contrary to the principles of legal certainty and legitimate expectations.

It states that, since the data comes from public sources, it must be presumed its accuracy, so that no responsibility can be derived for EQUIFAX from the inaccuracy that they suffer from or the absence of any of them in the source original. He claims to have acted with full respect for the rules of reuse of the information established in each case and having incorporated into the FIJ the data "as as they appear in the cited sources.

Insists that the data is collected in the terms in which they are published and accessible by any person and "to the full extent that said publication allows identify the interested party. Therefore, in the event that one of the mentioned data in the FIJ this [...] is due [...] to the pure and simple fact that this data is not included in the official gazette or in the edict from which the information is obtained. information."

He considers article 4.2 fully applicable to the case. LOPDGDD, in particular the

section d), precept that provides:

"two. For the purposes provided in article 5.1.d) of Regulation (EU) 2016/679, it will not be attributable to the data controller, provided that the latter has adopted all the reasonable steps to promptly remove or rectify the inaccuracy of personal data, with respect to the purposes for which they are processed, when the data inaccurate:

[...]

d) Were obtained from a public registry by the person responsible."

It states that it has taken the "necessary measures to guarantee the accuracy of the information collected", since, within a month from the moment of the collection of the information, it proceeds to notify the interested party of its inclusion in the FIJ.

On the reversal of the burden of proof invoked in the initiation agreement, part in

your disclosure of the claim that the data EQUIFAX obtains from newsletters

and official newspapers enjoy a "presumption of accuracy" "given the very nature of the

source from which it is obtained. Therefore, such a presumption can only be destroyed if the

The interested party itself proves the inaccuracy of the information or the source itself proceeds to

its rectification. Thus, the conclusion is that no reversal of the charge of the

evidence exists, since the published information is accurate as long as it is not

prove the opposite.

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He also cites article 14 of the LOPDGDD which, on the occasion of the regulation of the

right of rectification states "By exercising the right of rectification recognized in the



Article 16 of Regulation (EU) 2016/679, the affected party must indicate in their request to what data it refers to and the correction to be made. must accompany, when necessary, supporting documentation of the inaccuracy or character incompleteness of the data subject to treatment.

Finally, it refers to the cases in which it has requested the interested party additional documentation to link with it the existence of a certain editorial publication. For example, it has asked the interested party to indicate the possible addresses to which the publication of a certain edict that affected him. In this regard, he says the following:

“This request, [...] is carried out, [...] but to guarantee full compliance and exercise of their rights, in order to be able to proceed to the suppression of any data that should not appear collected in the FIJ.” And he explains the following: “In this sense, that AEPD is fully aware that, until the entry into force of the LOPDGDD, the regime of edictal publications carried out by the different newsletters, newspapers and bulletin boards from which Equifax lawfully collects information was characterized by dispersion, so that the scope of the data published by each of them differed substantially, including some of them, but not all, the identification document of the interested party or their address.

In this way, my client cannot be blamed for the fact that sometimes the identification data of the interested party are not linked to a document identity, but rather that said lack of connection comes directly from the source from which the data is collected, endowed with the presumption of accuracy to which reference has been made repeatedly throughout this allegation.”

The sixth allegation refers to the modifying circumstances of the responsibility according to the initial agreement. The entity states that, in the event that appropriate to adopt "a coercive measure against Equifax" this should be limited, to the

most, to the warning and the requirement to adopt the measures that the AEPD

deemed necessary. The respondent justifies this statement in the "qualified

extenuating circumstances "which in his opinion are present in this case, to which is added "the

own conduct of the AEPD that would have come to generate in Equifax the full

conviction of the legality of data processing in the FIJ".

It invokes the following as mitigating factors:

(i) That since the approval of the LOPDGDD and the RGPD, measures have been implemented

"aimed at minimizing even more the impact that the treatment [...] could produce

in the private sphere of the interested parties. Refers to the measures provided for in the LIA

contributed -examination of the prevailing legitimate interest- which it affirms are additional measures

that would not be necessary in principle to achieve a favorable weighting. (ii) What

EQUIFAX has never been sanctioned by the AEPD in relation to the treatment

carried out by the FIJ. (iii) That it has repeatedly complied with the requirements or

requests for information from the AEPD. (iv) That as an entity associated with ASEDIE

is automatically adhered to the Code of Conduct promoted by that association.

The claimed one does not specify the precept of the RGPD in which the

mitigating factors it invokes.

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On the other hand, in relation to the aggravating circumstances found in the initial agreement,

comments that "The performance of a conduct that

the AEPD itself had been recognizing it as lawful"; that "it is not possible to appreciate the existence

of a lawful benefit" in which he has obtained with a conduct that the AEPD was

knowledgeable” as well as the circumstances surrounding the treatment. And that, even less, it can be considered a continuing infraction that "carried out with the approval of the of the controlling authority”.

Provides, annexes to the pleadings brief to the initiation agreement, the documents following:

- Copy of the ASEDIE Code of Conduct, Infomediary Sector.

- LIA, Judicial File. Legal analysis. December 2019.

EIGHTH: Letter from the instructor addressed to the respondent: The copy of the file administrative that was delivered was incomplete; delivery of a full copy; new claims period.

In writing signed by the instructor on 12/23/2020, notified electronically and accepted by the claimed party on the same date, it is brought to your attention that a Once the documentation that integrates the copy of the electronic file that is sent you on 08/12/2020, it has been verified that the application did not download it all the documentation that made up the electronic administrative file that served as the basis for the preparation of the initiation agreement, so the copy that then provided to EQUIFAX was incomplete. The AEPD has implemented the electronic file, in such a way that it is the application that generates automatic copy of said file.

In addition, in the aforementioned brief, the respondent is informed that on that date proceeds to send you, via postal courier, an encrypted CD containing the copy of the administrative file and you are provided with the password that will allow you to access the CD content. In the letter you are also informed, so that you can formulate new allegations in view of the entire file, the following:

“In order to ensure that EQUIFAX can, once it has at its disposal all the documentation that served as a basis for this Agency to adopt the agreement

start of the sanctioning file PS/000240/2019, make the allegations and provide the documentation that it deems pertinent, the instructor of the file will not proceed to the opening of the test phase until at least ten business days have elapsed computed from the date of notification of this writing, if the notification were after December 28, 2020. If the notification of this communication were prior to December 28, the ten business days will be computed from that date, for be on this date that, ultimately, the courier company has guaranteed that you will deliver the shipment containing the CD media with the documentation referred to.

The documents provided by the courier company are in the file MRW that prove that the shipment with reference 2625/A014103, sent by the AEPD, It was delivered to the addressee's post office on 12/24/2020.

NINTH: Additional arguments or second arguments to the initial agreement:

Request for extension of the term.

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On 12/28/2020, a letter from EQUIFAX has entered the AEPD in which states that it has received at its offices on 12/28/2020 the encrypted CD that contains a copy of the file and requests that the term initially set in the letter dated 12/23/2020 to formulate the second pleadings and provide documents.

In writing signed and notified electronically on 01/13/2021, accepted by the claimed on 01/14/2021, the instructor of the file informs you that:

“Notwithstanding the provisions of article 76.1 of Law 39/2015, of the Procedure Common Administrative of Public Administrations (LPACAP), with the same purpose of guaranteeing the legitimate right of defense of EQUIFAX that inspired the written that was sent to that entity by the instructor of the file on 12/23/2020, you are informed that the evidentiary phase of the case will not be opened. procedure until expired on 01/15/2021.”

TENTH: Additional arguments of the one claimed to the agreement to initiate the proceedings. (I) Presentation of your allegations in the AEPD. (II) Allegations supplements made.

I. On 01/20/2021 a "Receipt for presentation at the Registry Office" is generated, issued by GEISER (Integrated Management of Registry Services), registration number 000007128e2100001973, referring to the alleged presentation by the respondent of a brief of complementary allegations to PS/240/2019, without the aforementioned receipt No writing or document will be attached.

The receipt issued by GEISER contains, among others, these indications: “Date presentation: 01/20/2021 10:38:13 (peninsular time)”; “Type of documentation: Digitized attached documentation”; “Interested: Equifax Ibérica, S.L.”. Also, low the heading “Registry Information” indicates: “Type of subject: entry”; “Summary/subject: Complementary arguments to PS 240/2020”; "Unit of processing destination/Directive Center: Data Inspection-XXXXXXXXXX/Agency Spanish Data Protection”.

Taking into account that with the receipt of presentation of GEISER it did not enter the registry of the AEPD nor the document mentioned, "Complementary allegations to the PS 240/2019", nor any other, on 01/21/2021 the instructor of the file, through communication notified electronically to EQUIFAX, informs you of this incident and that, having carried out the pertinent technical checks, the IT services of

the Agency considered that the issuer of the shipment -the claimed one- did not get to go up to the did not see any document or, if it did, it made an error that determined that the shipping was unfeasible.

Also on 01/21/2021 there is evidence of another "Receipt of presentation in Registry Office", issued by GEISER, in which the date of presentation appears on 01/20/2021, at 21:34:58 (Peninsular time); the reference O00007128e2100002152 and as interested Equifax Ibérica, S.L., in which it appears as "Summary/subject" "Request for extension of the deadline for submitting evidence".

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Given this fact -that on 01/21/2021 there were two GEISER entrances from EQUIFAX, referring to "Complementary arguments to PS/240/2019" and "Request extension of the deadline for presenting evidence", with which neither the document that the entity claimed to provide or any other - and, since, according to the information offered by our computer application the claimed had not yet accepted the electronic communication that was sent to you on 01/21/2021 to inform you of what happened regarding the first entry, the instructor of the file send an email to the EQUIFAX representative, at the email address contained in the form used for the presentation of documents relating to this procedure, in which both incidents are brought to your attention.

The email sent on 01/21/2021 at 1:12 p.m. has been incorporated into the file by diligence of the instructor signed on 01/21/2021.

EQUIFAX responded to the email on 021/21/2021 at 8:48 p.m. and

explained that they had submitted the two documents electronically again, supplementary arguments to the initial agreement and request for extension of the term for the provision of evidence. On 01/22/2021, this Agency continues without receiving the EQUIFAX documentation, which is communicated to the entity through another email from the instructor sent at 9:59 am. On 01/24/2021 at 1:51 p.m. the EQUIFAX representative sends an email in which he states that both letters have been sent again through the headquarters of the AEPD and attached the supporting document. All these communications exchanged via email have been incorporated into the file by means of a diligence signed by the instructor on 01/25/2021.

II. On 01/24/2021, the document of complementary allegations to the agreement to initiate the sanctioning procedure filed by the defendant.

In said brief, after requesting that "allegations be considered formulated in relation to with the content of the administrative file of which he was not aware until his referral on December 28, 2020, and they should be considered complementary to those formulated in its day to the Start Agreement...", makes these requests:

That the nullity of the procedure be declared null and void for the reasons that detailed in the first allegation of the allegation brief; subsidiarily, the file of the procedure and, in a subsidiary manner with respect to this last claim, the imposition of a warning or caution or a significant reduction in the amount of the fine established in the initiation agreement.

Also, as it did in its first pleadings brief on the initiation agreement, it requests "[...] the opening, [...] of a trial period in which it can contribute to that AEPD the documents that it considers necessary in the event that it does not

grant veracity to what was affirmed by my principal in section 2 of the allegation

third of this writing.

The arguments that he uses in support of his petitions are structured in three

allegations:

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The first allegation is headed “Of the exceptional affectation of the right to

Effective judicial protection derived from the situation that occurred in the file

administrative in this proceeding. In this section he states that “the

administrative file sent by the AEPD was, in the words of the

Control Authority itself, severed in no less than 1,345 pages” and that lacked

of information on said circumstance because, “having processed the same [the

file] by that AEPD without his knowledge”, he had not been able to know the scope

of the administrative file sent. It highlights that, of the complainants “now

incorporated into the file”, the AEPD had only transferred it, for the purposes

of articles 37 and 65.4 LOPDGDD, of three of them.

In this line of argument, he recalls that, in his allegations to the agreement to initiate

08/19/2020, requested “to limit the prosecution of this case to the claims

actually contained in the administrative file, resulting in said

file did not contain any information on 43 of the relationships to which

referred to the initial agreement. However, more than four months after

formulate such allegations, the AEPD informs him that the file was

“amputated” in more than 30 percent of its length; sends you a new copy of the



record and does not give you the opportunity to argue what is appropriate to your rights,

"Limiting itself to agreeing a delay in the start of the probationary period."

The respondent affirms that this way of acting is contrary to the regulatory regulations of the administrative procedure, articles 65.2.f) LPACAP and 89.1 of the same text legal, regarding which he comments that "the process of hearing the interested parties and the right of the accused to formulate allegations, in view of the administrative file, are configured as an essential guarantee of the procedure, being the reflection in the sanctioning administrative procedure of the right to effective judicial protection that assists the accused."

It concludes from the foregoing that "the action of the AEPD in the present case, [...] supposes a violation of their right to defense, which makes the procedure incur in the vice of nullity established in article 47.1 e) of the LPACAP, since it has been dispensed with such an essential procedure as the hearing of the defendant in a penalty procedure. And said vice cannot be remedied by the fact that my principal issues these allegations."

Regarding the alleged omission of the hearing procedure, it makes these considerations:

On the one hand, that the principles applicable to the procedure have not been respected sanctioning party "by not having been able [...] to have real knowledge of the file, except with the scope of which was notified prior to the formulation of its allegations to the Initiation Agreement." It explains that "The AEPD affirms that said file must be completed until conforming to the one that was submitted and registered in the offices of my principal on December 26, 2021, despite the fact that said file does not correspond to the one previously sent for allegations, on the sole basis to affirm, in the document notified to my principal, that said file is the complete and that it must replace the one previously notified." That, "despite ignoring the reasons why it was not sent at the appropriate time of the procedure the

complete administrative file, as it is recorded in a procedural act issued by the

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instructor” is not going to question such a statement. Add that we are in this case “in the absence of more than 30 percent of the file and that “there is not even correlation between the indices of the two submitted files. That is, not only produces an addition of 1435 pages to the file, but also that supplement is interspersed throughout the entire procedure, which makes it even more difficult to adequately exercise by my principal of his right to defense.”

It indicates that the violation that has occurred throughout the processing of this procedure, "is even more aggravated when in his letter of December 23, 2020 the AEPD not only does not grant any term to my client for the issuance of the cited allegations, but more abundantly seems to give it the concession or grace consisting of delaying the initiation of the trial period for within ten days from the delivery of the aforementioned “completed” file or "supplemented".

Through the second allegation of the brief of complementary allegations to the initial agreement is ratified in the allegations made in his brief of allegations to the start agreement of 08/19/2020. As for “what constitutes the substance” of the sanctioning procedure, ratifies what was stated in the allegations third to sixth of his brief and reiterates "the full legality" of his actions in relation to with the IJF. He reiterates what he stated in his first allegations about "the scant, when not non-existent, link” between the issues that are debated in the

sanctioning procedure and the claims that were made.

The third allegation of the complementary arguments brief is entitled

“About the claims not included in the file in its additional remission and

that are included in the nine version sent on December 26, 2020”.

It begins by referring to the fact that, in general, the claims included in the

that she calls “this new version of the administrative file” have

features largely similar to those of the claims on the

copy of the file initially provided by the AEPD, but, unlike those,

In this group, it is exceptional that the AEPD transferred the claim to the

effects provided for in articles 37 and 65.4 LOPDGDD.

The respondent understands that the AEPD issued the agreements for admission to processing without

know or assess any point related to the claim, except for the reference

to the "treatment of the data in the file of judicial and administrative incidents", and

decided to admit them for processing even when the documentation provided

by the claimants it appeared that the claims were made “with respect to

requests that were still pending a response by EQUIFAX, made

reference to the processing of claimants' data in files other than the FIJ or

that were not even accompanied in some cases by the slightest

information regarding the formulation of such claims”.

Regarding the period between the date on which the claim was filed with

the AEPD and the date on which the Agency agreed to admit it for processing highlights that

“It is extremely prolonged, sometimes reaching a duration close to

eighteen months”.

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It maintains that, from the content of the file, it is concluded that "the AEPD considers that admission for processing is nothing more than a formality that must be fulfilled, without taking into account account the legally established term or by the mere presentation of a claim when, probably, it has already been decided, without carrying out an inspection any, initiate a sanctioning procedure and with the sole objective of increasing even plus the file."

Next, the respondent analyzes the claims and groups them into the following categories: A first group formed by the cases in which the entity responded to the claims of the interested parties and, in addition, proceeded to the deletion of the data with respect to which the owner had exercised this right. In it includes the claimants identified with the numbers 22; 47; 48; fifty; 67; 80; 87 and 96.

Regarding this group of claims, he comments that "in practically all of the assumptions listed, the claims were filed with the AEPD when

The legally established period of one month had not yet elapsed to give response to the petitioner's request. And he adds that even in some cases, like that of claimant 87, the terms were not greater than one week. mentions the case of claimant 80, in which the claim before the AEPD was made after that the claimed party had complied with the right of suppression, as a consequence of have provided the documentation that accredited the payment of the debt included in the FIJ, and in which the AEPD agreed to admit the claim for one year and two months after the date on which it should have been done, 06/11/2020, fifteen months after the date of the complaint and fourteen months after the response of the claimed to the AEPD.

A second group made up of those claims in which the interested parties

exercised before the respondent the right of access to their data held in the FIJ, which was attended by her in a timely manner, and, without having sent her a request in

In this sense, the interested parties claimed before the AEPD "the lack of attention of the right of erasure"; right that either had not been exercised before the claimed

"Either it was simultaneously or even later before [the respondent], alleging issues such as that the treatment was not based on their previous consent, that the collection of data from bulletins and newspapers was not lawful officials or even that the Author Administration of the publication expressed its disagreement with the very existence of the FIJ." He cites as an example the claims presented through the representation of Inertia regarding the claimants 23; 24;46; 47; 64; 66; 68; 69; 70; 71; 74; 79; 81; 82; 83 and 84. It also highlights that, Regarding claimant 47, the data was deleted despite the fact that it was not

That's your initial request. And regarding claimant 80, despite having exercised the right of access, he was informed that there were no data in the FIJ.

A third group of claims would include those in which the interested parties exercised the rights of "access, rectification, cancellation and opposition", "which makes the response by my client extremely complicated." In this of course there would be the claimants 76; 85; 90; 91; 92; 93 and 94.

The respondent declares that, with respect to the claims framed in this category, since the cancellation was requested, its origin was analyzed, but not it was possible to grant it "by not providing information about the satisfaction of the

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debt." He says that it was also not possible to attend to the request for opposition "because

The interested party may provide any information about the special circumstances

derived from her personal situation that protected her. For this reason, it was requested

all cases, the provision of additional information."

Another group would be made up of those claims in which the

claimed the deletion of a certain data included in the FIJ but in which the

The interested party did not provide the information proving that the debt had been satisfied.

In this case would be the claimants 21; 49; 73; 86 and 89. In addition, it indicates the entity,

that "these assumptions, as reasoned in the allegations to the Initiation Agreement, are

exercises of the right of suppression and not of the right of opposition, given that what is

affirms is that the treatment is not lawful because the debt is paid (article

17.1 d) of the RGPD).

Finally, it refers to a group made up of various claims: The

claimant 78, of which he says that he does not refer at any time to the FIJ or the

reference to it can be found in the administrative file, so there is no

is related to this procedure. That of number 97, which was answered

informing that there were no data associated with his name, surnames and document

identification. Or that of claimant 95, who entered the AEPD on 05/06/2019 and did not

was admitted for processing until 06/11/2020.

EQUIFAX maintains, after analyzing the 43 claims that "now appear in the

administrative file and of which this party was not aware", that his

action was respectful of data protection regulations and that, as already

stated in his pleadings to the initial agreement, "it is not possible to appreciate the existence of

a real relationship between the claims made and the legal basis of the

Agreement, appearing, to be said with all due respect, that the aforementioned claims

they act rather as an excuse to justify the opening of a file of the

magnitude of the present that as the foundation of what later considers

attributable to my principal the sanctioning body".

ELEVENTH: Test phase. (I) Opening of the test phase. (II) Notification to the claimed and first request for proof. (III) Request for extension of the term for respond to the requested tests. (IV). Respondent's response

I. In accordance with the provisions of article 77 of the LPACAP, on the date 01/19/2021 it is agreed to open a trial phase in the sanctioning procedure for a maximum period of fifteen business days. This is stated in the diligence signed in that date in the file.

II. In writing signed on 01/19/2021, notified electronically and accepted by the claimed on 01/20/2021, you are informed of the opening of the test phase and the evidentiary proceedings to be carried out.

In said letter, it is also agreed to consider reproduced, for test purposes, (i) the ninety-seven claims mentioned in the Background of the settlement agreement of PS/00240/2019 and its attached documentation; (ii) the documents generated and obtained by the Subdirectorate of Inspection in the informative request prior to the Admission to processing of claims and the corresponding admission agreements

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to process the aforementioned claims; (iii) the allegations to the agreement to start the PS/00240/2019 presented by EQUIFAX) and its attached documentation; (iv) the writing that the instructor of the file directed to EQUIFAX on 12/23/2020 informing him of the Sending a full copy of the administrative file that served as the basis for the

opening of the sanctioning procedure; (v) the document dated 12/28/2020 of EQUIFAX, in which it requests the extension of the term for the second allegations to the initiation agreement and (vi) the response letter from the instructor of the procedure that the respondent was notified on 01/13/2021.

It is convenient to review here -although this means altering the chronological order followed in the account of the actions carried out - that, on a date subsequent to the written of notification of opening of the test phase, by diligence dated 02/11/2021, the instructor of the file recorded that there were incorporated into

the second allegations/complementary allegations of the one claimed to the initial agreement, which they had entered this Agency on 01/24/2021. This was requested by the respondent in a letter dated 02/09/2021 whose purpose was to request an extension of the deadline for respond to the new test procedures (complementary tests) that are they required.

for testing purposes,  
process,

Well, in the document signed on 01/19/2021 and notified to the respondent on 01/20/2021, you are required to provide the Agency with the documentation and/or following information:

“4.1. The copy of the record of the personal data processing activities, provided for in article 30 of Regulation (EU) 2016/679, regarding the treatment that EQUIFAX makes through the File of Judicial Claims and Public Organizations (hereinafter, FIJ). You must state in your answer the date on which the record of activities was prepared and provide the initial version of the document together with any additions, modifications or



exclusion made on its content later.

4.2. In the event that EQUIFAX does not have a record of the activities of treatment carried out through the FIJ, you must provide the following information:

(i) The reasons for which, in his opinion, he avails himself of the waiver of article 30.5 GDPR.

(ii) The information indicated in sections a) to g) of article 30.1 RGPD.

4.3. A copy of the personal data protection impact assessment, provided for in article 35 of the RGPD, regarding treatment operations that EQUIFAX carries out through the FIJ. You must provide the initial version of the impact assessment and, where appropriate, the detail of the modifications or updates that may have been made. In the event that EQUIFAX does not have an impact assessment on data protection referred to in article 35.1 RGPD, which reports the reasons for which, in their opinion, the treatment carried out through the FIJ does not entail a high risk and the arguments on which the non-application of the precept is based of article 35.3. GDPR.

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4.4. Regarding the personal data processing operations that EQUIFAX carries out through the FIJ, the weighting that on the interests in game would have been made by the entity to reach the conclusion that the interests or the fundamental rights and freedoms of the interested parties against

the interests pursued by that claimed entity or by a third party.

4.5. The criterion or criteria that the FIJ uses to organize in its systems the personal data subject to processing so that their owners are duly identified. If such criterion had undergone variations since the entry into operation of the FIJ, it must report both the criteria used initially and those adopted later, with an indication of the date the variation was implemented. Your answer must be properly documented.

4.6. Number of natural persons with respect to which they existed in the FIJ active data records. You must indicate the number of people affected by the processing of your data through the FIJ during the last six years and provide information broken down by year.

4.7. The total annual global turnover of EQUIFAX IBÉRICA, S.L., during the financial year 2019. Your response must be duly documented

4.8. The economic result obtained by EQUIFAX IBÉRICA, S.L., derived, exclusively, of the activity that has developed through the FIJ. shall provide the information corresponding to the last six years, broken down by annuity or, where appropriate, exercise. Your answer must be duly documented.

4.9. Information on the number of associates that EQUIFAX has and has had for receive information from the FIJ. You must provide the number of associates that the entity had in each financial year for the last six years.

4.10. Identify the documents in which -according to statements by the representative of the respondent made in the pleadings brief, folio 63- the AEPD, with its action, "had concluded unequivocally lawful the action of

EQUIFAX". This, without prejudice to the resolutions of Guardianship of rights to the referred to in the pleadings brief to the initiation agreement.

III. The claimed, by writing that has entry in the electronic headquarters of the AEPD on 01/24/2021, requests that the period initially set be extended by five days in order to respond. The instructor of the file, in a letter signed on 01/25/2021, communicates that the period initially set for evacuate the process. The writ is notified electronically to the respondent on 01/25/2021 that you accept the notification on the same date.

IV. Respondent's response to the first evidence requested.

On 02/10/2021, the document from the claimant of response to the requested evidence with which it annexes nineteen documents. It begins by invoking the "confidentiality and business secrecy of documents

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provided together with this letter and requests that they be treated without dissemination [...]

the elements that affect its business configuration or the secrecy of its actions

commercial and without their being used or disseminated". For this purpose, he cites the Law 1/2019, of February 20, on Business Secrets.

1.- To the question formulated in point 4.1., in which he was required to provide a copy of the record of data processing activities (hereinafter, RAT)

related to the FIJ and it was expressly requested that he provide the date on which prepared the document, responds by providing five documents, four of which

correspond to the initial version of the FIJ RAT and the fifth to the final version. Without

However, it does not report the date on which the initial version and the final version were prepared.

final; This information is not offered in the answer brief to the evidence either.

requested nor does it appear in any of the five documents provided.

The initial version of the RAT is included in documents 1 to 4. All of them have

the first folio the legend "Register of treatment activities. Article 30 GDPR. v

01". They have, respectively, this "Registry Name":

"Downloading information from public sources"; "Generation and sending of files to

other platforms"; "Integration of information in B.D." and "Access to the judicial file"

.

The fifth document contains the final version. The first page indicates: "Registration of

Treatment Activities. Article 30 GDPR. Final V". "Registry Name.

Download, generation and integration of information from public sources by

EQUIFAX and access to the file by clients". In the RAT, final version,

section 3, "Purposes of the treatment" indicates, schematically, the phases of the processing and its purposes.

The first, the "download of information", "in pdf format from the page of the BOE and

of the TGSS. The purpose of this activity is to generate the following files

main: BORME, Administrative Notifications, Claims and Judicial".

Once the loading and updating of the information in Pick is finished, the lists are saved in

database (registrations, modifications and cancellations of records in Pick) that serve as a source

of information to other environments, platforms and products, guaranteeing the integrity

of the shared information. "Once the files are downloaded in the directories

and having processed the information and prepared the format of

loading, the information is integrated into the database." And finally,

"Once the information is integrated, the entities that have contracted the service access (for

name and surnames or DNI) to the Equifax database to be able to do the analysis

of solvency on the interested parties.”

Point 8 of the RAT, final version, which is headed "Deadlines for suppression of the information", it says: "The information is accessible for 3 months and then saved in a Linux directory in order to be able to work later with the data. Said information, saved in “PDF” format, will be available for a period of 10 years from the date of publication, and this for the sole purpose of being able to deal with possible claims and respond to requests for information by the competent administrative body, as well as the courts and courts." In the initial version, document 4, there is a clause 8 identical to the one we have transcribed (emphasis ours)

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2.- To the question formulated in point 4.4., regarding the weighting of the conflicting interests and rights in the processing of data that the entity carries out through the FIJ and in which it would have concluded that the interests or fundamental rights and freedoms of the interested parties against the interests persecuted by her or by third parties, she responds that she has already provided this document with the arguments to the initial agreement but which, nevertheless, facilitates it again.

Document number 8 that is provided for this purpose in this procedure –“LIA Judicial File.

Legal Analysis. December 2019”- is the same that was sent to the AEPD as an annex to the allegations to the agreement to initiate the sanctioning procedure. In their allegations to the initial agreement and in its response to the evidence process the one claimed has warned of the confidential nature of the documentation and, moreover, the document

Number 8 bears the indication “Internal use only” on its first page.

The Document called LIA Judicial File, very extensive and whose content consists, in essence, of a reiteration of the arguments put forward by the claimed in their pleadings; in reflections on the action that would be desirable that the AEPD adopted in this matter and in the description of the measures that it intends to adopt, but without specifying the dates, is structured in the following epigraphs from which we extract the most relevant content:

1.Scope of this report. Indicates that the purpose is to determine if the treatment carried out as a consequence of the capture of public access sources would be legitimized in accordance with the personal data protection regulations.

2. Regulatory evolution in Spain of the sources accessible to the public and evaluation of solvency. Organic Law 5/1992, of October 29, regulating of the automated processing of personal data (LORTAD); the law Organic 15/1999, on the protection of personal data (LOPD), in particular articles 3.j; 6.2.; 28 and 29.1 and the Development Regulation of the LOPD, approved by Royal Decree 1720/2007 (RLOPD). It refers to the RGPD and the fact that the term public access sources appears only in Recital 61 and in the article 14.2.f. Cites Organic Law 3/2018, of December 5, on Data Protection and Guarantee of digital rights (LOPDGDD) and refers in particular to the articles 11.3.b) and article 4.2.d)

3. General considerations on the legitimate interest as a legitimizing cause of the treatment of personal data. Indicates that this legal basis of the treatment does not allows to provide a documentary justification for which it will be necessary to adopt the measures aimed at accrediting their concurrence. This requires proper analysis. of the requirements demanded in the precept to be able to conclude that an operation of treatment is covered by it. He mentions here the Opinion 6/2014 of the GT29 and the

methodology that describes to verify the origin of the application of the base

law provided for in article 7.f) of the Directive as well as the STJUE of 11/24/2011.

4. Concurrence of the prevailing legitimate interest in the treatment of the information of

public access sources. In the analysis distinguishes: 1. The legitimate interest of Equifax; two.

The legitimate interest of the credit system; 3. The legitimate interest of the insurance sector; Y

4. The legitimate interest of the insurance sector for the prevention of fraud.

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Regarding section 1, (the legitimate interest of EQUIFAX) says that the RGPD does not

contains a provision such as article 29.1 LOPD on which, it says, "legitimized

the credit bureaus to the processing of personal data obtained from records

and sources accessible to the public. He adds that the fact of not having defined these

concepts (that of public access sources) "by itself would not simply exclude the

legality of the processing of data from these sources, and in particular from the

Bulletins and Official Gazettes, taking into account their universal accessibility by

any person, although the presumption of prevalence of the disease would no longer apply.

legitimate interest established by the previous regulations." and cites in support of his thesis the

Judgment of the CJEU of October 24, 2011, paragraphs 44 and 45:

Regarding judicial notifications, he points out that Equifax only includes in its

judicial information files procedures processed by the Courts of

First Instance, First Instance and Instruction (excluding in any case the

judgments of faults), of the Mercantile and of the Social. In this way, it does not proceed to

processing of data related to criminal jurisdiction.

Regarding administrative infractions, the RGPD does not contain a provision with respect to them, so it does not establish any limitation or specialty in relation with your treatment. However, the first two sections of article 27 of the LOPDGDD establish a special regime for this type of treatment, although, judgment of the defendant, the precept exceeds the limits in relation to the powers that GDPR recognizes member states. Then add:

“Given this situation and, specifically, taking as an interpretive criterion the Judgment of the Superior Court of Justice of the European Union, (Second Chamber) of May 4 of 2017, we believe that the AEPD should follow the same line interpretation than the one followed by the jurisprudence, to the extent that the data manifestly public or from public sources should be framed within the legitimate interest in its subsequent use, when the purpose pursued is to provide operators in the market the most reliable information possible in order to help the proper functioning of the market in our country, because in this case there is no would be violating fundamental rights, as is the case with the SIC of art. 20 LOPDGDD (purpose and corporate purpose of Equifax in both treatments)”. (The underlining is ours)

Remember the general conditions of reuse of the BOE website and that Equifax extracts from it information related to seizures, auctions, claims administrative, published by the General Treasury of the Social Security and the Agency

You understand that there may be a reasonable expectation, on the part of the interested parties (whose data have been published in the BOE, BORME or TGSS) of use of your data for the purpose of evaluating your solvency in a credit application, when has previously proceeded to claim the payment of a tax debt or the Social Security that is still pending payment, purpose for which, said data,



would be integrated into the Judicial file of Equifax.

It concludes by saying: "we consider that the legitimate interest of

Equifax in the treatment of said information in order to judge the solvency of the

potential borrowers, prevent fraud in contracting financial products and

of insurance, whose debt data with public administrations appear in

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sources accessible to the public whose information is expected to be reused." (The

underlining is ours)

" of the treatment of the information of sources

suitability

5. It refers to the "

of public access for the fulfillment of legitimate interest. are collected in this

epigraph the following considerations:

" Y "

need

"Regarding the adequacy of access to information from access sources

public for the achievement of the purposes that have been described in the previous section and,

consequently, for the satisfaction of the legitimate interest pursued by the entity

manager of the system, the entities participating in it and the

consumers in their capacity as potential beneficiaries of financing, it has already been

indicated that the knowledge of delinquency information from sources

such as the BOE or the page of the Social Security Treasury is a measure

suitable for the achievement of the objective pursued.”

6. Impact of the treatment of sources accessible to the public on the rights and freedoms of those affected.

It says that the processing of data related to the download of Judicial information such as (CIF/NIF/NIE, name of the defendants/bankruptcies and plaintiffs, addresses, amounts of seized movable property, names and mail of the bankruptcy administrator, social security number, name and address to whom claims the debt) implies an affectation to the privacy of consumers.

However, the fact that this limitation occurs would not impose necessarily a weighting of the aforementioned right over the legitimate interests that have been described as long as the due guarantees are adopted that allow legitimate interest to prevail over the limitation of privacy that involves treatment.

And he warns: “In any case, it must be taken into account that the treatment being referring only to breaches of obligations monetary, financial or credit of the applicant of a credit or insurance, as it happens with the SIC of art. 20 of the LOPDGDD. This means that the system in no case is intended to reveal additional information that refers to said subject or other data other than those published by publicly accessible sources.

Therefore, the level of interference of the treatment in the private sphere of the affected must be modulated according to this objective condition and the fact that it does not reveal additional information to the situation of credit default of the interested party.”

7. Operation of EQUIFAX files with information obtained from sources public access.

At this point in the document it is indicated: “Through the process of Charges of Judicial information and BORME it is possible to import very useful information for

Equifax on natural and legal persons that is published in free access media

such as the BOE or the page of the Social Security Treasury.

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The database in which this information is integrated and consolidated is managed by the Operations area and is called Pick It should be noted that there are additionally enrichment processes of the data contained in Pick by importing of files from information providers and other public sources.

(emphasis ours)

From this Pick database, the information is exploited to generate products for Equifax customers and is also used to feed other files company databases and platforms: Host (IT), EDEN (UK), SAS (D&A) and Oracle.

The document includes a table that “describes the complete flow of the process, starting with downloading and obtaining information from external sources, continuing with the processing of this information and ending with the loading or integration in the Pick database, generating the files: BORME, Notifications Administrative (Pre-judicial), Claims and Judicial. The result obtained is a complete and integral Pick database with quality information and that serves the source data for a large number of Equifax processes and products. It is important know that the key field of the records contained in Pick is the identifier of person (natural or legal). This identifier can be the CIF, NIF, NIE, Number of the Social Security or a provisional number assigned to you. This identifier is

relates to the rest of the information in the registry, each data being associated

directly to the data source from which it was obtained.” (emphasis ours)

The products that are currently generated with this information are the following:

Judicial Consultations (Batch); Consult Bankruptcy Situations (Batch); queries

ASNEF File Companies by Third Parties (Batch); Consultations File ASNEF Companies

(Online) ; Consultations File ASNEF Companies (Online) Resellers; queries

Judicial APPC (Online) ; Judicial Consultations (Online) ; ID Verifier; ; IdentityRisk ;

Reputational Risk Monitoring; Enrichment active companies; Capture Matrix;

Proactive alerts ASNEF Companies; SVCNM ASNEF Companies; daily alerts

Bankruptcy; Judicial alerts.

#### 7.1. Downloading and obtaining data from external sources and processing of files.

It is the process by which Equifax downloads and obtains all the necessary information

to incorporate into the Pick database. In the table in Annex I that includes the

document describes, among other issues, the main data obtained, the

data sources and the download website so that, later, it can be carried out

its integration in the Pick database correctly.

The files that are downloaded automatically are initially stored in the

directories of the production machine and those that are downloaded manually are

are initially downloaded to a network repository that is the same as the

they deposit the downloaded files automatically and processed. “IT generates backups

from this network directory, but the original files will be kept according to the

retention periods defined according to GDPR. This solves the problem

of access to historical information since, according to regulations, files can only be

be in BOE for consultation for 3 months.”

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## 7.2. Recording criteria for defendants, plaintiffs or debtors.

Every record that is going to be integrated into the database must comply with the following requirements, distinguishing between natural and legal persons. Regarding natural persons: It must be a contactable person, by full name or by complete address, we will have to take into account several concepts

- 

When only DNI/NIE is published, we will check the database. In

If we have a history of this DNI/NIE, we can incorporate it, otherwise we can't incorporate it.

- 

If the name and surnames appear published with full address we would search the database, in the event that all the data matched the we would select, otherwise we would assign a provisional number.

- 

we could not integrate them.

- 

surname or a name (a word) we could not integrate it.

If the initials of the name and surnames appear published, or simply a

If the name and surnames appear published but without address and without DNI/NIE

Next, the document jumps from point "7" to point "IV" which is signed

"Description of the guarantees and the rules of operation of the file of judicial information.

In this section IV it indicates that, "Once the existence of a legitimate interest has been described

enough that it could be considered as a legal basis for the treatment” and taking into account

Keep in mind that this treatment supposes a limitation of the right to privacy of the

affected, analyzes “the guarantees that the system is going to establish in order to reinforce the

protection of the rights of the interested party” following the constitutional jurisprudence

cited. And adds:

“At this point, it should be noted that, as has been said before, the forecasts

enabling legal provisions for the creation of these systems would allow the same

could be considered covered by the rule of article 6.1 f) of the RGPD through the

compliance with guarantees merely equivalent to those required for systems

of credit information regulated by the LOPDGDD.” The document does not specify the

date on which these guarantees are to be adopted.

1. Guarantee of data protection principles:

1.1 Principle of finality

It indicates, among other things: “On the other hand, the principle of finality includes the limitation

of the subsequent uses of the data, since the RGPD prohibits in its article 5.1 a)

the subsequent processing of the data for purposes incompatible with those that motivated its

collection, although excepting from this limitation the use of data for the purpose of archiving

public interest or scientific or statistical research.

The statistical treatment of the data contained in the file, once

After the period established for its conservation, which we subsequently

we will refer, it is undoubtedly useful to have an adequate knowledge of the

behavior of the company in relation to credit, being able to analyze the

evolution of the habits of the citizens in this matter or of the level of

indebtedness, particularly if confronted with the evolution of the economic cycle.

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For this reason, Equifax anticipates the further use of the data for statistical purposes. Nope

However, in order to fully guarantee the rights of those affected, so that

the information cannot be associated with identified or identifiable persons, will submit

that data to an aggregation process, so that the data can no longer

stand out for a particular subject. In addition, this operation will be carried out

with a minimum level of aggregation of twenty subjects per category, so that no

Nor can the singularity of the groups be inferred from the aggregate data.

affected. Therefore, although it might be possible to use the data, even

pseudonymized, for statistical purposes, only that prior use will be carried out

aggregation of the same, so as to prevent their singularization in the future.”

#### 1.2 Principle of minimization.

The full guarantee of the principle of minimization is intended, so that the systems

do not include any information that is not absolutely essential to

to assess the creditworthiness of customers. The data whose inclusion in the system

would be essential for the proper fulfillment of its purpose, without

incorporate any other additional information, even when it could be

relevant for the achievement of said purpose, are those that appear in Annex I as data of.

"source".

#### 1.3 Conservation principle

Considers that the term of five years, counted from the expiration date of the

corresponding period is adequate for the purpose pursued by the data file.

judicial information, also taking into account that this is the term included in the

Article 20.1 d) of the LOPDGDD.

#### 1.4. accuracy principle

In compliance with this principle and given that the edictal publication only recognizes the existence of the obligation to satisfy what is owed, but there is no of additional information that allows to know effectively if that amount is due at the time of listing notification, a possible solution to this problem would be the limitation of very short deadlines referring to the aforementioned communications, and in the analyzed system this requirement is met, by reducing the term to the publications occurred in the last five months. However, this reduction does not allow to fully avoid the risk derived from the treatment of these data, being able to see the qualification of an interested party negatively by the fact of incorporating an edictal notification referring to a debt already satisfied by the same way that the subject could be favorably affected made a notification more than five months old and there was no proceeded to pay the amount due.

#### 1.5 Guarantee of the Principles of purpose and minimization in access to the file.

Enabling assumptions and uses of the data. Data likely to be accessed.

The application of the principles of purpose and minimization will be reinforced as soon as access to data with the application of the following guarantees:

- Only entities that maintain a relationship with their clients will be able to access the data. relationship that determines the inclusion of your data in a SIC or to which those affected have requested the conclusion of a contract whose execution would determine the inclusion of such data.

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- Measures will be adopted to sanction or even expel from the system those

entities that carry out unauthorized access to data.

- The data related to the previous consultations of the file, which will not include the entity

who had accessed it will only refer to the accesses produced in

the last six months.

In any case, the entities could not use the information collected from the file of

public sources in order to know the functioning of the sector nor

in order to send any type of commercial offer to those who do not have the condition

of its clients.

## 2. Transparency and information to interested parties

In cases of treatment based on the prevailing legitimate interest,

reinforce the mechanisms of information to the interested party about the treatment of the

data, in the terms established in article 14 of the RGPD.

### 2.1 Information subsequent to the collection of data from public sources

Equifax must inform the interested party about the inclusion of their data in the file.

in compliance with art. 14 of the RGPD: It will correspond to Equifax to accredit the

compliance with the duty to inform, regardless of the means used to do so.

It says that the data contained in the file of public sources will not be accessible

by the adhered entities as long as the term of thirty

days established for the SIC in art. 20 LOPDGDD. In addition, the information referred

to the notification made, it is incorporated into the notification database, in order to

prove compliance with the AEPD.

The data referring to the cases in which the

occurred the return of the notification for reasons other than its rejection, unless

that had been sent to the contractual domicile of the debtor and the debtor appeared as

unknown, in accordance with the provisions of article 4.2 d) of the LOPDGDD,  
according to which: "For the purposes set forth in article 5.1.d) of the Regulation (EU)  
2016/679, will not be attributable to the data controller, provided that the latter has  
taken all reasonable steps to have them removed or rectified without  
delay, the inaccuracy of personal data, with respect to the purposes for which  
are treated, when the inaccurate data:

d) Were obtained from a public registry by the person responsible".

In this way, sufficient guarantees are established to determine that there is no  
risk in the treatment of this information.

## 2.2 Material impossibility of information in case of not having the address of the interested party

There are assumptions in which the information published in public access sources  
does not include a postal address to which you can make the notification of inclusion in  
the terms of art. 14 GDPR.

In these cases, and following the interpretations of the Working Group of article 29,  
in the Transparency Guide under the regulatory regime of the RGPD, of 11/29/2017,  
revised and adopted on 04/11/2018, it is limited to transcribing the following:

"59. The situation in which it is "impossible" under Article 14.5 (b) to provide  
information is an all or nothing situation because something is impossible or not; Nope  
there are degrees of impossibility. Therefore, if a data controller seeks  
rely on this exemption, you must show the reasons that actually prevent you from  
provide the information in question to data subjects. Yes, after a certain

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period of time, the reasons that caused the "impossibility" no longer exist and it is possible to provide the information to the interested parties, then the person in charge of the treatment should be done immediately. In practice, there will be very few situations in which a data controller can demonstrate that in It is actually impossible to provide the information to the interested parties.

### 3. Rights of those affected

Specific protocols are foreseen to address the rights of articles 15 to 22 of the RGPD, whose requests, in general, will be attended within the term of fifteen business days from receipt by the person responsible for the file.

#### 3.1 Remote and permanent access to system information

#### 3.2 Rights of rectification, deletion and limitation of treatment

a) Rectification The request for rectification must indicate the data that is erroneous and the correction to be made and must be accompanied by documentation justification of the requested rectification.

b) Suppression The interested party may exercise the right of suppression with respect to the data that should not appear in the system, either because it does not correspond to the reality, either as a consequence of the expiration of the conservation period to which has referenced in an earlier place. When the right of suppression entails the The exercise of the right of opposition will be as indicated in section 3.3 below.

c) Limitation of treatment. Article 18 of the RGPD lists the assumptions legitimizers of the exercise of the right to limitation of treatment. result especially relevant those related to the cases in which the affected party exercises the right as a consequence of the invocation of letters a), b) and c) of the article 18.1; that is, when "the interested party contests the accuracy of the data personal, during a period that allows the person in charge to verify the accuracy of the themselves", when "the treatment is illegal and the interested party opposes the deletion of

personal data and request instead the limitation of its use” or when “the responsible no longer needs the personal data for the purposes of the treatment, but the interested party needs them for the formulation, exercise or defense of claims”.

In these cases, the problem arises that the exercise of the right at the time immediately prior to the request for a financial credit operation could imply that the query of the system yielded an image of the interested party not adjusted to reality, subtracting from said image certain data that were being object of valuation and, during that period, had their limited treatment.

It provides that in public source files a rule equivalent to the provided for in article 20.1.e) of the LOPDGDD, in order to guarantee the adequate fulfillment by them of the purpose that justifies the treatment of the information and ensure the accuracy of queries, but internally at Equifax poses within a phase II of development.

of limitation of the treatment when invoking the inaccuracy or non-existence of the data or its illicit treatment, it will be treated as a cancellation proceeding to the deletion of the data in the system.

3.3 Right of opposition. In order to protect and guarantee the consumer that invokes its right of opposition for being included in a database whose information has been obtained from a public source, the interested parties may exercise their

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right of opposition to appear in the Judicial file at your simple request, without the need

to require you to justify said request with specific reasons, except for accreditation of your identity or current payment certificates in AEAT or SS. In this case, it will proceed to the exclusion of all your data from the file automatically.

### 3.4 Automated personal decisions and information to those affected

Article 22 of the RGPD recognizes the right of the affected party not to be the subject of a decision based solely on the automated processing of your data, including the profiling, which produces legal effects or significantly affects you similarly. The document says that adoption by entities will not be possible adhered to the SIC of an automated personal decision regarding the hiring of a consumer financial product requested by the interested party, the information being contained in the file of public sources only one of the elements to be taken in consideration for the adoption of the final decision regarding said hiring.

## 4. Active liability measures

### 4.1 Technical and organizational measures and data protection delegate

### 4.2 Requirements for access: limitation, traceability and security

### 4.3. Audit of entities participating in the system

### 4.4 Reaction to security breaches

## 8. Enumeration of the additional guarantees to be adopted after the RGPD and the LOPDGDD.

Provides for the implementation of the following guarantees, in addition to those established in the data protection regulations, in order to guarantee an adequate weighting of the rights and interests of those affected with the legitimate interest that justifies the existence of these files.

☐

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The files will only incorporate the minimum data necessary for the

identification of the interested parties (DNI/NIF, name and surnames, address) and their published associated debts (eg, foreclosure cases).

In the process of Judicial Information Charges and BORME, will be created temporary files in Pick that will only be kept for 15 days.

Data capture in accordance with the publication criteria of the Provision Additional 7th of the LOPDGDD and its interpretation by the AEPD, with the additional guarantee of not capturing asterisked data.

☐ Name and surname data of an interested party will only be captured when the they come accompanied by postal address and/or complete DNI.

☐ Quality control in the capture and subsequent inclusion of all addresses published postcards, relative to the interested parties, prior to loading in the Judicial Database.

☐ Information will only be kept regarding non-compliances, produced in the last 5 years (by analogy with refusal, as regulated in art. 29.1 of the LOPD adapted to the current term of art. 20.1 d) of the LOPDGDD of five years).

☐ Once the aforementioned deadlines have expired, the managing entity of the file You can only keep the data for statistical purposes and exclusively if it proceeds to a previous data aggregation process, so that the they cannot refer to a group of people less than twenty.

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☐

Interested parties are always informed about the inclusion of their data in the Judicial File at the time of the same by sending a letter information that meets all the requirements of art. 14 RGD, specifically in compliance with art. 14.2 f) of said rule.

☐ Management of returned letters: Letters

whose reason for return is: "rejection by the consumer" or "unknown". (document accrediting the protocol that is followed is attached, auditable and traceable).

☐ Blocking of data: The data will remain blocked for thirty days following the inclusion of the debt in the Judicial file, after said term the data may be visible by all consulting entities.

☐ The system will have specific protocols aimed at the attention of the rights enshrined in articles 15 to 22 of the RGD. With personality In general, these requests will be answered within fifteen business days. from receipt by the person responsible for the file (Equifax Ibérica, S.L.).

☐ In order to enforce the right of access, Equifax will establish a mechanism for remote, direct and secure access to the personal data included in the itself, thus guaranteeing its permanent access by interested parties. In case of exercise by an interested party of his right of access, the person in charge of the file will send you to the aforementioned system, thus taking your request as answered. request.

☐ The interested party may, without prejudice to the foregoing, freely exercise their right of access to the data contained in the system maximum 5 times a month, providing by the person in charge of the file a copy of the data incorporated into it. In case of exercise of the right in more than one occasion must proceed to the payment of a canon oriented to costs that in

In no case will it exceed five euros.

☐ The interested party may exercise the right of rectification before the entity

responsible for the file. These rights will be addressed within a maximum period

fifteen days.

☐ When the right to limit processing is exercised by invoking the

inaccuracy or non-existence of the data or its illicit treatment, will be treated the same as

a cancellation or deletion of data, that is, it will be a cancellation, with an indication

of the reason for the cancellation.

Interested parties may exercise their right to object to appear in the file

Court at the simple request of the consumer without the need to demand that

Justify your request with specific reasons, except for proof of your identity

or payment current certificates in AEAT or SS. In this case, it will be

to the exclusion of all your data from the file automatically.

☐ In no case will it be possible for the consulting entities to adopt the

Judicial file of an automated personal decision regarding the

contracting a financial credit product requested by the interested party,

being the information contained in the Judicial file only one of the

Elements to be taken into consideration for the adoption of the final decision

about such contracting, unless the consent of the

interested. In any case, the interested party will be informed if the information contained

in the judicial file has been taken into account for the denial of the loan

or credit.

☐

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☐

A prior impact assessment will be carried out on data protection in the terms established in article 35 of the RGPD.

☐ In accordance with article 34.1 j) of the LOPDGDD, the entity responsible of the common system will have a Data Protection Delegate

The personnel of the affiliated entities with access to the information will be limited of the file,

☐

☐ The system will guarantee

☐

the traceability of the accesses to it, producing the exchange of data through secure protocols that prevent access by third parties during your communication.

☐ Equifax will periodically audit, through sampling techniques, the accesses to the system, collecting when necessary the information that proves the legality of the same and in particular the use of the data for the exclusive solvency assessment purposes that justify access to the file.

☐ A response protocol will be adopted in the event of security breaches that guarantees its immediate communication to the AEPD and, when appropriate, to the interested.

Annex I to the document:

The information contained in the columns with these

rubrics: "Type of information" and the correlative of the columns "Data source" and

“Download website”.

1. AEAT Administrative Notifications (Pre-judicial). Data source: BOE.

Download website: Daily BOE Notifications Supplement ->

2. AEAT Administrative Notifications (Judicial) Data source: BOE. Web

download: Supplement Notifications of the daily BOE ->

3. Administration of Justice. Courts of 1st Instance and Instruction and Courts of the Commercial (Judicial-Bankruptcy)

Data source: BOE. Download website:

Provisions and Announcements of the daily BOE -> Section IV. Justice administration

4. Administration of Justice. Social Courts (Judicial) Data source: BOE.

Download website: Provisions and Announcements of the daily BOE -> Section IV.

Justice administration

5. TGSS Administrative Notifications (judicial) Data source: BOE. Web

download: Supplement Notifications of the daily BOE ->

6. TGSS Administrative Notifications (claims) (Last day there was

publications in the BOE was on May 24, 2019) Data source: BOE. website of

download: Supplement Notifications of the daily BOE ->

7. Administrative Notifications of the Autonomous Communities Source of data:

BOE. Download website: Daily BOE Notifications Supplement ->

8. I. Registered Acts (Judicial-Bankruptcy) Data source: BORME. website of

unloading: del boe /Borme daily

9. Section I. Registered Acts Source of data: BORME. Download website: boe /Borme

daily

10. Administration of Justice. Courts of 1st Instance and Instruction and Courts of

Commercial (Judicial-Bankruptcy) Source: BOCAM or BOP. Download website: boe.

Autonomous Bulletins and Provincial Bulletins

11. Administration of Justice. Social Courts (Judicial) Data source:

BOCAM or BOP. Download website: boe. Autonomous Bulletins and Provincial Bulletins.

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12. Administrative Notifications of the Autonomous Communities (judicial) Source

of data: BOCAM or BOP. Download website: boe. Autonomous Bulletins and Newsletters

Provincial.

13. Announcements of TGSS Notifications (judicial) Data source: TGSS. Web

download: [sede.seg-social.gob.es](http://sede.seg-social.gob.es) Notice Board (TANUSS)

14. SECTION I - Bankruptcy Edicts: [www.publicidadconcursal.es](http://www.publicidadconcursal.es) (Judicial-

Bankruptcy) SECTION II - Registration Publicity (Judicial-Bankruptcy) SECTION III -

Agreements Data source: Public bankruptcy registry. Download website:

[www.publicidadconcursal.es](http://www.publicidadconcursal.es)

4.- The question asked in point 4.5 of the request for evidence was about

the criteria/s that the FIJ uses to organize personal data in its systems

processed so that their owners are duly identified. I know

requested information on both the criteria used initially and the changes

adopted with indication of dates.

The respondent explains that the criteria for integration in the FIJ of the data it captures

referring to natural persons is based on the sources from which they come

since, he says, "The way in which the different public bodies have come

publishing the information, it has varied over time", so it has had to

adapt to such changes, "so that the holders can be duly and

unequivocally identified. He adds that the last variation in the form of publication of the data derives from the seventh additional provision of the LOPDGDD.

It should be noted that the respondent has not provided the information requested, referring to the dates on which the different criteria were adopted. offers us the following information without specifying on what date you implemented these criteria:

a) In the event that only the NIF/NIE is published: then “it is verified if on the date of publication, the NIF/NIE in question is registered in the active information of the FIJ (thus excluding the one that is blocked). Depending on the result obtained, different actions are carried out:

a´) If the identifier is already included in the FIJ associated with a name and surname, registers in the FIJ the new published information.

a´´) If that identifier is not included in the FIJ, the record recording is discarded.

b) In the event that the name and surnames and incomplete NIF/CIF are published: discards the recording of the data in the FIJ file.

c) Cases in which the name + surnames + address is published: Proceed to the recording of the record in the FIJ file, associating both data.

d) Cases in which only name + surname appears published: In this Of course, the recording of the data in the FIJ file is discarded.

And he added: “Consequently, it can be concluded from what has been described that only those notifications that either contain the name and surnames associated with a complete DNI or NIF (which no longer happens as consequence of the application of the seventh AD of the LOPDGDD), or to a determined domicile. Outside of these cases, only those

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data in the event that the information referring to a DNI was already in it complete and associated with its owner.

4.- The question in point 4.6. dealt with the number of natural persons of which active data records existed in the FIJ for the last six years, and should provide the information broken down by years and provide the documentation that serves as basis for your answer.

The respondent provides two tables with this information. On the one hand, a table with the “average number” of natural persons that in the period 2016-2021 appeared in the FIJ.

Year 2016: 4,624,312; year 2017: 4,879,391; year 2018: 4,940,225; year 2019: 4,657,196; year 2020: 4,183,445; year 2021: 3,826,436.

On the other hand, it provides a table with the number of individuals who have been included in the FIJ since 05/25/2018: In the year 2018: 196,653; in 2019: 62,113; in 2020: 20,193 and in the year 2021: 2,358.

The respondent, despite being expressly requested, does not provide any document that proves the veracity of the information offered. In addition, it does the following comments:

That since 05/25/2018 a total of 282,037 natural persons have been included and produced “a systematic reduction in the number of people included” which is due “to the progressive implementation of the rules established in the provision additional 7th of the LOPGDD.

That most of the records that remain in the file are prior to the entry into force of the RGPD, when article 29.1 of the repealed LOPD established a term of conservation of the data in the file of 6 years. and concludes by saying that “[...] most of the records that remain in the FIJ were collected

before the entry into force of the RGPD, when it had not existed by the AEPD

any objection or question of any nature about the sufficiency of

the legitimate basis of the treatment in the file had not been discussed at any time

by the former compliance with the principles established in the regulations of

Data Protection."

5.- In point 4.7. asked about the total annual global turnover during the

financial year 2019. Respond by providing your individual annual accounts

(document 19) as of 12/31/2019 that include a turnover for an amount

net of 42,259,655 euros.

6.- The question in section 4.8 dealt with the economic result obtained by the

claimed during the last six years derived, exclusively, from the activity that

has developed through the FIJ, broken down the result by annuity or, where appropriate,

exercise and documenting your response.

The respondent has provided a table with the amounts of "direct income in

relation to the FIJ access service provided to customers directly

since 2015". These revenues range between €316,204 in 2015 and

€1,734,763 in 2020. However, the defendant specifies "that the contracting of

other services by clients may include, in addition, the

possibility of consulting the FIJ, agreeing with the clients a joint price for the

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entire service. In these cases, [the respondent] does not have information

accountant that allows to determine what imputation of the price satisfied by the clients

could be done [sic] to the IJF.” (emphasis ours)

Extreme from which it is concluded that, necessarily, the figure is much higher since the

Most of the entities - we could say that, at least, all of the entities in the

financial- have access to the two files whose services the requested party provides.

This means that the figures provided do not offer a true picture of the result

relative to the FIJ.

On the other hand, the respondent has warned that the information offered does not allow

break down what part of that direct income obtained comes from access to

information relating to natural persons and which of access to information relating to

legal persons, to whom the data protection regulations do not apply, therefore

that, he says, the figures he has provided should be considered discounted. accurate

also that the financial information provided refers to the amount of income

obtained direct, without taking into account the costs, because it does not have a system of

allocation of costs linked to each of the files it manages.

7.- The question formulated in point 4.9. was about the number of associates “who

has and has had the claim” with access to the information offered by the FIJ.

The defendant clarifies again that there are assumptions of direct contracting of the FIJ and

others in which access to the FIJ occurs as a complementary service to the

hired by clients. Indicates that the number of entities that have contracted the

access to FIJ information directly is 18 but that another 310

Entities can access the FIJ as a complementary service to those contracted with

she.

8.- The question in section 4.10. dealt with the documents -to which he alluded in

their allegations to the initial agreement - in which the AEPD, with its actions, "had

concluded unequivocally lawful the action of EQUIFAX”. This, without prejudice to the

Protection of rights resolutions to which he referred in the brief of

allegations to the initiation agreement.

The respondent responds that “The actions of the AEPD that this party is aware of who have come to ratify both the legitimacy of the data processing carried out by me represented in the FIJ [...] and that are embodied in specific documents are the resolutions of the Guardianships of Law that have estimated and confirmed, Even after the entry into force of the RGPD and the LOPDGDD, the criteria followed by EQUIFAX to deny the requested deletion in those cases in which that the interested party did not prove the payment of the debt that was registered in the FIJ. “

It adds that “[...] it respectfully understands that the behavior of the AEPD (unless through resolutions that even appear in the administrative file) did not but to show the conclusion that the treatment was lawful and covered by data protection regulations. To this end, it is necessary to put manifest that if in a procedure in which an interested party invokes that a data object of treatment must be suppressed the Control Authority concludes in the inadmissibility of carrying out this deletion, does nothing other than validate the legality

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of the treatment, since otherwise this deletion would proceed, in accordance with to the provisions of article 17.1 d) of the RGPD.

If the AEPD considered the treatment unlawful, as appears to be derived from this file, you should have first agreed to the deletion of the data and, then, require EQUIFAX to carry out the necessary actions to adapt the treatment to current legislation on the matter. However, the AEPD did not take



none of these decisions, but confirmed that the data to be deleted

requested should remain in the IJF. (emphasis ours)

In this way, the conduct of the AEPD reveals its opinion that the

treatment carried out by EQUIFAX was completely in accordance with the regulations

of data protection (we insist that also after the full application

of the RGPD, as stated in the file), so such resolution is a

unequivocal statement of the AEPD on compliance with the regulations of

data protection by EUIFAX, embodied in an administrative act endowed with full

enforceability.”

TWELFTH: Test phase. (I) Second request for evidence to the one claimed. (II)

Request for extension of the term to respond (III) Respondent's response to the

tests.

I. In writing signed by the instructor on 02/01/2021, whose electronic notification

It is accepted by the recipient on 02/02/2021, the requested new

tests (second tests or additional tests). The entity is required to:

within ten days, provide the following documents and/or explanations:

“1.-That, with respect to the File of Judicial Incidents and Public Bodies

(FIJ), detail the protocol that EQUIFAX has had implemented during the six

previous years aimed at guaranteeing that the personal data that

are included in said file were at all times

duly updated. You must provide the documentation that proves your

demonstrations.

2.- Taking into account that EQUIFAX has argued that when the data

are incorporated into the FIJ directs communications to those affected in order to

to inform them of their inclusion in that file, detailing the means

that you use and have been using for the last six years to carry out

the communications you have alluded to. You must provide the documentation that substantiate your claims.

3.- What percentage of the incidents incorporated into the FIJ during each of the preceding six years were communicated by EQUIFAX to the affected. You must provide the documentation that proves your statements.

4.- Regarding the communications that EQUIFAX would have sent to the affected by notifying them of the inclusion of their personal data in the FIJ, which detail what percentage of those sent were returned to EQUIFAX or were unsuccessful for other reasons. You must provide the documentation that proves its manifestations.

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5.- To send a copy of the document that EQUIFAX makes available to its associates/clients regarding the use that they can make of the data to which they access through the FIJ (exclusively that part of the document dealing with such issue). You must provide the document/s provided during the last six years in case they have been modified during this time. If you provide several versions, you must specify the date during which each was in effect.”

II. On 02/09/2021, this Agency received a document from the claimant in the that, in addition to requesting that, by virtue of the provisions of article 76 of the LPACAP, consider reproduced for the purposes of evidence the complementary allegations that filed on 01/24/2021, requests that the period initially set be extended by five days

to answer additional tests. The extension of the term is agreed

requested, a fact that is communicated to the claimed party in writing dated 02/11/2021, notified electronically on the same date, which was accepted by the addressee on 02/12/2021.

III. Respondent's response to the second request for evidence.

On 02/23/2021, the response is received at the electronic headquarters of this body from the one claimed to the additional evidence requested; writing that takes as title "Response to the request for additional information made by the Agency Spanish Data Protection. February 23, 2021" and consisting of 6 pages.

He begins his response by invoking the "confidentiality and business secrecy of documents provided together with this brief [...]" with respect to which it requests that are treated without diffusion of the elements that affect their business configuration nor to the secrecy of its commercial performance.

However, the respondent has not provided an annex to the brief with any document or Nor has this Agency received any document at a later date with the

purpose of accrediting the veracity of what was affirmed in his answer to the tests

requested supplements. Extremely relevant because it was required

expressly to provide the documentation that accredits their

demonstrations. The acknowledgment of receipt from GEISER dated 02/23/2021, proves that the

claimed filed on that date, at 22:20:48 (Peninsular time), exclusively,

the reply brief to the second request for evidence. Says nothing about assumptions attached documents.

The response of the respondent to the additional evidence requested is the

Next:

1.-To the first question he answers: "To guarantee that the data captured in the FIJ

are up to date, Equifax relies primarily on:

1) Limitation of the sources from which the FIJ file is fed: as already reported in our previous writings, Equifax collects the information that is registered in the FIJ of the Official Gazettes published by the State, the Autonomous Communities Provincial councils.

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The exclusive use of this source guarantees that all the information that is collects is considered official and authentic as stated in article 3.1 of the Royal Decree 181/2008, of February 8, organizing the official gazette <<Boletín State Official>>. Therefore, the use of this source is, in our opinion, a guarantee that there are no doubts about the updating and veracity of the information incorporated into the FIJ.

The newsletters are downloaded the same day they are published, so the information of the FIJ is updated daily with the information contained in the Bulletins.

2) Automatic information capture processes: downloading bulletins and subsequent registration of the data in the FIJ is carried out through automated processes thus avoiding possible errors from manual processes. for reading the data of the bulletins are used OCR reading processes that guarantee the correct reading and recording of the data published in the bulletins

3) Recording criteria: as we have pointed out in the answer to the first request for information from the AEPD, Equifax has implemented criteria for specific recording and previously detailed to that AEPD, in order to ensure that the holders are unequivocally identified so that their inclusion in the

FIJ. These criteria guarantee that there is only data on holders duly identified

4) Notification of inclusion: this part has been made to the holders whose data have been collected since May 25, 2018, a specific notification of your inclusion in the FIJ, as a measure to guarantee the updating of the data. sayings communications allow interested parties, in a free and simple way, check if indeed the data that have been published by the different official bulletins and that have been collected by my client contain some error.

5) Attention of Exercise of rights: through the attention of claims of the holders in the exercise of their rights, the interested parties may, in accordance with the provided for in the data protection regulations, know what data is included in the FIJ, for what purpose they are used, and, at all times, rectify, cancel, oppose and limit the processing of your personal data”.

2.- To the second question he answers, first of all, recalling that the Audience Nacional reiterated through its Judgments -SSAN of 06/29/2001 (Rec.1012/1999); 11/29/2001 (Rec.531/2000) and 02/27/2008 (Rec. 358/2006)- that the protection of data contained in the already repealed LOPD did not contemplate a obligation to notify interested parties of the inclusion of their personal data in the FIJ.

Transcribe the following excerpt from the SAN dated 02/27/2008:

“[...], it must be concluded that the notification of the inclusion is only required in the event in which two notes concur: that the data refer to compliance or breach of monetary obligations; and that they are provided by the creditor or who acts on their behalf or interest. From which it is inferred that, having taken the personal data, in the case now prosecuted, from the Official Gazette of the Community of Madrid, there was no obligation to notify its inclusion in the File of Judicial Incidents to the owner of the same.”

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The defendant acknowledges that until the entry into force of the RGPD, it did not carry out any notification to those affected; which justifies that there was "an express endorsement in this sense by the National High Court".

It indicates that, after the entry into force of the RGPD, "within the framework of its obligations of proactive responsibility established [...] and even when the doctrine of [...]

The National High Court had not been affected", it has considered appropriate to notify the inclusion of those affected whose data was recorded in the FIJ. However, he warns continued that "the question of whether or not to carry out such notification has not definitively adopted within the framework of the existing relationship between the AEPD and ASEDI within the process of elaboration and approval of the Code of Conduct to the that Equifax has already made repeated reference in its pleadings to the Settlement Agreement Start."

It adds that the notifications to the interested parties of the inclusion of their data in the FIJ are carried out through an independent third party, who carries them out through a auditable procedure.

3.- Answer the third question indicating that, consistent with the above,

You can only provide notification data from 05/25/2018, the date on which you deemed appropriate to do so. He states that his computer files show that, since 05/25/2018, they have sent a total of 509,470 notifications.

From here, the respondent breaks down by year the total number of notifications that it says have made. He does the same when answering question number 4. It plays

then the information you have provided in your response to the tests

requested supplements.

Breakdown by year of notifications sent: 2018: 339,436; 2019: 116,236;

2020: 47.3888; 2021: 6,407.

4.- Answer question number 4 by providing some data -without documentary support

any - on unsuccessful notifications broken down by year and

for return reasons. The reasons for return that you consider are: 01, address

incorrect; 02, deceased; 03, unknown; 04, absent; 05, refused; 06, others; 07,

Insufficient address; 08, wrong address.

Provide the following information about unsuccessful notifications:

1. Year 2018. Total unsuccessful claims: 66,418. Reason 01: 13,299; reason

02:312; motif 03: 47,883; motive 04: 1,563; motive 05: 68; motive 06: 3.293.

2. Year 2019. Total unsuccessful claims: 24,812. Reason 01: 5,498; reason 02:

139; motive 03: 17,299; motive 04: 462; motive 05: 25; motive 06: 1,229.

3. Year 2020. Total unsuccessful claims: 9,673. Reason 01: 2,928; reason 02:

24; motif 03:5.945; motif 04: 150; motive 05: 23; motive 06: 603.

4. Year 2021. Total unsuccessful claims: 1. Reason 01: 1.

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5.- The proof that was required in point 5 of the proof request document

supplementary purpose was for the respondent to provide a copy of the document

requested and its modifications, if any. However, the respondent has not

provided no document and has limited itself to responding that the entities can

access the information registered in the FIJ as well as a contracted service of independently or as a complementary service with other services provided by EQUIFAX. Below, he has reproduced a few brief excerpts that supposedly come from the service contract that it signs with the entities that access the FIJ, both from the contract model that was concluded before the entry into force of the RGPD as of the model used after the entry into force of the Regulation (EU) 2016/679.

For this purpose, provide these texts: With the heading "Section of stipulations/definitions of the contract", reproduces a fragment that corresponds to the identification of the claimed as a party to the contract. Between both models of contract the text varies, exclusively, at the address and in the mention of the registration in the Registry of the AEPD that is included only in the model used before the validity of the GDPR.

"EQUIFAX: EQUIFAX IBERICA S.L. domiciled in [...], holder of the File of Judicial Incidents and Claims from Public Organizations, whose information comes from sources accessible to the public [...] (hereinafter THE JUDICIAL FILE), its purpose being the provision of information services on solvency patrimonial and credit..."

Provide this other fragment with the heading "Clause of obligations and Responsibility:" "Of the fulfillment of the obligations that correspond to them in accordance [reference is made depending on the case to the RGPD or the LOPD according to the model of contract] and in the applicable national regulations."

"Of the responsibilities that could be derived for each one before the AGENCY SPANISH DATA PROTECTION (hereinafter AEPD)."

"Of the responsibilities that could be demanded of each one by third parties arising from their breaches of this contract."



THIRTEENTH: Test phase. Request for evidence to the Subdirectorate of the General Register of Data Protection of the AEPD.

In writing signed by the instructor on 02/04/2021, notified on 02/05/2021 that consists received on 02/09/2021, the Deputy Director General of the General Registry of Data Protection of the AEPD, the following test procedures:

1.- To inform if the code of conduct of the Infomediary Sector that ASIEDIE promotes. If yes, please provide us with the date on which it was approved and send us a copy of the document.

2. If the aforementioned code of conduct has not been approved, please provide the following documentation and information:

2.1. The copy of the draft code of conduct that ASIEDIE presented to the AEPD in May 2020.

2.2. To report whether that Subdirectorate has sent ASIEDIE any assessment or report regarding the project that you presented in May 2020. If so,

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please provide a copy of said report and provide us with the date on which it was transfer to the Association -date of availability- as well as the date on which which the latter has agreed to the notification.

By means of a document signed and notified on 02/10/2021, the Deputy Director General of the General Registry of the AEPD responds in the following terms:

“1.- The draft code of conduct submitted for approval by the Agency

Spanish Data Protection Association by the Information Multisectoral Association

(ASEDIE), is in process, currently pending the report of the

Legal Office of this Agency.

2.-In the processing of code of conduct projects, successive versions, in which the improvements resulting from the contacts that are usually keep with the promoters. In this case, in the month of May 2020, it was contributed by ASEDIE a draft version of the code of conduct, a copy of which is attached, which it has not been the last.

3.- ASEDIE has not been notified of any report issued on the draft code of conduct presented by ASEDIE.”

FOURTEENTH: Proposed resolution.

On 03/26/2021, the instructor of the file formulated a proposal for resolution in the following terms:

“FIRST: That by the Director of the Spanish Agency for Data Protection, imposed on EQUIFAX IBÉRICA, S.L., with NIF B80855398, for an infringement of the article 6.1 RGPD, in relation to article 5.1.a) of the RGPD, typified in article 83.5.a) of the RGPD, the following sanctions:

Pursuant to article 58.2.i) of the RGPD, an administrative fine of €3,000,000 (three millions of euros).

Pursuant to article 58.2.f) of the RGPD, the prohibition to continue processing personal data that you carry out through the File of Judicial Claims and Public Organizations (FIJ) of which he is the owner.

Pursuant to article 58.2.g) RGPD, to proceed to the deletion of all data that, associated with presumed debts, are subject to treatment through the of the File of Complaints and Public Bodies (FIJ) of which he is the owner.

SECOND: That the Director of the Spanish Data Protection Agency imposed on EQUIFAX IBÉRICA, S.L., with NIF B80855398, for an infringement of the

article 5.1.d) of the RGD, typified in article 83.5.a) of the RGD, the following

sanctions:

Pursuant to article 58.2.i) of the RGD, an administrative fine of €3,000,000 (three millions of euros).

Pursuant to article 58.2.f) RGD, the prohibition to continue the treatment of personal data that it carries out through the FIJ, of which it is the owner.

Pursuant to article 58.2.g) RGD, to proceed to the deletion of all data that, associated with presumed debts, are subject to treatment through the FIJ.

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THIRD: That the Director of the Spanish Agency for Data Protection

imposed on EQUIFAX IBÉRICA, S.L., with NIF B80855398, for an infringement of the

article 5.1.b) of the RGD, typified in article 83.5.a) of the RGD, the following

sanctions:

Pursuant to article 58.2.i) of the RGD, an administrative fine of €1,000,000 (one million euros).

Pursuant to article 58.2.f) of the RGD, the prohibition to continue processing personal data that you carry out through the File of Judicial Claims and

Public Organizations (FIJ) of which he is the owner.

Pursuant to article 58.2.g) RGD, to proceed to the deletion of all data that, associated with presumed debts, are subject to treatment through the

File of Judicial Claims and Public Organizations (FIJ) of which he is the owner.

FOURTH: That the Director of the Spanish Data Protection Agency

imposed on EQUIFAX IBÉRICA, S.L., with NIF B80855398, for an infringement of the article 5.1.c) of the RGD, typified in article 83.5.a) of the RGD, this sanction:

Pursuant to article 58.2.i) of the RGD, an administrative fine of €1,000,000 (a million euros).

FIFTH: That the Director of the Spanish Agency for Data Protection

imposed on EQUIFAX IBÉRICA, S.L., with NIF B80855398, for an infringement of the article 14 of the RGD, typified in article 83.5.b) of the RGD, this sanction:

Pursuant to article 58.2.i) of the RGD, an administrative fine of €1,000,000 (a million euros).”

The proposal was notified to the respondent on the same date of signing -03/26/2021-, that accepts the notification on 03/29/2021, as evidenced by the certificate of the FNMT that works in the file.

FIFTEENTH: Letters addressed to EQUIFAX and sending documentation to the claimed.

In writing signed by the instructor of the file on 03/29/2021, notified in the same date and whose notification was accepted by the claimed party on 03/30/2021, informs you that the documentation relating to the latest actions carried out in the procedure and it is requested that, if it is appreciated that incorporated into the proposal document confidential information of a business nature, which notify this Agency in order to proceed to anonymize the information, whenever that the AEPD is obliged to make its resolutions public.

In a document signed by the Deputy Director of Inspection on 03/29/2021, it is informs EQUIFAX that a CD will be sent via postal courier encrypted with the documents in the file relating to the latest actions practiced. The access key and the Hash are also provided. The notification of

written is practiced and accepted by the recipient on 03/31/2021.

SIXTEENTH: Request for extension of the term to make allegations to the resolution proposal. AEPD response.

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On 03/30/2021, a document from the

claimed in which it requests that the extension of the period initially set be agreed to formulate allegations to the proposal for the maximum legally permitted.

The AEPD responds to the extension request in writing dated 03/30/2021, whose

notification is accepted on 03/31/2021, in which, under article 32.1 LPACAP,

agrees to extend by one business day the initial deadline set to formulate allegations to the resolution proposal.

SEVENTEENTH: EQUIFAX arguments to the resolution proposal:

On 04/15/2021, the document has been entered in the electronic registry of the AEPD,

sent by EQUIFAX, by means of which it formulates its allegations to the proposal of resolution of PS/240/2019 that the entity received on 03/29/2021.

The defendant requests that a resolution be issued declaring the nullity of full right of the procedure or, where appropriate, its expiration, for the reasons detailed in the third claim. Subsidiarily, that the file of the procedure be agreed upon not constitute the conduct object of valuation infraction of the regulations of personal data protection. Subsidiarily with respect to the previous requests to impose a sanction of warning provided for in article 58.2 b) of the RGPD or, failing that, a significant reduction in the amount established in the

proposed resolution in response to "the many concurrent circumstances in the supposed fact prosecuted, which would suppose a very qualified reduction of the unlawfulness and culpability of Equifax."

In support of these claims, it invokes the following arguments:

1. In the first allegation "ratifies and reiterates" in its entirety the content of the allegations made to the initial agreement because, in his opinion, the proposal for resolution does not refute in any way what is stated in said allegations.
2. The second allegation deals with the existence of a "medial contest between the totality of the infractions referred to in the motion for a resolution that prevents accrue potential sanctions.

It states that the proposal identifies a plurality of infractions that, allegedly, would have committed EQUIFAX "when in reality all them subsumed and embedded in other infractions for which the AEPD wishes sanction [it], giving rise to various cases of medial contest in the terms provided in article 29.5. of Law 40/2015 [...]"

It affirms that the AEPD cannot sanction EQUIFAX for all of the infractions to which the proposal refers, since they are clear assumptions of insolvency medial, so that only one sanction can be imposed, in his opinion, the one that "wrong", is imputed with respect to article 6.1.f), in relation to article 5.1.a) GDPR. It states that, in accordance with article 29.5 of the LRJSP, infractions must be subsumed in the most serious "we understand that the one that the AEPD imputes with respect to art. 6.1.f) (in relation to article 5.1.a) RGPD".

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Considers that, according to what was stated by the AEPD in the proposal, the infractions attributed to EQUIFAX “[...] cannot be understood to have been committed one without the other, requiring among them that some be executed to appreciate the execution of the others”, “[...] insofar as all the infractions allegedly committed are directly connected and cause one another, it is inappropriate and contrary to the law to consider them as independent infractions”.

Through six sections, it details the existence of six cases of medial insolvency that justifies with references to the draft resolution proposal of which he reproduces several fragments. These assumptions are the following:

a. Appreciates the existence of a first medial contest between the infractions of art. 6.1 (in relation to article 5.1.a) of the RGPD, 5.1.b) and 5.1.d) of the RGPD.

It says to this effect: "In this way, the alleged lack of compatibility of the ends together with with the presumed infringement of the principle of accuracy configure the infringement of the principle of legality of the treatment, by which it is also intended to sanction Equifax. As can be seen, there is already a first medial competition with Regarding violations of art. 6.1 (in relation to article 5.1.a) of the RGPD, 5.1.b) and 5.1.d) of the RGPD.”

It argues that, “regarding the alleged violation of the principle of limitation of purpose, the AEPD considers, which will be refuted later, that the purpose of the original treatment and that of subsequent treatment by Equifax are incompatible”.

That the AEPD, in order to determine whether the subsequent treatment is compatible with the original treatment mentions, among other aspects, “(i) that it does not exist between the claimants and Equifax have no relationship linked to the context, so that the affected could not have had any reasonable expectation that their data would be object of this treatment -quod non- (being the non-existence of expectation of

treatment one of the criteria to determine the alleged violation of the principle of legality); and that (ii) the File of Judicial Incidents ("FIJ") fails to comply with the principle of accuracy in its manifestation of updating the data (quod non), which, from the point of view of the AEPD, aggravates the adverse consequences for the claimants whose data have been incorporated into the FIJ."

It adds that, "Furthermore, the AEPD indicates that the judgment of suitability is not met [...] every time that, so that the treatment carried out by the FIJ could really satisfy the interests it invokes, it would be essential that the information on the alleged debts attributed to the claimants was up to date -principle of accuracy-."

b. Appreciates the existence of "a second manual media contest [...]" between the alleged infringements of articles 5.1.b), 5.1.c) 5.1.d) and 14 RGPD, of which derives the alleged infringement of article 6.1.f) of the RGPD.

The respondent transcribes these paragraphs of the proposed resolution that lead her to affirm that the AEPD subsumes within the infringement of the principle of legality all and each of the other infractions that it also imputes:

"As has been stated in the preceding ground, it is proven that the treatment that EQUIFAX has been doing of the personal data of the claimants

It violates the principle of limitation of the purpose provided for in article 5.1.b) of the RGPD.

This breach has the consequence of causing the legitimate interest invoked

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by EQUIFAX, on whose alleged prevalence supports the legal basis of the processing of data that it carries out (article 6.1.f, RGPD), cannot meet the requirement of



legality.

(...)

The illegality of the interest pursued by EQUIFAX is reinforced by the fact that the data processing carried out by the FIJ not only violates the principle of limitation of the purpose (article 5.1.b RGD), but, as will be explained later, we estimate that breaches other provisions of the RGD: the principle of data accuracy (article 5.1.d); article 14 of the RGD in relation to article 5.1.a) and the principle of data minimization (article 5.1.c)” (Underlining is ours)

c. Appreciates the existence of a third medial contest between the infractions of the articles 6.1., in relation to article 5.1.a) RGD, 5.1.b) and 5.1.d) of the RGD.

Argue the following:

“Regarding the alleged violation of the principle of accuracy, in the opinion of the AEPD, the alleged disparity and incompatibility between the purpose of the treatment originating and the one pursued by the FIJ determines that the information that this file collects is fragmentary and, moreover, is disconnected from the evolution of the debt.

On the other hand, among other considerations, the Proposal indicates (a point of view that does not we share) that the FIJ fails to comply with the principle of accuracy also with regard to the identification of the debt holders and the conclusion that can be drawn is that it can hardly serve the legitimate interest that it wants to serve linked to the fraud prevention (which, in case there are any doubts, would be related to the alleged violation of the principle of legality). (emphasis ours)

d. In point 4 he mentions the existence of two new media contests: The fourth, between articles 6.1, in relation to article 5.1.a) RGD, 5.1.b), 5.1.c) and 5.1.d) GDPR. The fifth between the infringement of article 5.1.c) and 14 of the RGD. It refers that "the AEPD considers" that "the alleged violation of the principle of minimization is nothing but the sum of the alleged infractions of the principles of

limitation of the purpose, accuracy and legality and, in turn, derives in the breach of the art. 14 of the GDPR.”

To substantiate its allegation, it reproduces the following excerpt from the brief of proposal:

“Compliance with this principle by the respondent, as is the case with other principles already examined, such as legality or accuracy, is conditioned by the infringement of the principle of limitation of the purpose in which the entity incurs with the collection of data from newspapers and official bulletins that pursue a purpose incompatible with that of the FIJ.

As a result of the illicit nature of the subsequent processing of the data collected -that is, the one that the respondent carries out through the FIJ- it is becoming evident that the data controller is in a situation where it is practically impossible to respect the rest of the principles that, according to the RGPD, govern the treatment. (...)

As a first point, it should be noted that, as has been shown when examining other principles, particularly that of accuracy, the data that EQUIFAX obtains through of bulletins and official newspapers that feed the FIJ are not adequate for the purpose that pursues the file, so they violate the principle of data minimization. The reason fundamental is that they do not allow an update of the information referring to the debtor's solvency. It is added to the above that, while the publication of the data does not include the address of the owner of the data, the claimed party is not in a position to be able to comply with the information obligation provided for in article 14 RGPD”.

and. He alludes to the existence of a fifth media contest -which he already announced in the section precedent- between the principle of data minimization and article 14 of the RGPD.

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It states that in the opinion of the AEPD "it is not possible to carry out the informative notification to the interested in lacking the information of the address and that the attempt to link the number identification of an interested party that is published in an official journal with the information that is included in the FIJ, constitutes in turn an infringement of the principle of data minimization (which this part denies)."

In support of this conclusion, he transcribes this excerpt from the proposal for resolution:

"On the other hand, there is no doubt that EQUIFAX is obliged to inform interested parties in the terms of article 14 RGD each time you incorporate your data into the FIJ personal.

In line with this obligation, we must reiterate what was already stated about the violation of other provisions of the GDPR. In the behavior analyzed we start from a illicit treatment of personal data, since data that was treated initially with a purpose that is incompatible with the purpose pursued by the subsequent treatment, that is, the FIJ, which conditions, how could it be otherwise, compliance with the obligations that the RGD imposes on the data controller to the point that these are impossible to comply with if it is not infringing for this other provisions of the RGD".

F. The defendant limits itself to mentioning the existence of a sixth medial contest that would occur between the infractions of articles 5.1.b), 6.1. and 14 of the RGD.

It should be added that the respondent, when she analyzes in her pleadings brief each one of the infractions of the RGD that are attributed to it, affects again the existence of a medial contest between the different imputed infractions.

3. The third allegation of the brief of allegations to the proposed resolution bears the

heading "Of the vices of nullity concurrent in the present procedure".

The respondent appreciates the existence of the causes of absolute nullity provided for in the sections a) and e) of article 47.1 of the LPACAP. He affirms that these vices of nullity they have generated real and material defenselessness; that we are not facing a violation merely formal, but before vices from which a material effect of helplessness and a real and effective impairment of the right of defense, with the consequent damage.

The causes of nullity invoked are assessed in relation to the following behaviors:

a. The inclusion of the amount of the penalties in the initiation agreement, which in his opinion constitutes a defect of absolute nullity provided for in article 47.1.a) LPACAP:

Reiterates what was alleged in the initiation agreement in the sense that the fixation in it of the amount of the sanctions that would proceed to impose, without having previously heard the allegedly infringing party, violates his right to effective judicial protection, generates absolute defenselessness and implies a breach of the principle of separation between the instructional and resolution phases of the procedure, for which reason it incurs in the vice of radical nullity of article 47.1.a) LPACAP.

Rejects the interpretation that the AEPD makes of article 85 LPACAP, in accordance with the which "the determination of the amount of the sanction and the consequent evaluation of the

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concurrent circumstances in the case comes from what is established in article 85

LPACAP." Considers that this interpretation is contrary to the Spanish Constitution

violate the protection of the fundamental rights that are granted through it and that the “efficiency that could be pursued with the determination of the amount of the sanction in the initiation agreement could never justify the infringement of the rights fundamental rights of the accused that such an action entails”.

b. Violation by the AEPD of the rules that regulate the procedure penalty in terms of personal data protection and "the consequent expiration a limine of the procedure", which constitutes a vice of nullity of the article 47.1.e) LPACAP.

Affirms that the AEPD has completely and completely dispensed with the procedure legally established in articles 64 and 67 of the LOPDGDD and has incurred a abandonment of the powers attributed to it by the LOPDGDD and the RGPD. Abandonment that has caused him harm “because it has been considered by the AEPD as aggravating circumstance such as the continuing nature of the alleged infringement during the period in which the AEPD declined to carry out any offense against Equifax”.

Regarding the procedure, it transcribes articles 64.2 and 67 of the LOPDGDD and says that from these provisions it is unequivocally inferred that the LOPDGDD, by reasons of legal certainty for the company, has established a procedure regulated and with clearly marked time limits”. Therefore, according to the foregoing, considers that the admission to process the claim within a period of three months; the optional execution of investigative actions for a maximum period of twelve months and the opening of a penalty procedure. Thus, it affirms that the admission for processing of a claim by the AEPD implies recognition of the existence of indications of violation of the data protection regulations and this must imply -argues EQUIFAX- that prior investigation actions be carried out or, if

considers that the infringement is manifest, as appears to be the case in the present case,  
to proceed immediately to the opening of the sanctioning procedure.

In view of the foregoing, the respondent arrives at the "obvious consequence" that if the

The first claim was admitted on May 30, 2019 and the AEPD decided not to carry out

carry out investigative actions "the Agreement to initiate this proceeding

should be from that date, so, being the maximum duration of the procedure of

nine months, the resolution [...] should have been issued on March 2, 2020." Y

adds: "In this way, the AEPD issued the Start Agreement long after

the date on which the resolution should have been issued if it had met the requirements

established in the data protection regulations, with which all actions

should be considered expired." (emphasis ours)

It also refers to the situation of "inactivity" in which it considers the AEPD incurred in

in connection with the claims that were brought against EQUIFAX relating to the FIJ.

It supports such a conclusion that of the 97 claims admitted against EQUIFAX only

some of them were transferred to the DPD; in that although all were admitted to

processing some were "without a minimum legal reasoning"; in which the first

claim (claimant 25) entered the AEPD on 05/30/2019 and that the AEPD did not

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carried out preliminary investigation actions, so, he affirms, since the admission

to process the claims until the Agency issues the agreement to start the

sanctioning procedure that concerns us, on 07/24/2020, did not carry out any other

action.

c. It mentions the “main circumstances” that have occurred during the processing of the procedure whose overview shows that the procedure has been processed with a complete and repeated impairment of the rights that in the framework of the sanctioning administrative procedure granted by sections 1 and 2 of the Article 53 of the LPACAP. It refers to the following circumstances:

1. No investigative actions were carried out prior to the opening of the agreement to initiate the sanctioning procedure.

2. Delay in sending the copy of the administrative file: it is received by the entity on the penultimate day of the ordinary period granted to claim, although it is granted by the AEPD the extension of the term for the maximum legally permitted, five days, and Consequently, he received it when there were only six days left to issue his writ of allegations. Remember that the submitted file had an extension of 2,974 pages.

3. On 12/23/2020, the AEPD sends you a letter indicating that “there has been found that, unfortunately, an incident of a technical nature severed part of the documentation that made up the administrative file. He says that in the quoted In writing, no period of arguments is granted since it was limited to indicating that the instructor would not proceed to the opening of the test phase until after the least ten business days computed from the date of notification of the writing. Add: “All this without any reference to the principle of integrity of the administrative file electronic consecrated by article 70.3 of the LPACAP”.

4. "The aforementioned file turned out to be increased to 4,319 (that is, a extension superior in more than 45% to that of the originally sent file), which which motivated my principal to expressly request the granting of a term for the issuance of allegations and that the term for it be extended. The AEPD limited itself to respond to said request indicating the specific date on which it would agree to open the trial period, but without expressly granting my client any period to

allegations.” (emphasis ours)

5. The test phase does not start until 01/20/2021, when almost six months from the opening of the initiation agreement.

6. The proposed resolution is notified to EQUIFAX on 03/29/2021. In it, the two initial imputations, contained in the initial agreement, are extended with three new infractions “without any of them resulting from obtaining information any additional information that could have justified that triple imputation.” warns not to we are not before a new legal classification of the infractions but before three new offenses added by the AEPD “[...] in the last stage of the procedure, three new accusations on a legal basis that could have been used in his integrity at the time the Initiation Agreement was issued.”

7. That, in accordance with the changes introduced with the proposed resolution, it was requested, under article 32.1 LPACAP, the extension of the term of allegations by the maximum legally allowed (five days). However, "the AEPD limits this extension to the term of a single day in view of the evident risk of expiration of the process". It states that “In this way, my principal seems to be denied a right granted by law as a result of the delay in processing the

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procedure solely attributable to the performance of that AEPD, which in no case should result in the detriment of the Administrator.” (emphasis ours)

d. The inclusion of new offenses in the proposed resolution constitutes another the reasons that -in the opinion of the respondent- cause the radical nullity of the



procedure under article 47.1.a) of the LPACAP.

He explains that the new infractions attributed to him in the resolution proposal

“right to know the

have generated an undoubted defenselessness by having deprived him of the

specific accusations directed to him against her and her rights of defense and

provision of means of evidence pertinent to their right, enshrined in article

24.2 of the Constitution as a manifestation of the right to effective judicial protection.” (The

underlining is ours)

In his opinion, the determination in the proposed resolution of new infractions

It is not covered by the regulations governing the administrative procedure in

general nor, in particular, in the data protection procedure.

In accordance with articles 89.3 LPACAP and 90.2 that it transcribes, it formulates the following

conclusions:

(i) That it is the initial agreement that will establish the limits over which it may

carry out the definitive qualification in the proposed resolution.

(ii) That the proposed resolution cannot make new imputations. Can

modify the initial rating made in the startup agreement by making an imputation or

imposing a more serious sanction than the one established in the opening agreement, all of this

in accordance with article 64 of the LPACAP. It indicates that not even the Royal Decree

1398/1993, of August 4, which approved the Rules of Procedure

for the Exercise of Sanctioning Power (REPEPOS), repealed by the LPACAP,

provided for the making of new accusations but, solely and exclusively, the

modification of the qualification of the infractions that had already been communicated to the

embedded in the startup agreement.

(iii) That the LPACAP does not allow the proposed resolution to make new

additional allocations to those included in the initial agreement, since this

would cause an irreparable impairment of the rights granted to the accused

(iv) That the additional imputations would require the processing of a new process.

(v) That any action that is not “the referral of the file to the sanctioning body in order to resolve on the opening of the procedure sanctioning in case of coinciding with the assessment of the instructor on the concurrence of new infractions” would violate the rights of EQUIFAX by depriving it of the guarantees that the company has recognized in the procedure sanctioning, in particular in article 53.2 a) of the LPACAP (right to “be notified of the facts that are imputed to him, of the infractions that such facts may constitute and the sanctions that, if applicable, may be imposed on them, as well as well as the identity of the instructor, the competent authority to impose the sanction and the norm that attributes such competence”).

4. Through its fourth allegation, under the heading “About the valuations made by the AEPD on the basis of law IV of the resolution proposal”, he maintains, on the one hand, that the AEPD has violated the principle of legitimate expectations and on the other

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that in this case the subjective element of the infraction is missing, in such a way that no sanction could be imposed by virtue of the principle of culpability recognized in Article 28 of Law 40/2015, of October 1, on the Legal Regime of the Sector Public (LRJSP)

The first section of this fourth allegation refers to the pre-existing regime at

GDPR and maintains that until the full application of the GDPR, and even after, until the entry into force of the LOPDGDD "there was an express legal provision that recognized the legality of information systems that collect information obtained with the consent of the interested party or from sources accessible to the public for the purpose to assess the solvency of the interested parties. (emphasis ours)

He mentions alleged reflections expressed in the motion for a resolution, which in no way case were made, and indicates that article 29.1 of the LOPD was not repealed neither totally nor partially by the STJUE of 11/24/2011 nor by the STS of 02/08/2012 "nor the same they supposed a limitation to the application of the precept that legitimized the treatment of the personal data of the interested parties that were incorporated into sources accessible to the public." It says that "For this reason, the statement contained in the Resolution Proposal, which intends to indicate that the treatment carried out by Equifax in the FIJ did not find protection in a legal presumption of prevalence of the legitimate interest, simply lacks the reality of the provisions of the jurisprudence and the aforementioned regulations.

Once again it states that the AEPD was fully aware of the existence and operation of these information systems; that even after the STJUE, has considered sufficient to assess its legality the fact that the data came from the aforementioned sources accessible to the public and that despite this the AEPD did not direct any action against the FIJ to reproach the breach of the data protection regulations.

In proof of these manifestations, he brings up the following actions of the AEPD:

-The resolution issued in E/04639/2013, in which -it says- the basis for agreeing on the file was that the file (from Axesor, Incidents Database judicial) was covered by article 29.1 and 4 of the LOPD.

-The inspection actions mentioned in the resolution issued in the PS/104/2004, directed against a financial entity that claimed to have collected the IJF data. The Legal Basis III of the resolution mentions the practice of an exhaustive inspection in EQUIFAX “in which it was verified, examining the historical records of the file of Judicial Incidents, which indeed there were annotations related to the complainant but that do not coincide with those registered in Bank of Madrid. Therefore, there is no evidence of violation of the regulations of data protection by Equifax Ibérica, S.L.”

- The SAN of 03/29/2012 (appeal 525/2010), filed by EQUIFAX against the sanctioning resolution of the AEPD of 05/05/2010, PS/368/2009, of which Fourth legal basis "it follows the legality of the treatment carried out for my principal". The Legal Basis that is transcribed by the entity is the Next:

“In the brief of conclusions, the appellant details its legal reasoning and affirms that it is not that he has obtained the data of the complainant outside of a source of public access and that has treated them without their consent, but obtaining the data from a lawful source (such as the Bulletins) has added information from the Bulletins that did not correspond to it.”

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-The numerous procedures processed against EQUIFAX for the alleged Failure to comply with the obligation to inform the affected party. He states in this regard that the sanctioning resolutions were annulled by the A.N. in his sentencing

02/27/2008 (Appeal 358/2006).

-The internal report of the General Subdirectorate of the General Register of Protection of Data issued on 01/25/2019 which -says- "evidence that there is a formal criterion emanated from a body integrated in the AEPD that pronounces clearly and manifests in favor of the legality of information systems similar to the FIJ, which collect relevant information on the solvency of the interested parties from the sources accessible to the public". He explains that the report, regarding the information systems similar to the FIJ, says the following:

In general, the code regulates the collection of personal data, in particular when it is done through web pages, for which the obligations to those to which associates are subject (article 6), as well as public sources (article 8). A consideration is made about the sources accessible to the public, of which the infomediary sector is a traditional user, such as those that can be consulted by any person without general restriction of access to certain categories of users, even when a consideration is required (article 8), which is online with the interpretation that is made of this type of sources, and the principle of accuracy of the data when they are collected, also in line with what is collected in article 4 of the LOPDGDD. In addition, in Annex III corresponding to the marketing activity, includes an expository list of the sources of access public."

He qualifies as "false" the following argument presented in the proposal, since the AEPD does not require the complaint of an affected party to carry out actions of prior investigation:

"For the AEPD to have been able to rule on the legality of data processing carried out by the FIJ, as claimed by the claim made by this Agency, It would have been essential that, previously, the Agency had carried out an analysis

on the aspects that have been indicated in the preceding paragraph. And that analysis only could well have been carried out within the framework of a sanctioning procedure that had as its object the presumed violation of the principles that, according to the LOPD presided over the processing of the data through the treatment carried out by the FIJ, or in response to a query from the Legal Office that the entity would have considered opportune to raise about the legality of the treatment that was being carried out.”

And underlines the inaccuracy of the comments made in the proposal about the TD invoked by EQUIFAX because the valuation made in it is incorrect on the scope of the rights protection procedure.

Concludes from the preceding exposition that the arguments are distorted exposed in the Legal Basis IV of the proposed resolution.

It also concludes that the FIJ was fully known by the AEPD and that the treatment has been carried out under the sight, science and patience of this

Control authority that at no time decided to carry out actions of ex officio nor adopted any decision in terms similar to those that appear in the resolution proposal. Therefore, the AEPD, says the defendant, fails to comply with the principles of legitimate trust and legal certainty in the terms described in the jurisprudence cited in the allegations to the initial agreement.

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Starting from the consideration that there has been a breach of the principle of legitimate expectations with the processing of this sanctioning file, the respondent understands that the conduct under examination in this proceeding is

absent of guilt His performance, he says, "is situated in a field alien to that of the will offender" and that "Her action had been known and recognized (if not consented) by the AEPD itself (and even when the latter differs from this opinion, it is undeniable that Equifax had reasonable grounds, set forth above, to consider that it was).

In accordance with the foregoing, it affirms that "all the sanctions referred to in the Motion for a resolution must be annulled".

5. The fifth allegation deals with the breach of the principle of limitation of purpose.

It states that this principle has not undergone any modification in the RGPD, since reproduces almost entirely what was established by Directive 95/46/CE on it, and, then goes on to state that "within the system of transposition of the Directive to our Law [...] Article 29.1. of the LOPD "did not appreciate that [...] it turned out contrary to the purpose limitation principle enshrined in Directive 96/46/EC," the treatment of personal data carried out by those who are dedicated to the provision of information services on asset solvency and credit consisting of the collection of personal data obtained from the records and the sources accessible to the public established for this purpose.

It also states that "the legal basis that justified the collection of the data subject to publication [was] to obtain information on the solvency of assets and the credit of the interested parties based on the available information related to them", and that "This legal basis was expressly included in the LOPD, owing

Article 29.1 should be interpreted in the sense that the processing was protected in the prevailing legitimate interest of those who proceeded, like my principal, to processing of the data, as there is an unequivocal legal authorization for said

treatment could take place. (emphasis ours)

The respondent ends its argument regarding the "non-compliance with the principle of purpose" with the paragraph that we reproduce:

"In short, the processing of personal data does not take place in this case.

contained in the FIJ for a purpose other than the one that motivated its collection, since this was precisely what justifies the maintenance of the data in the system and its access by the entities that were adhered to the FIJ with the purpose of know the equity solvency and the credit of its debtors or potential debtors, on the basis of a prevailing legitimate interest that, at least until the entry into force of the LOPDGDD was expressly enabled by the regulations of personal data protection." (emphasis ours)

In the same line of argument he says that "this compatibility (or that character "does not different" from the purpose) was appreciated even after the entry into force of Royal Decree 181/2008, of February 8, organizing the official newspaper «Boletín Oficial of the State» (hereinafter, "RDBOE"), to which the Proposal". Also, after the entry into force of Law 37/2007, of 16 November, on the reuse of public sector information and Law 19/2013, of

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December 9, transparency, access to information and good governance. (The underlining is ours)

He also makes another equally surprising statement: "[...] it must be remembered that the measures adopted by RBOE, which would come to reflect the restrictions that



subsequently, with regard to open data, the Group revealed

Working Group of Article 29 (hereinafter WG29) in its Opinion 3/2013 on the

limitation of purpose, [...], do not refer to data processing such as that carried out

carried out by my principal through the FIJ, in which access to information is

limited to creditors or potential creditors of the interested party. These measures, for

On the contrary, they try to avoid an access subject to the condition of creditor, real or

potential, but an indiscriminate access to the data object of publication in the

official journals.” (emphasis ours)

Insisting on erroneous statements, he says: "If you take into account that since 2008, and

Until December 7, 2018, the RBOE coexisted with the regime contained in the

article 29.1 of the LOPD, no other conclusion can be reached than to consider that the

limitations referred to in the first-cited rule cannot be

applicable to the case provided for in the second, which enjoys a legal basis

specific and proper that legitimizes it.” (emphasis ours)

6. The sixth allegation deals with “the legality of data processing in the FIJ and the

application of the weighting rule of article 6.1.f) of the RGPD.”

States that none of the arguments contained in the motion for a resolution is

enough to refute what was stated in his allegations to the initial agreement;

allegations that he considers reproduced and complemented with what he now exposes:

That EQUIFAX has an "obvious legal basis, the concurrence of an interest

prevailing legitimate, for the treatment of data in the FIJ.” Thus, he says that “[...]”

These information systems were expressly equipped with a

presumption of prevalence of the aforementioned legitimate interest”. (emphasis ours)

Later he adds:

“Evidently, article 29.1 of the LOPD did not regulate the basic principles or the

legal bases of the treatment, but determined that, based on principles and

legal bases identical to those contained in the RGPD, the processing of data collected in it was lawful. In other words, either article 29.1 of the LOPD is overreached with respect to the regime contained in the Directive, enabling nothing less than a treatment that violated its articles 6 and 7 in the terms assumed by the Motion for a Resolution, something that neither the Court nor the Institutions of the Union (and even less so the AEPD itself) did not even insinuate at any time or, principles and legal bases remaining immutable, this treatment is as according to the RGPD as it was to the Directive. This fact is indubitable, however try to force the argument in another direction.” (emphasis ours)

It states, on the other hand, that in its previous allegations it proved that, in the present case, the triple judgment concurred - suitability, necessity and proportionality strictu sensu- required by constitutional jurisprudence so that the treatment carried out by the FIJ will be in accordance with the RGPD; weighing that, he affirms, is favorable to the legitimate interest that justifies it. With regard to the triple judgment mentioned, it is limited to

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make various considerations in relation to what is argued in the proposal of resolution. Considerations that, for the most part, do not conform to the truth or do not they respect the context in which they were made. We reproduce some of them:

“[...] the Resolution Proposal: [considers] that the legitimate interest underlying the processing of the data in the FIJ is nothing more than a mere "convenience" for "perpetrate" what is called "intrusions a la carte" in the rights of stakeholders (the expressions used are from the Motion for a Resolution, not from me)

represented)."

"[...] in the opinion of the AEPD, the [CIRBE is] the only information system that contributes to the purpose pursued by the treatment carried out by the FIJ."

"[...] converting the AEPD the principle of reasonable expectation (derived nothing less of the fact that these systems exist in our law and have been expressly regulated by it since 1992 and that the debtor should reasonably expect that your creditworthiness will be assessed before obtaining credit) in the "reasonable hope" delinquent debtor that his debt is not known and the financing is granted, even when this harms the principles of responsible credit enshrined in the legislator".

7. The seventh allegation refers to "Equifax's compliance with the principle of accuracy"

He places the starting point of his allegation in the necessary clarification of "what is the purpose of the FIJ", since "article 5.1.d) of the RGPD links "accuracy" with "the purposes for which the data is processed.

It goes on to state that the "purpose of the FIJ" is to "reflect the existence of a debt as stated in the announcement and at the time of its publication in the official source correspondent". (emphasis ours)

From the foregoing, he infers that the circumstance that the FIJ cannot show which is the debt situation at the time of the query does not allow the information to be qualified of inaccurate in the terms provided in article 5.1.d) RGPD. It is not inaccurate, says claimed - because it correctly collects the information that is necessary for the purpose sought by the FIJ, "to help Equifax customers to assess solvency".

For this reason, he clarifies, the information would be inaccurate if, "contrary to what the file", will not correctly reflect the information contained in the published announcement.

He conjectures that the AEPD, with the aim of qualifying as inaccurate the data contained

in the FIJ, has proceeded in the proposed resolution, incorrectly, to associate the “evaluation of the solvency of those affected” with information about the “situation current” at the time of the consultation of the debt of the people.”

It goes on to refer to the suitability of the information contained in the FIJ to assess the solvency of a person; suitability that, it affirms exhaustively, is out of all doubt as has been confirmed for twenty-five years by the “enormous number of entities that have been resorting to the FIJ to assess solvency” He warns that a suitability judgment requires a thorough knowledge of the subject matter and that to the extent knows the AEPD is not an entity that carries out analyzes on a day-to-day basis of solvency.

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It states that the FIJ "covers an undeniable need of the creditor market and the fight against late payments and fraud" and then states: “[...] it is clear that the FIJ information constitutes a complement to the files referring to the debts contracted with in the private sector [...]. It is obvious that "in an ideal world" it would be preferable if the FIJ could be updated as completely as it is with the credit information systems of article 20 of the LOPDGDD.

Unfortunately, this is not possible since the Administrations do not publish information in this regard, without such circumstance being considered in any case as an assumption of "inaccuracy" of the information, for the reasons already stated." (emphasis ours)

It also argues, as it did in the pleadings brief on the initial agreement,

that article 4.2 d) LOPDGDD establishes a presumption of accuracy that cannot be distorted “by the result of the AEPD investigation, not even by the contribution of evidence by the interested party” and “contains an imperative mandate of exemption from liability to the person who has collected the data under their contents”.

It indicates that this provision - 4.2.d) LOPDGDD- has to be connected with the regulatory regulations of the BOE that "establishes a presumption of veracity and authenticity of the information contained therein, which guarantees the principle of accuracy” and concludes that “the accuracy of the information referred to in the notifications incorporated into the FIJ [...] derives directly from said publication [in the BOE] and the LOPDGDD”.

Finally, it invokes two more arguments: That until the repeal of the LOPD EQUIFAX “was [...] protected by the express legal authorization contained in the article 29.1 LOPD and the action of the AEPD by which documentation was required accrediting the payment so that it proceeded to its suppression”. And regarding the accuracy of identification data of the alleged debtors, states that "it proved during the trial period that only proceeds to the treatment of those data regarding of which it has sufficient means to guarantee the accuracy of the information treated.” In this sense, it adds that, as a consequence of the entry into force of the LOPDGDD, adopted measures so that only the data of the interested parties of whom there are sufficient elements to guarantee their full identification, which has been reflected in a decrease in the number of inclusions in the file.

8. The eighth allegation analyzes “Equifax’s compliance with the principle of data minimization.

The respondent states that the presentation made by the proposed resolution in

In relation to the infringement of the principle of data minimization that is attributed to it, it does not allow us to discern its connection with the aforementioned principle. He adds that “nowhere in The Proposal indicates that the collection of data referring to the name, surnames, identification document, address and characteristics of the debt contracted are not adjusted to the aforementioned purpose nor is a judgment or assessment of proportionality carried out something about it.” It concludes that the aforementioned infringement appears to have been included in the resolution with “a mere intention to increase, [...] in a completely artificial reproach directed against” EQUIFAX.

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It indicates that the reasoning of the AEPD in the proposed resolution leads to the fact that, when it is considered that a certain treatment breaches the principle of limitation of the purpose (which the defendant denies) “there would also be a breach of the principle of minimization, given that the processing of more data than those legally required in the opinion of the Agency. This argument, by definition would be inadmissible, [...]”

Lastly, it adds that, as a consequence of the entry into force of the LOPDGDD, “has put into practice measures aimed at making the processing of the data adjusted to the principles of accuracy and minimization and that only the treatment in the event that compliance with such principles is guaranteed, for which fails to understand the effect that the entry into force of said provision can generate in the alleged violation of the principle of minimization.”

9. Ninth allegation, regarding the non-existence of infringement of article 14 of the RGPD.

With regard to this infraction, the defendant analyzes three different scenarios.

(i) The regime prior to the entry into force of the LOPDGDD, in which, it affirms, exempted from the obligation to inform the interested parties of the processing of their data carried out in the FIJ as confirmed by a "repeated jurisprudence" that determined that from the SAN of 02/27/2008 the AEPD does not dictate any sanctioning resolution for non-compliance with the obligation to notify.

(ii) The existing regime during the term of the LOPD, from the date on which it is dictates the judgment of the CJEU of 24/11/2011. Considers that the situation was identical to the above and that it was the proposed resolution that "creates ex novo" a line argument that understands that the previous criterion was modified from the aforementioned STJUE. In the opinion of the respondent, the proposal eliminates "the possibility of founding the of the FIJ in the provision of article 29.1 LOPD". Therefore, it requires that the exclusion from the duty to inform did not derive from the nature of the sources from which obtained the information, but from article 29.1, in relation to 29.4 and in relation to article 5.5. LOPD.

(iii) The system after the effective application of the RGPD, in which EQUIFAX has considered "necessary to comply with the duty to inform". After which, add that, "despite the fact that he could have considered that the causes that exonerated him from said obligation under the LOPD that, do not forget, remained in force until the 7th of December 2018, they continued to protect him." This commitment assumed as a result of the effective application of the RGPD has materialized in the "notification to all interested in the inclusion of their data in the FIJ", which constitutes a "commitment of the entity with the guarantee of the right to data protection".

The respondent affirms that the proposal considers that "this duty of information is not has complied with respect to the data included in the FIJ prior to entry into

force of the LOPDGDD, that is, when there was a rule that excluded the duty to information."

It also states that after the entry into force of the LOPDGDD, it would be possible to distinguish "two types of data":

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(i) Those introduced prior to the entry into force of the RGPD, with respect to the which states that "[...] the principle of minimization and the cited interpretation of article 11 excluded the possibility of obtaining additional information with the sole protection of giving compliance with the duty to inform". Regarding article 11 RGPD, it indicates that it is possible interpreted by analogy, in what affects the treatment of additional data to those required for the fulfillment of the purpose of the treatment, the provisions of that provision, according to which "[i]f the purposes for which a data controller processes data personal data do not require or no longer require the identification of a data subject for the responsible, it will not be obliged to maintain, obtain or treat information with a view to identifying the interested party for the sole purpose of fulfilling the this Regulation". Considers therefore that it could be concluded that, if the purposes of the treatment do not justify the treatment of additional data, it could not hide behind the GDPR compliance to collect such data.

(ii) Those incorporated into the FIJ after said entry into force, with respect to the that Equifax chose, compared to the other entities in the sector, to comply with the Article 14, proceeding to notify all interested parties of the incorporation of their data to the FIJ.



It concludes that it has fully complied with the duty of information regarding all those treatments carried out since the entry into force of the RGPD, then, "Under the previous regulation (LOPD) was exempt from compliance with that obligation." and after "The entry into force of the RGPD, the provisions of the law were applicable to these treatments. in article 14.5 a) of the RGPD, as the information is impossible or requires efforts disproportionate, something that the Proposal itself explicitly recognizes."

EIGHTEENTH: Letter from EQUIFAX in which it requests that reports be sent to it inmates of the SGRGPD and the suspension of the term to formulate allegations to the resolution proposal.

On 04/07/2021, the AEPD receives a letter from EQUIFAX addressed to the Deputy Directorate of Inspection of the AEPD in which it states that, through the Cabinet Report Legal 89/2020, has become aware of the existence of two reports issued by the General Subdirectorate of the General Registry of Data Protection of dates 01/25/2019 and 09/18/2020. It indicates that, as they are relevant for the defense of their rights within the framework of PS/240/2019, requests that this Subdirectorate send it copy of both documents. It requests that "the suspension of the term for the issuance of the allegations to the Resolution Proposal during the period that mediates between the present request and the referral to that of the reports requested."

The Deputy Director General of Inspection addresses the Deputy Director of the RGPD in writing signed on 04/08/2021 and transfers the letter sent by EQUIFAX for the purposes opportune. On 04/09/2021, the Subdirectorate of Inspection receives a letter from the Deputy director of the RGPD informing that on that date he has proceeded to transfer EQUIFAX of the requested reports.

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

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## PROVEN FACTS

FIRST: The documents that the claimants

sent to this Agency with their claim or in a subsequent procedure, which inform

of the entries for debts that appear in the FIJ on the date that appears in the

corresponding document, linked to your personal data (name, surnames and

NIF; Name and surname; only NIF or, sometimes, some of these data combined

with home).

The information offered by the documents provided by the claimants on the

annotations for debts linked to your personal data has been collected in the

Background Second of this proposal. To said Second Antecedent, the

information on the documents provided, indicating the date that appears on the

EQUIFAX informative document, the personal data that identifies the

claimant, the registration date of each annotation, the source from which the

information, the creditor Administration and, where appropriate, the amount of the debt and the

non-payment concept.

Therefore, such information collected in the Second Precedent regarding the

claimants constitutes a proven fact integrated in this First Proven Fact

in which it is considered reproduced.

SECOND: According to the documents that are in the administrative file

relating to the result of access to the FIJ that the claimants provided to this Agency

It has been verified that, after the date of entry into force of the

LOPDGDD, on 12/07/2018, being the origin of the information TEU -BOE, they were given

High entries for alleged debts. Among these cases are those of

claimants 9; 10;15;31; 77; 83; 87 and 89.

THIRD According to the documents that are in the administrative file,

evidence that the identification of interested parties carried out by the FIJ takes into

consideration the data of the address for lack of NIF. We refer to the assumptions

raised by the claimants 18; 27; 27; 30 and 33, among others.

Likewise, there are entries for debts in which the entry date of the entry

-in which EQUIFAX places the initial term for the computation of the maximum time of

permanence of the data in the file, which is six years - is after the date

maturity of the obligation. This is the case of claimant 18; 26; 29 among others.

FOURTH: That, based on the documentation in the file, the FIJ

reflected non-existent debts with respect to the claimants identified with the numbers

37;38; 40;41;42;48; 50;52;53;54;59;62; 75 and 95. There are many claimants

who, without providing supporting documentation, deny the existence of the debt that

It is listed in the FIJ.

FIFTH: EQUIFAX affirms that the number of natural persons that existed in

The FIJ active data records for the last six years is shown in the

following two tables it provides:

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-A table with the “average number” of natural persons who, in the period 2016-2021,

featured in the FIJ:

Year 2016: 4,624,312; year 2017: 4,879,391; year 2018: 4,940,225; year 2019:

4,657,196; year 2020: 4,183,445; year 2021: 3,826,436.

- A table with the number of natural persons who have been included in the FIJ since on 05/25/2018:

In the year 2018: 196,653; in 2019: 62,113; in 2020: 20,193 and in 2021: 2,358.

The entity states that since 05/25/2018 a total of 282,037 individuals and that most of the records that remain in the file are prior to the entry into force of the RGPD.

SIXTH: EQUIFAX affirms, in response to the requested proof, that the criteria that uses the FIJ to organize the personal data that is subject to treatment with the In order for their owners to be duly identified, they are the following:

a) In the event that only the NIF/NIE is published: then "it is verified if on the date of publication, the NIF/NIE in question is registered in the active information of the FIJ (thus excluding the one that is blocked). Depending on the result obtained, different actions are carried out:

a') If the identifier is already included in the FIJ associated with a name and surname, registers in the FIJ the new published information.

a'') If that identifier is not included in the FIJ, the record recording is discarded.

b) In the event that the name and surnames and incomplete NIF/CIF are published: discards the recording of the data in the FIJ file

c) Cases in which the name + surnames + address is published: Proceed to the recording of the record in the FIJ file, associating both data.

d) Cases in which only name + surname appears published: In this

Of course, the recording of the data in the FIJ file is discarded.

(emphasis ours)

”

SEVENTH: EQUIFAX, in response to the question regarding the protocol that has had in place for the past six years to ensure that data personal information that was incorporated into the FIJ were duly updated, in all moment, states the following:

“To ensure that the data captured in the FIJ is up to date, Equifax mainly based on:

1) Limitation of the sources from which the FIJ file is fed: as already reported in our previous writings, Equifax collects the information that is registered in the FIJ of the Official Gazettes published by the State, the Autonomous Communities Provincial councils.

The exclusive use of this source guarantees that all the information that is collects is considered official and authentic as stated in article 3.1 of the

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Royal Decree 181/2008, of February 8, organizing the official gazette <<Boletín State Official>>. Therefore, the use of this source is, in our opinion, a guarantee that there are no doubts about the updating and veracity of the information incorporated into the FIJ.

The newsletters are downloaded the same day they are published, so the information of the FIJ is updated daily with the information contained in the Bulletins.

2) Automatic information capture processes: downloading bulletins and

subsequent registration of the data in the FIJ is carried out through automated processes thus avoiding possible errors from manual processes. for reading the data of the bulletins are used OCR reading processes that guarantee the correct reading and recording of the data published in the bulletins

3) Recording criteria: as we have pointed out in the answer to the first request for information from the AEPD, Equifax has implemented criteria for specific recording and previously detailed to that AEPD, in order to ensure that the holders are unequivocally identified so that their inclusion in the FIJ. These criteria guarantee that there is only data on holders duly identified

4) Notification of inclusion: this part has been made to the holders whose data have been collected since May 25, 2018, a specific notification of your inclusion in the FIJ, as a measure to guarantee the updating of the data. sayings communications allow interested parties, in a free and simple way, check if indeed the data that have been published by the different official bulletins and that have been collected by my client contain some error.

5) Attention of Exercise of rights: through the attention of claims of the holders in the exercise of their rights, the interested parties may, in accordance with the provided for in the data protection regulations, know what data is included in the FIJ, for what purpose they are used, and, at all times, rectify, cancel, oppose and limit the processing of your personal data.” (emphasis ours)

EIGHTH: EQUIFAX affirms that during the validity of the LOPD it did not notify the affected the inclusion of their data in the FIJ, conduct that justifies the existence of "an express endorsement in this sense by the National High Court" that in numerous sentences -SSAN of 06/29/2001 (Rec.1012/1999);

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(Rec.531/2000) and of 02/27/2008 (Rec. 358/2006)- declared that the regime of data protection contained in the LOPD, article 29.1., did not impose an obligation to notify the interested parties of the inclusion of their personal data in the FIJ.

NINTH: EQUIFAX affirms that, after the entry into force of the RGPD, it has considered appropriate to notify the inclusion to those affected whose data was registered in the FIJ.

It also states that, since 05/25/2018, its computer records show the shipment of a total of 509,470 notifications, which is broken down as follows

(year/notifications sent): 2018: 339,436; 2019: 116,236; 2020: 47.3888; 2021: 6,407.

He does not provide documentation that accredits his statements, despite having requested expressly.

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TENTH: Regarding the total number of notifications of inclusion that EQUIFAX claims to have sent to those affected, has reported those that were unsuccessful, broken down for the following return reasons:

01, wrong signs; 02, deceased; 03, unknown; 04, absent; 05, refused; 06, others; 07, insufficient direction; 08, wrong address.

Unsuccessful notifications for years:

-. Year 2018. Total unsuccessful claims: 66,418. Of these, for reasons 01 and 03 a total of 61,182.

-. Year 2019. Total unsuccessful claims: 24,812. Of these, for reasons 01 and 03 a total of 22,797.

- Year 2020. Total unsuccessful claims: 9,673. Of these, for reasons 01 and

03 a total of 8,873.

- Year 2021. Total unsuccessful claims: 1. Reason 01: 1.

It is verified that reasons 01 and 03 represent more than 90% of the notifications unsuccessful.

ELEVENTH: In the final version of the RAT corresponding to the FIJ that EQUIFAX has provided, point 8, "Information suppression periods", reads as follows:

"The information is accessible for 3 months and then it is stored in a directory

Linux in order to be able to work with the data later. Bliss

information, saved in "PDF" format, will be available for a period of 10

years from the date of publication, and this for the sole purpose of being able to meet the

possible claims and respond to requests for information by the

competent administrative body, as well as the courts and tribunals."

TWELFTH: In the document provided by EQUIFAX regarding the interest analysis

prevalent (LIA, judicial file, 2019), in point 7, and in the section dedicated to the

measures that it proposes to implement, specifically with respect to the guarantees of the data protection principles, includes the following:

"1.1 Principle of finality" "On the other hand, the principle of finality includes the limitation

of the subsequent uses of the data, since the RGPD prohibits in its article 5.1 a)

the subsequent processing of the data for purposes incompatible with those that motivated its

collection, although excepting from this limitation the use of data for the purpose of archiving

public interest or scientific or statistical research." (emphasis ours)

"1.4. Principle of accuracy" "In compliance with this principle and given that the

edict publication only recognizes the existence of the obligation to satisfy the

owed, but there is no additional information available that would allow us to know

effectively if that amount is due at the time of notice of



inclusion, a possible solution to this problem would be the limitation of deadlines very brief references to the aforementioned communications, and in the analyzed system this requirement is fulfilled, by reducing the term to the publications that have occurred in the last five months. However, this reduction does not allow to fully avoid the risk derived from the treatment of this data, being able to see the qualification of a interested negatively by the fact of incorporating an edictal notification referring to a debt already satisfied in the same way that could be affected favorably the subject to whom a notification had been made with a

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seniority of more than five months and had not proceeded to pay the amount owed.” (emphasis ours)

THIRTEENTH: The Deputy Director General of the General Registry of the AEPD, in the written response to the requested evidence, dated 02/10/2021, states that, in that date, the draft code of conduct presented by ASEDIE for its approval by the AEPD was in process, pending the report of the Legal Office of the AEPD, and that the aforementioned Association had not been notified of any report issued on the draft code of conduct.

FOURTEENTH: Work in the administrative file the response of the Secretariat General of AEBOE to the consultation of several claimants (among others, claimant 55) about whether it is lawful for your personal data to be collected, which appear in the notifications inserted in the Supplement of notifications of the BOE, to incorporate them into a for-profit database in which it concludes:

“In accordance with the foregoing, this State Agency considers that the reuse of personal data such as names, surnames, ID associated with debts, published in the BOE, that you requests, it would not be a lawful processing of personal data of those provided for in art. 6 of RGPD and, therefore, in accordance with what is regulated both in Regulation (EU) 2016/679 and in Organic Law 3/2018, of December 5, they must not be reused by third parties.”

FIFTEENTH: The respondent affirms that the net amount of the turnover of EQUIFAX IBÉRICA, as of 12/31/2019, amounted to €42,259,655.

Regarding the "direct income in relation to the access service to the FIJ provided to customers directly since 2015" reports these amounts:

€316,204 in 2015; €291,950, in 2016; 289,854 in 2017; €290,256 in 2018; €269,415 in 2019 and €1,734,763 in 2020.

He makes three clarifications that affect the amounts he has provided. that can't determine what part of the price is satisfied globally by the clients who contract other services in conjunction with the FIJ should be charged to the FIJ. who can't either Break down what part of the direct income obtained corresponds to access to the FIJ to obtain information on legal persons. And that the number of direct income takes into account the costs, since the entity does not have a system for assigning costs linked to each of the files it manages.

FOUNDATIONS OF LAW

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Competition

The Director of the Spanish Agency is competent to resolve this procedure.

of Data Protection, in accordance with the provisions of article 58.2 of the RGPD and in articles 47 and 48.1 of the LOPDGDD.

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II

Applicable provisions

The RGPD dedicates its article 5 to the principles that govern the processing of data personal, precept that provides:

"1. The personal data will be:

a) processed in a lawful, loyal and transparent manner in relation to the interested party ("lawfulness, loyalty and transparency»);

b) collected for specific, explicit and legitimate purposes, and will not be processed subsequently in a manner incompatible with those purposes; according to article 89, paragraph 1, the further processing of personal data for archiving purposes in public interest, scientific and historical research purposes or statistical purposes are not deemed incompatible with the original purposes ("purpose limitation");

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

d) accurate and, if necessary, updated; all measures will be taken reasonable to eliminate or rectify without delay the personal data that are inaccurate with respect to the purposes for which they are processed ("accuracy");

e) maintained in a way that allows the identification of the interested parties during longer than necessary for the purposes of the processing of personal data; the

Personal data may be kept for longer periods provided that it is

processed exclusively for archival purposes in the public interest, research purposes

scientific or historical or statistical purposes, in accordance with Article 89, paragraph 1,

without prejudice to the application of the appropriate technical and organizational measures that

This Regulation is imposed in order to protect the rights and freedoms of the

interested party ("limitation of the retention period");

f) processed in such a way as to ensure adequate security of the data

including protection against unauthorized or unlawful processing and against

its loss, destruction or accidental damage, through the application of technical measures

or appropriate organizational ("integrity and confidentiality").

Article 5 of the RGPD adds in its section 2 that "The data controller

will be responsible for compliance with the provisions of section 1 and capable of

demonstrate it ("proactive responsibility")"

Article 6.1. of the RGPD, under the heading "Legality of the treatment", specifies the

assumptions in which data processing is considered lawful:

"1. The treatment will only be lawful if it meets at least one of the following

conditions:

a) the interested party gave their consent for the processing of their personal data

for one or more specific purposes;

b) the treatment is necessary for the execution of a contract in which the interested party

is part of or for the application at the request of the latter of pre-contractual measures;

c) the treatment is necessary for the fulfillment of a legal obligation applicable to the

data controller;

d) the treatment is necessary to protect the vital interests of the interested party or another

Physical person.

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e) the treatment is necessary for the fulfillment of a mission carried out in the interest public or in the exercise of public powers vested in the data controller;

f) the treatment is necessary for the satisfaction of legitimate interests pursued by the person in charge of the treatment or by a third party, provided that on said interests do not override the interests or fundamental rights and freedoms of the interested party that require the protection of personal data, in particular when the interested is a child.

The provisions of letter f) of the first paragraph shall not apply to the processing carried out by public authorities in the exercise of their functions.

[....]

4. When the treatment for another purpose other than that for which the data was collected personal data is not based on the consent of the interested party or on the Law of the Union or of the Member States which constitutes a necessary and proportionate in a democratic society to safeguard the stated objectives in article 23, paragraph 1, the data controller, in order to determine if processing for another purpose is compatible with the purpose for which they were collected initially the personal data, will take into account, among other things:

- a) any relationship between the purposes for which the data was collected data and the purposes of the intended further processing;
- b) the context in which the personal data have been collected, in particular by what regarding the relationship between the interested parties and the data controller;
- c) the nature of the personal data, specifically when categories are processed special personal data, in accordance with article 9, or personal data relating to criminal convictions or offences, in accordance with article 10;
- d) the possible consequences for data subjects of the envisaged further processing;

e) the existence of adequate safeguards, which may include encryption or pseudonymization.”

Of the alleged nullity of this procedure.

III

It is appropriate to examine, first of all, the question of the nullity of the sanctioning procedure that the respondent has invoked repeatedly, both in its two briefs of allegations to the initial agreement -the one dated 02/19/2018 or first allegations to the initial agreement and the one dated 01/24/2021 or allegations complementary - as in the arguments to the proposed resolution.

In particular, in the brief of allegations to the proposed resolution, it uses the concurrence of the causes of absolute nullity provided for in sections a) and e) of the article 47.1 of the LPACAP and affirms that these vices of nullity have generated a material and real defenselessness since, in addition to not being a violation merely formal has suffered a real and effective impairment of the right of defense, with the consequent damage.

The following behaviors that relate in writing their allegations to the proposal would have caused, in his opinion, the vices of nullity that he alleges:

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a. The inclusion of the amount of the penalties in the initiation agreement, which constitutes a vice of absolute nullity provided for in article 47.1.a) LPACAP.

With this, it reiterates its allegations to the agreement to open the procedure in which held that the proceeding was vitiated by the lack of defense

generated by having fixed in it the amount of the sanction instead of expressing only the limits of the possible sanction. That, due to this circumstance, the initial agreement exceeded of the legally foreseen content, violated article 68 of the LOPDGDD, and it looked affected the impartiality of the investigating body, which it knew before starting the procedure the criterion of the body to which the file must be submitted, in clear breach of the principle of separation of the instruction phase and sanction (article 63.1 of the LPACAP).

It also considered in those allegations that the rules of article 85 of the LPACAP were not applicable to the present case but to the cases in which the rule sanctioning imposes a fixed and objective fine and that the application that is had made this precept in the initial agreement did not respect its literal tenor, according to which the amount of the pecuniary sanction may be determined "when the sanctioning procedure", for which, he affirms, it would be assimilating "the act itself of initiation with the fact that the procedure is initiated".

As stated in the motion for a resolution, this Agency cannot share the position of the respondent that having included in the initial agreement the sanctions that could correspond for the imputed infractions is determinant of helplessness or involves a breach of the principle of separation of the phases of instruction and resolution; On the contrary, it fulfills the requirements provided for in articles 64.2 and 68 LPACAP.

Nor can it be ignored that article 85 of the LPACAP -which contemplates the possibility of applying reductions on the amount of the sanction in the event that the offender acknowledges his responsibility and in case of voluntary payment of the sanction- obliges to determine these reductions in the notification of the agreement to initiate the procedure, which necessarily implies that said agreement must establish the amount of the sanction corresponding to the imputed acts.

On the other hand, contrary to what was expressed by the complainant, article 85 of the LPACAP does not provides that the amount of the penalty will be determined once the procedure has begun.

On the contrary, it is the acknowledgment of responsibility and the voluntary payment of sanction what has to take place after that moment and not the fixation of the amount of the penalty.

EQUIFAX considers that this interpretation of the AEPD - according to which "the determination of the amount of the sanction and the consequent evaluation of the concurrent circumstances. in the case comes from [...] what is established in article 85 LPACAP"- it is contra- to the Spanish Constitution every time that, he says, it violates the protection of the rights fundamental benefits that are granted through it and that the "efficiency that could be followed with the determination of the amount of the sanction in the initiation agreement never could justify the violation of the fundamental rights of the accused that such an act tuation entails".

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It is added to what has already been stated in the proposal phase that the AEPD understands that the interpretation literal interpretation of the precept that he has been doing is consistent with the provisions of the different sections of the article and that it is not the responsibility of this body to pronounce on on the alleged unconstitutionality of this legal provision. On the other hand, the room of the Administrative Litigation of the National High Court has resolved numerous re- courses against resolutions of the AEPD issued in procedures whose agreement of the beginning fixed, as in this one, the amount of the sanctions, without it having been raised by the appellants nor by the Court the controversy over the interpretation and application of



the standard that the claim raises.

On the alleged rupture of the principle of separation of the phases of investigation and resolution derived from having set the decision-making body in the initial agreement the im-size of the sanction, thus conditioning the independence of the instructor, it does not seem that In the case that concerns us, the conditioning of the instrumental organ has taken place. tructor to which allusion is made by the claimed.

b. Violation by the AEPD of the rules that regulate the procedure penalty in terms of personal data protection and "the consequent expiration a limine of the procedure", which entails a vice of nullity of the article 47.1.e) LPACAP.

EQUIFAX maintains that the AEPD has totally and absolutely dispensed with the procedure legally established in articles 64 and 67 of the LOPDGDD and has incurred in a derogation from the powers attributed to it by the LOPDGDD and the RGPD. Let-tion that has generated damage "because it has been considered by the AEPD as an aggravating circumstance of the type the continuing nature of the alleged infringement during the period in which the AEPD declined to carry out any offense against Equifax".

Regarding the procedure, it transcribes articles 64.2 and 67 of the LOPDGDD and says that these provisions unequivocally infer that the LOPDGDD, for reasons legal certainty for the company, has established a procedure re-glado and with clearly marked time limits". Consider, therefore, that

The admission to processing of the claim must occur without interruption within three months; the optional performance of investigative actions for a maximum period of twelve months and the opening of a sanctioning procedure pain Thus, it affirms that the admission to processing of a claim by the AEPD su-puts the recognition of the existence of indications of violation of the regulations of

protection of data and this should imply -argues EQUIFAX- that they carry out preliminary investigation actions or, if you consider that the infringement is manifest, as seems to happen in the present case, to proceed immediately to the opening of the sanctioning procedure.

In view of the foregoing, the respondent draws the "obvious consequence" that if the The first claim was admitted on May 30, 2019 and the AEPD decided not to carry out carry out investigative actions "the Agreement to initiate this proceeding should be from that date, so, being the maximum duration of the procedure of nine months, the resolution [...] should have been issued on March 2, 2020." Y

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adds: "In this way, the AEPD issued the Start Agreement long after the date on which the resolution should have been issued if it had met the specific requirements established in the data protection regulations, with which all actions should be considered expired." (emphasis ours)

It also refers to the situation of "inactivity" in which it considers the AEPD incurred in in connection with the claims that were brought against EQUIFAX relating to the FIJ.

It supports such a conclusion in that of the 97 claims (96, because the claims are repeated), parties 3 and 27) admitted to EQUIFAX, only some of the they; in that although all were admitted for processing, some were "without a minimum legal reasoning"; in which the first claim (claimant 25) entered the AEPD on 05/30/2019 and in which the AEPD did not carry out investigative actions prior, so, he affirms, from the admission to processing of the claims until

the Agency dictates the agreement to initiate the sanctioning procedure that concerns us, the 07/24/2020, did not take any other action.

The procedures carried out by this Agency to which the respondent refers must do with the process of admitting the claims received, which included for some of them the transfer of the written claim to the person in charge prior to the agreement of the AEPD of its admission for processing.

In accordance with the provisions of article 55 of the RGPD, the AEPD is competent to perform the functions assigned to it in article 57, including that of enforce the Regulation and promote the awareness of those responsible and in charge of the treatment about the obligations incumbent on them, as well as deal with the claims presented by an interested party and make the necessary relevant research.

Correlatively, article 31 of the RGPD establishes the obligation of those responsible and those in charge of the treatment to cooperate with the control authority that requests it in the performance of their duties. In the event that they have appointed a data protection delegate, article 39 of the RGPD attributes to him the function of cooperate with that authority.

Article 65.4 of the LOPDGDD has provided for a mechanism prior to admission to processing of the claims that are formulated before the AEPD that consists of giving transfer of them to the data protection delegates designated by the responsible or in charge of the treatment, for the purposes provided in article 37 of the aforementioned norm, or to these when they have not been designated, so that they proceed to the analysis of said claims and to respond to them within a month. It is about of an optional procedure, so that this transfer is carried out if the AEPD so esteem.

In accordance with this regulation, prior to the admission for processing of the

claims that give rise to this proceeding, the claimant was notified of some of the complaints received so that it could proceed with its analysis, response to this Agency within a month and prove having provided the claimant the due response.

The result of said transfer was not satisfactory, therefore, for the purposes foreseen

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in its article 64.2 of the LOPDGDD, it was agreed to admit claims for processing presented through agreements that were duly notified to the claimants

and not the one claimed, in accordance with the provisions of article 65.5 of the LOPDGDD.

The respondent affirmed in her arguments to the initial agreement that the previous phase of investigation remained open for more than sixteen months without any

exercise. In this regard, we must underline that the opening of a preliminary phase of

The investigation is optional in accordance with article 67 of the LOPDGDD.

No legal consequence can be attributed to the time elapsed between the admission to processing of the claims and the opening of the procedure, as there is no rule that limits the time available to the Administration to start this type of procedures beyond the rule of prescription and the effects that are attribute.

The respondent draws attention to the inactivity of the AEPD which, in her opinion, is evidenced in the time elapsed between receipt of a claim and the opening of the sanctioning procedure. In relation to claimant 25, whose claim entered the AEPD on 05/30/2019, considers that, since it was decided not to

transfer the claim or open preliminary investigation proceedings, it should having issued the agreement to open the sanctioning file in that same date, 05/30/2019, so the resolution should have passed on 03/02/2020, several months before the Agency agreed to open the sanctioning procedure what concerns us

EQUIFAX understands that this unjustified inactivity results in the expiration of the present procedure, given that the term to resolve would be expired in the same date on which the initiation agreement was issued. In this sense, he considers that the Articles 64.2 and 67 of the LOPDGDD establish three successive phases without solution of continuity (admission for processing, preliminary investigation actions and opening of the sanctioning procedure), each of them with marked time limits, so that, if you choose not to carry out preliminary investigation actions, once Once the claim is admitted for processing, proceed immediately to the opening of the penalty procedure.

This statement by the respondent is not admissible. It should be noted that not there is no rule applicable to the sanctioning procedure in terms of protection of personal data that establishes a preclusive period to agree on its opening. That the expiration term of this procedure, established in nine months, is computed from the date on which its start is agreed, so it is inadmissible to add to that computation, in order to measure the duration of the administrative file, another period, such as the time of the previous investigation actions, in the event that had agreed to its realization, or, in this case, the time corresponding to the phase admission to processing of the claims submitted.

This has been repeatedly declared by our Supreme Court. In Judgment of 10/21/2015 cites the Judgment of 12/26/2007 (appeal 1907/2005), which declares the

Next:

"[...] the term of the procedure [...] is counted from the initiation of the file

sanctioning, which obviously excludes from the calculation the time of the information

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reserved";" [...] the greater or lesser duration of the preliminary phase does not entail the expiration of the subsequent procedure.

Also in the Judgment of the Supreme Court of 10/13/2011 (appeal 3987/2008) that examines a ground of appeal relating to the calculation of the expiration period of the procedure, the following is declared:

"We cannot share the reasoning that the Court of Instance exposes to set a dies a quo different from the one established by the Law, indicating as the initial date of the computation the day following the completion of the preliminary informative proceedings.

[...]

Well, once these preliminary actions have been carried out, the time it takes for the Administration in agreeing to initiate the procedure [...] may have the consequences that proceed in terms of the computation of the prescription (extinction of law); but it cannot be taken into consideration for expiration purposes, since what this figure intends is to ensure that once the procedure has started the Administration does not exceed the term available to resolve. in the foundation third of the judgment appealed the Court of instance performs an interpretation of the norm that is not in accordance with the nature of the institution of expiration, since difference from the prescription, which is cause for the extinction of the right or responsibility in question, expiration is a mode of termination of the

procedure by the expiration of the term established in the norm, reason why its appreciation does not prevent, if the term established for the prescription of the action has not elapsed reestablishment of urban legality by the Administration, the initiation of a new procedure.

Abounding in the invoked inactivity of the AEPD, it cannot even be considered that that period to which the claim refers, which includes the time elapsed between the admission for processing of the claimant's claim 25 and the opening of the procedure that concerns us, is a period of inactivity of this Agency, given that during that time the admission procedures were carried out for the rest of the claims.

c. Among the behaviors that would have vitiated the radical nullity of the procedure that we are dealing with the claimed mentions the "main circumstances" that have been produced during the processing whose overview shows that the procedure has been carried out with a complete and repeated impairment of the rights that within the framework of the sanctioning administrative procedure are granted by the sections 1 and 2 of article 53 of the LPACAP and to this end refers to the following circumstances:

1. No investigative actions were carried out prior to the opening of the agreement to initiate the sanctioning procedure.
2. Delay in sending the copy of the administrative file: it is received by the entity on the penultimate day of the ordinary period granted to plead, although it is granted by the AEPD the extension of the term for the maximum legally permitted, five days, and in Consequently, he received it when there were only six days left to issue his pleadings. tions. Remember that the submitted file had an extension of 2,974 pages.
3. On 12/23/2020, the AEPD sends you a letter indicating that "it has been verified unfortunately, an incident of a technical nature severed part of the do-

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documentation that was part of the administrative file. He says that in the aforementioned letter no term is granted for allegations since it was limited to indicating that the instructor did not would proceed to the opening of the test phase until after at least ten days working days computed from the date of notification of the writing. He adds: "All this without re-any reference to the principle of integrity of the electronic administrative file sacred by article 70.3 of the LPACAP".

4. "The aforementioned file turned out to be increased to 4,319 (that is, an ex-higher voltage by more than 45% to that of the originally submitted file), which which motivated my principal to expressly request the granting of a term for the issuance of allegations and that the term for it be extended. The AEPD limited itself to weigh said request, indicating the specific date on which it would agree to open the petition. period of trial, but without expressly granting my client any term to allegations." (emphasis ours)

5. The test phase does not start until 01/20/2021, when almost six months from the opening of the initiation agreement.

6. The proposed resolution is notified to EQUIFAX on 03/29/2021. In it, the two im-initial putations, contained in the initiation agreement, are expanded with three new in-fractions "without any of them resulting from obtaining information any additional information that could have justified that triple imputation." warns not to we are not before a new legal classification of the infractions but before three new offenses added by the AEPD "[...] in the last stage of the procedure, three



new accusations on a legal basis that could have been used in his

integrity at the time the Initiation Agreement was issued.”

7. That, in accordance with the changes introduced with the proposed resolution, it was requested,

under article 32.1 LPACAP, the extension of the term of allegations by the ma-

maximum legally permitted (five days). However, "the AEPD limits this expansion

within a single day in view of the obvious risk of expiration of the procedure.

It affirms that “In this way, my principal appears to be denied a right that the law

granted as a consequence of the delay in the processing of the procedure only

attributable to the actions of that AEPD, which in no case should result in

to the detriment of the Administrator.” (emphasis ours)

Regarding what was stated by the complainant in point 1, we refer to the

considerations made in section b) above.

Regarding the statement in point 4, according to which the documentation that

was not sent to EQUIFAX on 08/12/2020 represented "more than 45%" of the file

It should be noted that it incurs a numerical error, since the pages that the file

e-mail did not incorporate the requested copy represented slightly less than 33% of the

documentation that included it.

Otherwise, the circumstances that the respondent details in her allegations to the

motion for a resolution, in particular what is indicated in points 2, 3 and 4, were

also raised in its two pleadings to the initial agreement. summoned

then the helplessness suffered as a consequence of having been limited and

ostensibly reduced their ability to formulate “complete and

informed” against the agreement to initiate the disciplinary proceedings.

In his second brief of allegations to the opening agreement, he requested that it be declared

the nullity of full right of the sanctioning administrative procedure whenever

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the action of the AEPD violated their right to defence. He then stated that had violated articles 65.2.f) and 89.1 of the LPACAP because “the process of hearing of the interested parties and the right of the defendant to formulate allegations, in view of the administrative file, are configured as a guarantee essential part of the procedure, being the reflection in the administrative procedure sanctioning the right to effective judicial protection that assists the accused.”

The omission of the hearing process would have materialized, in his opinion, in these behaviors:

On the one hand, in that he could not have real knowledge of the file except with the scope of which he was notified before he formulated his allegations to the agreement of beginning. That four months after he presented his allegations to the initial agreement, the AEPD sent him a full copy of the file that manifest that in the first copy received more than 30 per cent of the file, with no correlation between the indexes of the two copies. For other, the omission of the hearing procedure was specified in his opinion in that the AEPD, in the letter that notified him on 12/23/2020, did not grant him a term to make allegations to the initial agreement but, says the entity, “[...] the concession or grace consisting of delay the initiation of the trial period for a period of ten days from the delivery of the aforementioned "completed" or "supplemented" file.

On the issues then raised by EQUIFAX, various clarifications in the motion for a resolution relating to certain factual elements to which the entity alluded when it based its request for radical annulment of the

administrative Procedure.

One of the details dealt with the electronic file that the AEPD has implemented, that guarantees the authenticity and integrity of the documentation and that reflects all the actions carried out in a certain procedure and all the documentation that includes it.

In the electronic file, the computer system orders the documents and procedures carried out following, exclusively, a chronological criterion. It's own system that generates or prepares the copy of the file, so that this circumstance, together with the extraordinary volume of the file, meant that, in the copy generated to respond to the transfer requested by the respondent on 08/03/2020, no one would have detected that not all of the documentation that was integrated. The fact that the 1,435 documents omitted from the first copy appeared in the copy transferred to the one claimed in December 2020 interspersed with the previous ones, with the consequence that the initially provided index was also altered, was the result, exclusively, of the chronological criteria followed by the computer system to order documentation.

The second precision was related to the assertion made by EQUIFAX that the AEPD did not grant him a period to formulate complementary allegations to the initiation agreement once she had access to the full copy of the file administrative. We refer in this sense to the Eighth, Ninth and Tenth in which the "iter" of the events is detailed. The Eighth Antecedent refers to the letter that the instructor sent to the respondent on 12/23/2020 in the

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that, in addition to informing him that on that date he was sent a CD, encrypted,

With the complete copy of the administrative file, I communicated the following:

“In order to ensure that EQUIFAX can, once it has at its disposal

all the documentation that served as a basis for this Agency to adopt the agreement

start of the sanctioning file PS/000240/2019, make the allegations and provide

the documentation that it deems pertinent, the instructor of the file will not proceed to

the opening of the test phase until at least ten business days have elapsed

computed from the date of notification of this writing, if the notification were

after December 28, 2020. If the notification of this communication were

prior to December 28, the ten business days will be computed from that date, for

be on this date that, ultimately, the courier company has

guaranteed that you will deliver the shipment containing the CD media with the

documentation referred to. (emphasis ours)

The brief dated 12/23/2020 that was notified to the respondent emphasized that, once

who had in his possession the complete copy of the administrative file, the procedure to be

to follow was "to make allegations and provide the documentation it deems pertinent", to

which was necessary a period of time in which the procedure was not

advance to the next phase, the test phase. Materially what was granted to the

claimed in the aforementioned brief was a period to argue, regardless of whether the

expression was formally inappropriate.

The same conviction of respect for the right of the respondent to make allegations, is

reflected in the response to his request for a delay of five days plus the

opening of the evidence phase of the sanctioning procedure. In the writing of the

Instructor in response to your request for extension of the term to allege, dated

01/13/2021, received by the respondent on 01/14/2021, indicating:

“Notwithstanding the provisions of article 76.1 of Law 39/2015, of the Procedure

Common Administrative of Public Administrations (LPACAP), with the same

purpose of guaranteeing the legitimate right of defense of EQUIFAX that inspired the

written that was sent to that entity by the instructor of the file on

12/23/2020, you are informed that the evidentiary phase of the case will not be opened.

procedure until expired on 01/15/2021.” (emphasis ours)

It was also recalled - we refer to the Tenth Precedent, section I - that, given

aware that the acknowledgment of GEISER, relative to the presentation by EQUIFAX in the

electronic headquarters of the AEPD on 01/20/2021 of a document of allegations

complementary to the initiation agreement PS 240/2019, indicated that no

incorporated neither that document nor any other, various steps were taken to

alert the respondent of what happened and prevent the presentation of their claims from being frustrated.

supplementary arguments to the initial agreement, until finally, on the date

01/24/2021, it was recorded in the acknowledgment of presentation of GEISER that the

claimed annexed the aforementioned pleadings brief.

The legal effect that the respondent attributed then (in its allegations to the agreement

beginning) and continues to attribute to the exposed facts, is the absolute nullity of the

administrative procedure, under article 47.1. LPACAP, precept that

has:

“The acts of the Public Administrations are null and void in cases

following: [...]

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a) Those that violate rights and freedoms subject to constitutional protection

[...]

e) The dictates disregarding totally and absolutely the procedure legally established or of the norms that contain the essential rules for the formation of the will of the collegiate bodies.”

As stated in the proposal document, taking into account the procedures followed in the procedure, procedures described in the Background and, in particular, for what is of interest here, in the Fifth to Tenth Antecedents, it is obligatory to reject the defendant's thesis that there had been a "total" and "absolute" omission of the rules of procedure.

If there was a delay of the AEPD in the delivery of the copy of the file that, in words of the respondent, meant that the period for pleadings was reduced to six business days, it was due to the volume of the file that prevented a notification electronics; but this circumstance cannot make us forget that the entity left

One business day has elapsed since the initiation agreement was notified to you, on 07/30/2020, and until he requested the Agency, on 08/03/2020, to send a copy of the file.

Nor can it be forgotten that both with regard to his initial allegations, 08/19/2020, as to the complementary allegations the Agency has always agreed the requested extension of time. On the other hand, although the entity argues that, as consequence of the reduction of the time available, has been ostensibly limited their ability to make “full and informed” allegations against the agreement to start the sanctioning file, nothing prevented him from completing his allegations in what it deems appropriate after the expiration of said period, in accordance with to the provisions of article 76 LPCAP, which it did not do.

It was added that EQUIFAX could have formulated in the second pleadings brief to the initial agreement, dated 01/24/2021, these “complete and informed” allegations

which, she says, she was forced to do without due to lack of time, especially when she  
itself had recognized that there were no substantial differences between the  
claims that made up the copy of the file initially sent and the 42  
omitted claims whose documentation you could access on 12/24/2020 -yes  
we abide by what is indicated in the acknowledgment of receipt of the MRV company that operates in the  
file- or on 12/28/2020 -according to one of the versions of the entity- or in  
date 12/26/2020 -according to another of its versions-.

As indicated then, it was enough to go to the brief of complementary arguments  
of EQUIFAX to verify that in it the entity was limited to ratifying its  
arguments to the initiation agreement presented on 08/19/2020; to do an analysis of the  
42 claims omitted based on the same categories that had been differentiated in  
his first pleadings brief and, mainly, to argue his claim that  
the nullity of the procedure will be declared for being vitiated by absolute nullity.

In short, it is not possible to accept the claim of the respondent that there had been  
produced a total and absolute omission of the legally established procedure -which  
is the presupposition of the rule of article 47.1.e) LPACAP whose application invokes neither  
therefore, the procedure was vitiated by radical nullity.

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It was answered by this Agency with a mention to the SAN, Contentious Chamber  
Administrative, Section 1, of 03/08/2019 (appeal 20/2018), F.J. Fourth, reflecting the  
position on the matter held by the Supreme Court:

“[...] When a procedural step has been omitted, but it has not been totally and

absolutely of the legally foreseen procedure, we find ourselves with the possibility that the act may be voidable in accordance with art. 48.2 of the Law 39/2015, of October 1, although in this case only the declaration of nullity if the act lacks the essential formal requirements to achieve its end or if it has left the interested parties defenseless, as has already been pointed out. However, there is no defenselessness for these purposes, as stated by the Judgment of the Supreme Court of October 11, 2012 -appeal no. 408/2010 -, "yes the interested party has been able to allege and prove in the file what he has considered opportune in defense of their rights and position assumed, as well as resorting in replacement, doctrine that is based on article 24.1 CE, if it was done within the file the allegations it deemed appropriate" (S.T.S. February 27, 1991), "if it exercised, in purpose, all the proceeding resources, both administrative and jurisdictional" (STS of July 20, 1992). (emphasis ours)

Therefore, "if the interested party in an administrative or contentious-administrative appeal has had the opportunity to defend himself and assert his views, he can understand that the omission has been corrected and becomes inconsequential for the real interests of the appellant and for the objectivity of the control of the Administration, reconciling the constitutional prohibition of defenselessness with the advantages of principle of procedural economy that complements the first without opposing it at all to the same and that excludes useless procedural actions for the purposes of the procedure" (SS.TS. of July 6, 1988 and June 17, 1991).

In addition, it also declares the High Court Judgment of October 11, 2012, which "If despite the procedural omission, the trial court has the sufficient elements of judgment to form a conviction that serves to decide the dispute correctly, must go on to analyze and prosecute the merits of the matter"; and this is so "because the theory of nullity of administrative acts must be applied



parsimony, being necessary always to weigh the effect produced by the cause determinant of invalidity and the consequences that would have followed the correct governing procedure of the actions that are declared null" (S.TS. of July 20 of 1992 ), because "it is evident that if the guarantee of the company is obtained Indeed, it is not necessary to declare annulments if they are only to serve to delay the resolution of the substantive issue" (SS.TS. of June 14, 1985, 3 of July and November 16, 1987 and July 22, 1988).

In summary, the Supreme Court concludes that "the vice of form or procedure does not is invalidating in itself, but as long as the assumptions that the act lacks the essential requirements to achieve its purpose or gives rise to the defenselessness of the interested parties [...]".

Regarding the claim that the nullity of the procedure be declared protection of article 47.1.a) LPACAP, due to violation of the right to defense and of the procedural guarantees that the jurisprudence frames in the article 24.2 of the Constitution, based on the factual clarifications that have been faced

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to what is invoked by EQUIFAX, we must abide by the criteria set by the case law in interpreting the scope of the aforementioned LPACAP provision.

The jurisprudential doctrine on the matter requires that, in any case, produced an effective and real injury to the right whose violation is invoked.

Although the respondent affirms that she has suffered a real and effective impairment of her right of defense, the truth is that this injury is not proven since it has been able to

exercise their right of defense by formulating their pleadings within the deadlines granted for this purpose. We refer on the matter to the STC 78/1999, of 26 April, in which Legal Basis 2, states:

"Thus, according to reiterated constitutional doctrine that is synthesized in the foundation legal 3 of the STC 62/1998, 'the estimation of an amparo appeal by the existence of breaches of procedural rules 'does not simply result from the assessment of the eventual violation of the right due to the existence of a defect procedural more or less serious, but it is necessary to prove the effective concurrence of a state of material or real defenselessness' (STC 126/1991, legal basis 5º; STC 290/1993, legal basis 4º). So that a helplessness can be estimated with constitutional relevance, which places the interested party outside any possibility of claim and defend their rights in the process, a violation is not enough merely formal, being necessary that a formal effect be derived from this formal infringement. defenseless material, an effective and real impairment of the right of defense (STC 149/1998, legal basis 3), with the consequent real and effective damage to the affected stakeholders (SSTC 155/1988, legal basis 4, and 112/1989, 2nd legal basis)." (Underlining is ours)

Finally, it remains to respond to the two behaviors outlined by the claimed in the points 6 and 7 as determinants of the nullity of the procedure.

The first of them, the extension of the object of the sanctioning procedure in the phase of motion for a resolution -since the defendant was charged with three new infractions, of articles 5.1. b), 5.1.c) and 14 of the RGPD, which were added to the two provided for in the opening agreement, article 6.1., in relation to 5.1.a, RGPD and the 5.1.d) RGPD- which will be the subject of an independent analysis in the following section.

Regarding the conduct described in point 7, the following is indicated. The claimant has stated that, in accordance with the changes introduced with the proposed resolution,

requested, under article 32.1 LPACAP, the extension of the term of allegations for the maximum legally permitted (five days) but the Agency limited such extension within a single day, in view of the evident risk of expiration of the procedure. therefore, "In this way, my principal seems to be denied a right that the law grants him as a consequence of the delay in processing the sole procedure attributable to the actions of that AEPD, which in no case should result in to the detriment of the Administrator." (The emphasis is ours).

Article 32 LPACAP provides that "1. The Administration, unless otherwise stated, may grant ex officio or at the request of the interested parties, an extension of the deadlines established, which does not exceed half of them, if the circumstances so they advise and with this the rights of third parties are not harmed. The expansion agreement It must be notified to the interested parties." (The emphasis is ours).

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This Agency considers that, while article 32 LPACAP specifies the potestati- vo that the Administration has to agree on the extension of the procedural deadlines, the not having granted EQUIFAX the requested extension of the term, given that His request was answered, denying it, before the end of the period to formulate allegations. initially granted, cannot entail a violation of the right of defense sa of the claimed or an infraction of the rules of the administrative procedure, still less can it imply that this decision would have completely dispensed with and absolute (article 47.1.e) of the rules that regulate the procedure. d. The fourth reason that, in the opinion of the claimed invalidity radical the

sanctioning procedure is the defenselessness generated by being deprived of the “right to know the specific accusations directed to limine against her and her rights of defense and contribution of evidence pertinent to their right, enshrined in article 24.2 of the Constitution as a manifestation of the right to effective judicial protection.”

Vice of nullity that would be a consequence of the fact that the resolution proposal extended the object of the procedure and in it the defendant was charged, in addition to the two Sections of the RGPD established in the initial agreement (articles 6.1 and 5.1.d) three new infractions, of articles 5.1. b), 5.1.c) and 14 of the GDPR.

In his opinion, such conduct is not covered by the regulations governing the procedure. administrative proceeding in general nor, in particular, in that of the procedure in matters of data protection.

Considers that, in light of articles 89.3 and 90.2 LPACAP, it is concluded that it is exclusively the initial agreement which establishes the limits over which it can be carried out the final qualification in the proposed resolution. That the proposed resolution cannot make new imputations, but only modify the initial qualification. cial made in the initiation agreement, making an imputation or imposing a sanction more serious than that established in the opening agreement. And that the additional imputations would require the processing of a new procedure.

In the matter that concerns us, the facts prosecuted were qualified in the agreement of beginning of the sanctioning file as constituting respective infractions of the articles 6.1, in relation to 5.1.a) of the RGPD and 5.1.d) RGPD, infringements both typified in article 83.5 RGPD and qualified by the LOPDGDD, for the purposes of prescription, of very serious infractions.

In the resolution proposal phase, it was considered necessary to broaden the object of the proceeding based on the facts that had been detailed in the settlement agreement.

opening and imputing to EQUIFAX, in addition to the infractions of the Regulation established in said agreement, two violations of articles 5.1.b) RGPD, 5.1.c) RGPD and 14 RGPD, all typified in article 83.5 of the Regulation and qualified by the LOPDGDD, for prescription purposes, of very serious infractions.

Regarding whether or not it is appropriate to extend the legal classification in the proposal phase of the facts set forth in the Home agreement and the impact that such a change may have in the right of defense of the denounced entity, it should be noted that nothing

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prevents making this modification as long as, as is the case now, it remains

The facts on which the accusation made is based are invariable.

The first of the rights that article 53.2 of the LPACAP recognizes in favor of the

The responsible party in the sanctioning procedure is the one who is notified of the facts that are imputed to him; the infractions that such facts may constitute and the sanctions that, if applicable, could be imposed on them.

The Constitutional Court has been pointing out that “the essential content of the right

to be informed of the accusation refers to the facts considered

punishable by the accused” (STC 95/1995). Unlike what happens

with the facts, the Constitutional Court (TC) in Judgment 145/1993 warns that the

communication to the presumed offender of the legal qualification and of the possible sanction to imposing does not integrate the essential content of the right to be informed of the accusation.

To such an extent, it is important to make known the constitutive facts of the

the administrative infraction, that the T.C. declared that the requirements of article

24.2 of the CE are satisfied fundamentally with the sole communication of the facts imputed to be able to defend themselves on them (STC 2/1987 and 190/1987). In this line the Supreme Court, Judgment of March 3, 2004, states that "the purpose of the initial agreement is to report on the alleged facts and not on the legal qualification, which will be in charge of the resolution proposal". (The underlined is from the AEPD).

The respondent considers it legally inadmissible that in the proposed resolution the object of the procedure could be extended and affirms that this possibility is proscribed in the LPACAP and that was not even allowed during the term of REPEPOS that it only admitted to change in the process of resolution proposal the qualification legal facts.

For these purposes we have to bring up the SAN of 03/12/2016 (appeal 312/2014).

The second Legal Basis begins by reflecting the issues raised by the plaintiff that affect the sanctioning procedure, among which it alleges "the infringement of the informative principles of the sanctioning law and, specifically of the principle of "reformatio in peius", alluding to the fact that although the procedure was initiated on the occasion of an infringement of art. 5.1 of the LOPD, classified as mild, and another of the art. 6 of said norm, considered as serious, the proposed resolution altered the legal qualification, appreciating two infractions of art. 6 of the LOPD, qualified as serious, and a violation of art. 5.4 of the indicated standard, also qualified as serious. [...]"

The SAN responds to the question raised by the plaintiff in the following terms:

"As a result of what was raised by the plaintiff, it is convenient to reflect the constitutional doctrine and the jurisprudence on the scope of the right of those sanctioned to be informed of the accusation during the processing of the sanctioning administrative procedure and the limits to be respected by the sanctioning body in the exercise of its

sanctioning power safeguard the right of defense of that.

The inspiring principles of the criminal order are applicable, with certain nuances, to the

Sanctioning Administrative Law, given that both are manifestations of the

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punitive system of the State, as reflected in its own Constitution, a reiterated

jurisprudence of our Supreme Court and the doctrine of the Constitutional Court

(in this sense, Judgments of the Supreme Court of April 28, 2014 -appeal no.

364/2013 -, and of April 9, 2014 -appeal no. 212/2013 -, among others)

[... For its part, the Supreme Court has also established that one of the guarantees

applicable to the sanctioning administrative procedure derived from the right of

defense recognized in art. 24 of the Constitution is to be informed of the

accusation to be able to adequately defend oneself, as established in the Judgment

of the Supreme Court of November 3, 2003 - appeal no. 4,896/2000 -, whose

doctrine is reiterated in the Judgments of said Court of May 21, 2014

-resource no. 492/2013 -, and of October 30, 2013 -appeal no. 2,184/2012-, in the

following terms: "Well, from the doctrine of the Constitutional Court and the

The jurisprudence of this Chamber should highlight the following principles:

a) [...] In relation to this transfer operation of the guarantees of art. 24 CE to

sanctioning administrative procedure [...], has been progressively elaborated

in numerous resolutions a consolidated constitutional doctrine, which cites

as applicable, without exhaustiveness, the right of defense, which proscribes

any helplessness; the right to be informed of the accusation, with the unavoidable

consequence of the inalterability of the imputed facts; the right to

presumption of innocence, [...]

b) Among the guarantees applicable to the sanctioning administrative procedure is

finds, of course, that of being informed of the accusation in order to be able to defend himself

properly; and such information includes the facts attributed, the qualification

of the same and the sanction that is proposed. Now, the strict correlation

between accusation and decision refers to the facts and not so much to the legal qualification,

since the facts subject to the charge remain unchanged, the proposal for

resolution and, ultimately, the sanctioning decision may use another title of

sentence with two limits: the impossibility of being included in said resolution of the

procedure a legal qualification of greater seriousness than that reflected in the

communication of charges addressed to whoever is subjected to the sanctioning file, and

the impossibility of appreciating in the resolution a legal qualification different from the

communicated if there is heterogeneity in the legal rights protected or if the

infringement definitively considered incorporates some element of the type that does not

corresponds to that which was notified and on which the sanctioned party has not had, in

consequently, defense opportunity. And there is no variation of the facts between the

statement of objections, the resolution proposal and the sanctioning decision when,

Although the terms used are not exactly the same, they are similar and what

there is a different technical-legal assessment of them (Cf. SSTC 98/1989 and

145/1993)." (The underlining is from the AEPD)

This same criterion has been maintained by the A.N. after the entry into force of the LPACAP.

This is confirmed by the SAN of 02/07/2020 (appeal 915/2018) in which the resolution of the

The challenged AEPD had been issued during the validity of that regulation of

process.

Finally, in line with what was stated by the respondent, who states that the enlargement



of the object of the procedure in the proposal phase has undermined their right to

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defense, having been deprived of the possibility of providing the evidence that

considered appropriate for the legitimate exercise of their right, it should be remembered that the

Article 82 LPACAP, which regulates the hearing process, provides in section 2:

"Those interested, within a period of not less than ten days nor more than fifteen, may  
plead and present the documents and justifications they deem pertinent."

Therefore, in view of what has been exposed through sections a) to d)

precedents, in which the reasons that, in the opinion of the respondent, have been examined

would determine the radical nullity of this proceeding due to the concurrence of the

circumstances of article 47.1.a) and e) LPACAP, we believe that such claim must be

be rejected.

IV

Of the presumed recognition by the AEPD of the legality of the FIJ during the validity of the  
legal regime prior to the RGPD and the legal effects that in the opinion of the  
claimed are derived from it.

1. Reference to the legal regime prior to the RGPD.

Organic Law 15/1999, of December 13, on the protection of personal data

(LOPD), which transposed Directive 95/46/CE, of the

European Parliament and of the Council, of 10/24/1995, established in its article 6:

"1. The processing of personal data will require the consent

unequivocal of the affected party, unless the law provides otherwise.

2. Consent will not be required when personal data is collected

for the exercise of the functions of public administrations in the field

of their competencies; [...] or when the data appears in sources accessible to the public and

its treatment is necessary for the satisfaction of the legitimate interest pursued by the

responsible for the file or by the third party to whom the data is communicated, always

that the fundamental rights and freedoms of the interested party are not violated.”

In turn, article 3 of the LOPD defined public access sources as follows:

“j) Sources accessible to the public: those files whose consultation can be made,

by any person, not impeded by a limiting norm or without further requirement that,

where appropriate, the payment of a consideration.”

The judgment of the Court of Justice of the European Union of 11/24/2011 (cases

C-468/10 and C-469/10), which resolved the preliminary ruling raised by the

Supreme Court and whose pronouncement was collected in the STS of 02/08/2012

(appeal 25/2008) states (paragraph 36) that the Member States cannot

introduce, under the provisions of Article 5 of Directive 95/46, principles

regarding the legitimacy of the processing of personal data other than those

set forth in Article 7 of that Directive or modify, by means of requirements

additions, the scope of the six principles established in said article 7.

It added in paragraphs 38 and 39 that article 7, letter f), establishes two requirements

cumulative for a processing of personal data to be lawful, namely, by a

part, that the processing of personal data is necessary for the satisfaction of the

legitimate interest pursued by the controller or by the third party or

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third parties to whom the data is communicated, and, on the other, that the fundamental rights and freedoms of the interested party. And he concluded that it follows that, with regard to the processing of personal data, article 7, letter f), of the Directive 95/46 opposes any national legislation which, in the event that there is no consent of the interested party, impose additional requirements that are added to the two cumulative requirements mentioned in the previous section.

Given the incorrect transposition that was made in the national law of said precept, the STJUE (paragraphs 51 and 55) recognizes the direct effect of article 7.f) of the Directive 95/46 with the consequence that from then on it had to be understood as displaced (which not annulled) the rule of article 6.2 LOPD in favor of the aforementioned precept. Until the publication of the judgments of the CJEU and the TS, the AEPD and the Courts of justice applied article 6.2. LOPD in connection with article 3.j) and concluded without further ado than the treatment of data obtained from those access sources public was deemed lawful.

As a result of the judgments of the CJEU and the TS, the circumstance that the data data had been obtained from a public access source defined in the Article 3. j) LOPD could no longer, by that mere fact, constitute the legal basis of personal data processing.

The relevance that from then on could be attributed to the circumstance that the data object of treatment came from sources of such nature is the one mentioned in paragraph 44 of the STJUE which indicates that with regard to the weighting required by article 7, f) of Directive 95/46 "it is necessary to take into account the fact that the seriousness of the injury to the fundamental rights of the person affected by said treatment may vary depending on whether the data already appears, or no, in sources accessible to the public."

After the STJE, the National High Court, in a judgment of 05/31/2012, upheld the contentious appeal filed against the resolution issued by the AEPD that sanctioned for infraction of article 6.1 LOPD, as a consequence of the treatment of the data of those affected without their consent to whom they sent emails electronic mail advertising your candidacy in the elections of a Professional Association.

The sanctioning resolution had rejected the legitimate interest invoked by the sanctioned as the basis of the treatment on the premise that the data treatises did not come from publicly accessible sources. The judgment of the Court National says:

“[...] It is possible, ultimately, and in accordance with said Community Jurisprudence, that there are personal data treatments that do not appear in one of those that our internal legislation calls "public access sources" (article 3.f) LOPD and article 7 RLOPD) but that, however, do not require the consent of the holders of such data because their treatment is necessary to satisfy a legitimate interest of the responsible of the same, or of the transferee, provided that the rights and freedoms of the interested party [...]” And he adds: “[...] Weighting of conflicting interests [...] will depend on the specific circumstances of each case and in which, however, it can be taken into consideration, in order to determine the possible infringement of the rights of the data subject, the fact that the data already appears, or not, in sources

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accessible to the public. Plus it, simply, as one more element of weighting.”

(emphasis ours)

In the regulatory framework of the RGPD, the position of the AEPD regarding calls  
public access sources is reflected in Report 136/2018, which recalls:

“[...] already in the 10th annual session it was stated that with the GDPR one cannot speak of a  
legal concept of public access source as the one existing with the previous LOPD. The  
Article 14.1 f) of the RGPD only mentions said concept to establish the  
obligation of the data controller to provide the data subject with information on whether  
your personal data comes from publicly accessible sources, but without defining these”.

In the same sense, the Report of 10/03/2019, (Entry Registration 045824/2019)  
pointed out that “[...] as of the entry into force of the RGPD, one cannot speak of a  
legal concept of “sources accessible to the public” such as the one that existed in the previous Law  
Organic 15/1993 [...] The RGPD only speaks of public access sources when regulating the  
right to information if the data has not been collected from the interested party”.

2. In the brief of allegations to the proposed resolution, through his allegation  
fourth - "On the assessments made by the AEPD on the basis of legal  
IV of the proposed resolution" - the respondent adduces, as it did in its  
allegations to the initial agreement, that the AEPD has violated the principle of trust  
legitimate and therefore does not concur in the performance of EQUIFAX the subjective element  
of the infraction, in such a way that no sanction could be imposed by virtue of the  
principle of guilt recognized in article 28 of Law 40/2015, of 1

October, of the Legal Regime of the Public Sector (LRJSP)

The first allegation of the brief of allegations to the proposal ratifies in its entirety  
the allegations that the respondent made against the agreement to open the  
process.

As reflected in the proposed resolution, the respondent alleged that, in the present

In this case, all the required elements were present to appreciate that the Agency had

violated the principle of legitimate expectations and mentioned to this end the STS of 02/22/2016

(appeal 1354/2014) according to which the breach of this principle would require the

concurrence of these elements:

(i) that is based on undeniable and external signs; (ii) that the expectations generated in

the administered must be legitimate; (iii) that the final conduct of the Administration

is contradictory with the previous acts, is surprising and incoherent.

In the opinion of EQUIFAX, this breach of the legitimate expectations of the AEPD would force the

archive of the procedure due to the absence of the culpabilistic element of the infraction.

In that sense, he invoked, in defense of his thesis that the AEPD had broken the

principle of legitimate expectations, the SAN of 02/04/2009 (appeal 304/2007) that declares

that the breach of this principle should lead to the annulment of the sanctioning resolution

resource object.

The sentence indicates that it is true that the motivation of the resolutions

administrative procedures required by article 54 of Law 30/1992 must allow the

change of criteria in decision making "but this change of criteria cannot

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have retroactive effect, especially in cases in which there had been

previous exculpatory pronouncements in the face of identical conduct

.” This SAN appointment, to his

again, another from the same Court on 06/13/2008 (appeal 55/2005) in which it indicates that “In

sanctioning matter, the new criteria, however reasonable they may be, [...]

their effects must unfold into the future, but never be projected into

past performances that fit existing criteria.

In turn, in the allegations that EQUIFAX made to the opening agreement, among other many considerations, stated specifically that the legal framework existing before of the effective application of the RGPD and after the STJUE of 11/24/2011, no had been altered if not reiterated, both in relation to the principle of legality and the principle of accuracy (remember that the opening agreement attributed to the claimed violation of both principles). Thus, on folio 18 of the pleadings brief to the opening agreement says the following:

“This also leads to the conclusion that the alleged treatment carried out carried out by my client [...] not only was it not contrary, but expressly covered by the current regulatory framework prior to the entry into force of the RGPD, being also necessary to add that this framework has not been altered, but by the contrary reiterated with said entry into force, both in what affects the principle of legality (which was also included in article 6.1.a) of the Directive as well as in what concerns the principle of accuracy [...]” (emphasis added)

On folio 22 of the pleadings to the opening agreement, the respondent underlined that the content of the rules allegedly violated had not been modified. It says in that sense:

“Everything that has been indicated, there is no doubt that it implies the existence of a manifest change of legal criteria on the part of that AEPD, which now considers radically illicit the treatment that had been understood to be lawful (without modified the tenor of the rules allegedly violated [...]”

At the same time, the respondent exposed in her allegations the opening agreement (which let us remember has expressly reiterated in his allegations to the proposal) that the initial agreement of PS/240/2019 represented a change of legal criteria, of way that the Agency violated the principle of legitimate expectations and security

legal, principles that must govern the actions of the Public Administrations

in accordance with article 3.1.e, of Law 40/2015, of October 1, on the Legal Regime of the Public Sector, (LRJSP).

If the AEPD had indeed violated the principles of legitimate expectations and legal certainty - which obviously has not happened - the consequence could be the filing of the file due to the absence of the culpabilistic element of the infraction. Now, for a violation of the principle of legitimate expectations to be appreciated, the change of legal criterion must be arbitrary and, therefore, cannot be motivated by a regulatory change.

At this point, it should be noted that, in the case we are analyzing, this normative change exists, so that in no case is it possible to conclude, as claims the claimed, that the AEPD has arbitrarily modified its criteria thus breaking the principle of legitimate expectations. The regulatory change is specifically in the repeal by the LOPDGDD of article 29.1 of the LOPD.

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EQUIFAX repeatedly implies that, to the extent that the rules that regulate the principles of legality and accuracy in the RGPD and in Directive 95/46 have not varied in essence, there is no other regulatory change that justifies the criterion followed in this proceeding processed before it.

The truth is, however, that EQUIFAX wields in its various writings of allegations, as a legal basis for the data processing carried out by the FIJ, an “express legal provision” that, says that entity, recognized the legality of systems



such as the FIJ: article 29.1 LOPD.

The controversy therefore arises around the legal framework in force before the effective application of the RGPD and after the STJUE so many times cited and if said legal framework considered or not in accordance with the regulations governing the right to protection of personal data the treatment that the FIJ carried out.

In the brief of allegations to the initial agreement, the respondent tried to corroborate her particular conception of the scope of article 29.1 LOPD with what is indicated in the agreement opening of the procedure. Thus, the motion for a resolution stated the following:

“The third allegation of the brief of allegations to the opening agreement of the procedure is dedicated to the “[...] the regulations pre-existing the RGPD and the action of the AEPD in relation to the File of Judicial Incidents”.

Arguments that the respondent expressly reiterated in her second written statement of pleadings to the opening agreement or complementary pleadings.

The entity stated in that third allegation of its brief that “[...] as recognizes the Agreement itself, the material norms whose violation is imputed to my principal have not changed in terms of their content as a result of the reform operated by the GDPR.”

“[...] based on the similarity, if not identity, between the regulations previously in force and the one included in the text of the RGPD, it is necessary to take into account that the systems such as the FIJ were expressly recognized in article 29.1 of the " LOPD. And that, in light of the jurisprudence issued by the CJEU, the conclusion is reached “that the data processing carried out by the FIJ was based on the provided for in Article 7 f) of the Directive [...]”. (emphasis ours)

He added “[...] that the alleged treatment carried out by my client [...] not only was not contrary, but expressly protected in the current regulatory framework prior to the entry into force of the RGPD [...]” And that said framework has not been seen

altered, but on the contrary reiterated with said entry into force, both in what

It affects the principle of legality as well as the principle of accuracy. (The underlining is ours)

These considerations of EQUIFAX forced to warn in the proposal of resolution that “the opening agreement referred, solely and exclusively, to the similarity that exists between article 6.1.f) of the RGPD and article 7.f) of Directive 95/46. The manifestations of the claimed may imply that the reference to the article 7.f) of Directive 95/46 that was made in the initial agreement is the same as the reference that she does to the regime provided for in the previous regulations, in which it is included, among other provisions, article 29.1 of the LOPD. Question that would lack all importance were it not for the fact that after establishing such equivalence the claimed

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goes on to affirm that the FIJ was recognized in article 29.1 of the LOPD and from there to affirm that the "data processing" carried out through the FIJ in the legal regime prior to GDPR was lawful.”

Well then, in the brief of allegations to the proposed resolution, the one claimed -in its fourth allegation, which is headed “On the assessments made by the AEPD on the basis of law IV of the resolution proposal ”- continues stating that, until the full implementation of the GDPR, and even after, until the entry into force of the LOPDGDD “there was an express legal provision that recognized the legality of information systems that collect information obtained with the consent of the interested party or of sources accessible to the public with the purpose of

assess the solvency of the interested parties. (emphasis ours)

The defendant expresses the thesis that she defends more clearly, not in this allegation fourth of the brief of allegations to the proposal but in the sixth allegation related to the legality principle.

Without prejudice to the fact that we return to the issue on the occasion of analyzing the infringement of article 6.1 RGPD, we anticipate that the defendant affirms, after saying that has an "obvious legal basis, the concurrence of a legitimate interest prevalent, for the treatment of the data in the FIJ." He adds that "Obviously, the Article 29.1 of the LOPD did not regulate the basic principles or the legal bases of the treatment, but determined that, on the basis of principles and legal bases identical to those contained in the RGPD, the treatment of the data collected in the itself was lawful. In other words, either article 29.1 of the LOPD exceeded its limits with respect to of the regime contained in the Directive, enabling nothing less than a treatment that violated its articles 6 and 7 in the terms assumed by the Resolution Proposal, something that neither the Court nor the Institutions of the European Union (and even less the own AEPD) even insinuated at any time or, remaining immutable the principles and legal bases, this treatment is as consistent with the GDPR as it was under Directive. This fact is indubitable, no matter how much it is tried to force the argument in another sense. (The emphasis is ours.

Given the continuous references of EQUIFAX in its allegations to the initial agreement that sought to protect the treatment carried out by the FIJ in article 29.1 LOPD, in the proposed resolution it was noted that the aforementioned file would have a place in the category or file system provided for in that precept as long as it respects the principles that governed the data protection regulations provided for in article 4 of the LOPD, data quality, and, in particular, the principle of limitation of the purpose of the treatment. And that, being the FIJ a credit information system that

does not obtain the data from the information provided by the interested party, nor does he provide his consent to treatment, but obtains the data from “records and sources accessible to the public”, the legal basis for this treatment could be, solely, the provided for in article 7.f) of the Directive.

It should be remembered, for this purpose, that article 37.1 of the RLOPD established that "The treatment of personal data on capital solvency and credit, provided for in section 1 of article 29 of Organic Law 15/1999, of 13 December, will be subject to what is established, in general, in said organic law and in these regulations."

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The change in the legal criteria of the AEPD, which in the opinion of EQUIFAX represents the procedure followed in front of her does not arise - as the claimed- regarding the legal bases of data processing or the principles governing it provided, respectively, in the Directive and the RGPD.

On the contrary, the change in the criterion attributed to the AEPD and that, supposedly, was reflected in the procedure at hand revolves around article 29.1 LOPD. Plus exactly, the intended change of criteria is nothing more than the disparate interpretation of the norm, of its meaning and scope, that do, respectively, this Agency and EQUIFAX.

In any case, article 29.1 LOPD is not in force. It was repealed by LOPDGDD, which entered into force on 12/07/2018, and neither in the RGPD nor in the LOPDGDD there is an equivalent standard.

For the reasons stated, the thesis that the AEPD has violated the principle of legitimate expectations. The procedure directed against EQUIFAX is consistent as has been indicated with the meaning of the STJUE and with the repeal of article 29.1 LOPD in which that entity intends to protect the treatment carried out through the FIJ.

Infringement of the purpose limitation principle

v

1. The behaviors that are subject to assessment in this sanctioning procedure are related to the treatment carried out by the claimed person through the FIJ of personal data of those affected that he obtained, for the most part, from the BOE, plus exactly from the Single Edictal Board of the BOE (TEU-BOE); of the official journals of the autonomous communities; of the Provincial Bulletins (BOP) and through the electronic or physical headquarters of Public Law bodies or entities. so what accredit the documents that are in the file related to the response to the access to the FIJ requested by those affected. In the light of these documents there are in the FIJ entries of alleged debts attributed to the claimants who were given registration in the file on very different dates, some of them in 2013.

The RGPD dedicates to the principles that govern the treatment of personal data article 5. Among them, it refers to the limitation of the purpose in article 5.1.b) according to which personal data will be "collected for specific purposes, explicit and legitimate, and will not be further processed in a manner incompatible with said purposes; according to article 89, paragraph 1, the further treatment of the personal data for archiving purposes in the public interest, research purposes scientific and historical or statistical purposes shall not be considered incompatible with the purposes initials" (emphasis added)

Recital 50 of the RGPD contributes to clarify the scope of this principle and

He says:

“The processing of personal data for purposes other than those for which they have been initially collected should only be allowed when compatible with the purposes of your initial collection. In such a case, no separate legal basis is required, other than which allowed the collection of personal data. If treatment is necessary

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for the fulfillment of a mission carried out in the public interest or in the exercise of public powers conferred on the data controller, the tasks and purposes for which subsequent processing must be considered compatible and lawful can be determine and specify in accordance with the Law of the Union or of the States members. Further processing operations for archiving purposes in the interest public, scientific and historical research purposes or statistical purposes must be considered compatible lawful processing operations. The legal basis established in the Law of the Union or of the Member States for the treatment of personal data can also serve as a legal basis for further processing.

In order to determine whether the purpose of further processing is compatible with the purpose of initial collection of personal data, the data controller, after having fulfilled all the requirements for the legality of the original treatment, you must take into account account, among other things, any relationship between these purposes and the purposes of the intended further processing, the context in which the data was collected, in particular the reasonable expectations of the data subject based on their relationship with the responsible for its subsequent use, the nature of the personal data, the

consequences for data subjects of the intended further processing and the existence of adequate guarantees both in the original treatment operation and in the planned further processing operation. If the interested party gave his consent or the treatment is based on the law of the Union or of the Member States that constitutes a necessary and proportionate measure in a democratic society to safeguard, in particular, important objectives of general public interest, the responsible must be empowered for the further processing of personal data, regardless of the compatibility of purposes. In any case, it must be guaranteed the application of the principles established by this Regulation and, in particular, the information of the interested party about those other purposes and about their rights, including the right of opposition. The indication of possible criminal acts or threats to the public security by the data controller and transmission to the competent authority of the data regarding individual cases or diverse cases related to the same criminal act or threat to public safety must considered to be in the legitimate interest of the controller. However, it should be prohibited that transmission in the legitimate interest of the person in charge or the subsequent processing of data personal information if the treatment is not compatible with an obligation of legal secrecy, professional or otherwise binding.”

The principle of limitation of the purpose prevents a treatment from being carried out subsequent personal data if the purposes of this treatment and those pursued by the original treatment are not compatible. Article 6 RGPD, regarding the "Legality of the treatment", dedicates its section 4 to enumerate the elements that allow to determine if processing for another purpose is compatible with the initial purpose for which they were collected the data:

“When the treatment for another purpose other than that for which the data was collected personal data is not based on the consent of the interested party or on the Law

of the Union or of the Member States which constitutes a necessary and proportionate in a democratic society to safeguard the stated objectives in article 23, paragraph 1, the data controller, in order to determine if processing for another purpose is compatible with the purpose for which they were collected initially the personal data, will take into account, among other things:

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a) any relationship between the purposes for which the data was collected data and the purposes of the intended further processing;

b) the context in which the personal data have been collected, in particular by what regarding the relationship between the interested parties and the data controller;

c) the nature of the personal data, specifically when categories are processed special personal data, in accordance with article 9, or personal data relating to criminal convictions and offences, in accordance with article 10;

d) the possible consequences for data subjects of the envisaged further processing;

e) the existence of adequate safeguards, which may include encryption or pseudonymization”

2. For the purpose of determining whether the treatment of the data of the claimants that has made EQUIFAX through the FIJ is or is not respectful of the principle set forth in Article 5.1.b) RGD, the starting point must be the origin of the processed data.

As has already been indicated, the data of the claimants were obtained, in their great majority, from the BOE, more precisely from the Single Edictal Board of the BOE (TEU-BOE); of the official journals of the Autonomous Communities; of the Provincial Bulletins



(BOP) and through the electronic or physical headquarters of organizations or legal entities

Public. The fact that the data of the complainants come from public sources,

basically from newspapers and official bulletins, evidence that these had been subject to

prior treatment for a specific purpose.

Article 44 of the LPACAP under the heading "Unsuccessful notification" states:

"When those interested in a procedure are unknown, the place is ignored.

of the notification or, if this was attempted, it could not have been carried out, the notification

It will be done by means of an announcement published in the «Official State Gazette».

Likewise, previously and on an optional basis, the Administrations may

publish an announcement in the official gazette of the Autonomous Community or the Province,

on the bulletin board of the City Council of the last domicile of the interested party or of the

Consulate or Consular Section of the corresponding Embassy.

The Public Administrations may establish other forms of notification

complementary through the remaining media, which will not exclude the

obligation to publish the corresponding announcement in the "Official State Gazette."

Article 45 of the LPACAP, "Publication", provides:

"1. The administrative acts will be published when so established by the

regulations governing each procedure or when advised by reasons of interest

public appreciated by the competent body.

In any case, the administrative acts will be published, supplying the

effects of the notification, in the following cases:

a) When the act is addressed to an indeterminate plurality of people or

when the Administration considers that the notification made to a single interested party is

insufficient to guarantee notification to all, being, in the latter case,

additional to the one carried out individually.

b) In the case of acts that are part of a selective procedure or

competitive competition of any kind. In this case, the call for

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procedure must indicate the means where the successive

publications, lacking validity those carried out in different places.

2. The publication of an act must contain the same elements as the article

40.2 requires regarding notifications. It will also apply to the publication

established in section 3 of the same article.

In the cases of publication of acts that contain common elements,

Coincident aspects may be published jointly, specifying

only the individual aspects of each act.

3. The publication of the acts will be carried out in the corresponding official newspaper, according to

whatever the Administration from which the act to be notified proceeds.

4. Without prejudice to the provisions of article 44, the publication of acts and

communications that, by legal or regulatory provision, must be made on the board

of announcements or edicts, it will be understood to be fulfilled by its publication in the Official Gazette

correspondent."

These precepts detail the cases in which the Administrations

Public, in compliance with an obligation imposed by the LPACAP, publish in

official bulletins and journals administrative acts and resolutions.

The notification, in the words of the Supreme Court (STS 03/07/1997) "consists of a

formal communication of the administrative act in question." The doctrine explains that

It is the mechanism through which the content of a document is transferred to the interested party.

act. On the other hand, the notification of acts and resolutions is mandatory for Public Administrations and a requirement to which its effectiveness is subject (article 39 of the LPACAP) Thus, the notification constitutes a guarantee for the company already that through it knows the acts of the Administration that affect their rights and legitimate interests, so it is an instrument that guarantees the right to guardianship effective judicial process (article 24.1 of the C.E.)

Through the publication, the same purpose is intended as the notification, that the content of the administrative act reaches the knowledge of those who are interested in an administrative procedure.

The LPACAP refers to publication in both section 44 and section 45.

Article 44 includes the assumptions that Gamero Casado calls "publication supplementary notification. Article 44 LPACAP establishes that it must proceed to the publication in the BOE when the notification had been unsuccessful, or the interested in the procedure are unknown or their whereabouts are unknown.

In addition to the publication through the BOE, article 44 LPACAP empowers the Administrations so that, previously, they publish announcements in the official bulletin of the Autonomous Community or Province, on the bulletin board of the City Council of the Last address of the interested party or of the Consulate or Consular Section of the Embassy correspondent.

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Likewise, the publication of acts and resolutions will be used in the cases of article 45 LPACAP. Assumptions that, following Gamero Casado's criteria,

We can group as follows:

(i) Substitute publications of the notification (that is, when the acts are published instead of being notified), which is appropriate when the act is addressed to a indeterminate plurality of people or in the case of acts that make up a selective or competitive procedure.

(ii) Supplementary publication of the notice (in addition to the notice is publication is mandatory), which happens when reasons of interest advise it. public; in procedures in which there are several interested parties, when notify only one and it is feared that it is insufficient to guarantee the knowledge of the act by all of them and when the rules governing a specific procedure so establish it.

With the exception of the "substitute publications of the notification" provided for in the article 44 LPACAP, in which, as indicated, publication in the BOE, in the rest of the cases the publication is made in the official gazette corresponding to the Public Administration from which it comes. The LPACAP, Article 45.4 authorizes that through specific legal or regulatory provisions you can imposing the publication of acts and communications on bulletin boards or edicts, although it adds that this obligation will be understood to be fulfilled with the publication in the corresponding official gazette.

In terms similar to article 44 of the LPACAP, article 112 of the Law 58/2003, of December 17, General Tax, which provides for the summons, to be notified by appearance, through announcements published in the BOE. Also Article 29.2 of the Consolidated Text of the Real Estate Cadastre Law, approved by the Royal Legislative Decree 1/2004, of March 5, provides for the notification mandatory by means of an announcement in the BOE. The Consolidated Text of the Law General Social Security, approved by Royal Legislative Decree 8/2015, of

October 30, provides in article 132.4 that notifications that have not been able to be made at the electronic headquarters of the Social Security or at the domicile of the interested, will be practiced exclusively by means of an announcement published in the Official State Gazette in accordance with the third additional provision of the Law 39/2015.

3. The publication that the Public Administrations carry out of acts or resolutions administrative that include personal data, implies for the administered a restriction to the fundamental right that they have recognized in article 18.4 of the C.E.

Through the publication of an act or administrative resolution -which, as has been indicated, article 39 of the LPACAP conditions its effectiveness- it is wanted to guarantee to the interested parties the exercise of their right to defense -which in turn connects with the right to effective judicial protection recognized in article 24.1 of the E.C.- and allows to the Public Administrations the exercise of their powers. In such a way that the purpose pursued with this obvious limitation to the right to data protection it is directly connected to a public interest.

The publication of the personal data of those affected in these cases is, therefore, outside his will. It is established by a norm with the force of law and is justified by the

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public interest it pursues. Well, it is precisely these personal data, that have been published in official gazettes and journals without the consent of the will of its owners in compliance with a legal obligation and with the purpose of satisfy a public interest, the data from which the FIJ is nourished. Evidently

when its content is related to situations of non-compliance with monetary obligations.

The subsequent treatment of these data that EQUIFAX carries out pursues a purpose clearly different from the public interest that justified its publication. If we don't stick to the legitimate interests that EQUIFAX seeks to satisfy through the FIJ, it is evident that these are different purposes. While the data processing of the administered by the Public Administrations through the publication of acts administrative in newspapers and official gazettes seeks to satisfy a public interest, the subsequent treatment that EQUIFAX makes of said data through the FIJ -as it has declared the claimed in the pleadings brief to the initiation agreement- is linked to the evaluation of the solvency of those affected and the prevention of fraud. Article 6.4 RGD provides some criteria to determine if the subsequent treatment of claimants' data through the FIJ is compatible with the treatment original. Added to these are the indications offered in Recital 50 of the GDPR.

In the present case, in light of the guidelines that both offer, it can be affirmed that the purpose of the original treatment and that of the subsequent treatment by EQUIFAX are clearly incompatible: There is no relationship between the purpose of the treatment carried out through publications in bulletins and official journals that include personal data of those affected - the public interest connected with the right to effective judicial protection of those administered and the effective exercise by Public Administrations of the powers attributed to them- and the purpose for which EQUIFAX processes the data, which it has specified in the evaluation of solvency and in fraud prevention.

Nor is there between the claimants and the data controller any relationship linked to the context in which the data was collected, so that the

affected could not have had any reasonable expectation that their data would be object of this treatment. The consequences that derive for the claimants whose data have been included in the FIJ are clearly adverse, since we are facing a negative file of patrimonial solvency that identifies them as debtors before anyone who makes a query to that file, with the added aggravation that the FIJ clearly breaches the accuracy principle in its update statement of the data. And, obviously, EQUIFAX has not established additional guarantees for that the processing does not affect the fundamental right to data protection that the purpose that the FIJ seeks to satisfy requires having the identity data of the affected.

The principle of proactive responsibility of article 5.2 RGD obliges the person in charge of the treatment to be able to prove that it complies with the principles that preside over data processing; so here we are interested in the principle of limitation of the purpose. On the other hand, both article 6.4 RGD and Recital 50 refer to the data controller as the subject who must determine whether the purpose of the subsequent treatment that it intends to carry out is compatible with the purpose

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for which the data was initially collected, which is consistent with the principle of proactive responsibility that must govern the actions of the person in charge of the treatment.

It seems obvious that EQUIFAX has been fully aware that the treatment of data that it carries out through the FIJ violates article 5.1.b) RGD.

In this sense, due to its clear relevance to the element of guilt, we pass to reproduce this fragment of document number 8 of those provided in response to the evidence proceedings - "LIA Judicial File. Legal analysis. December 2019"-, document that the respondent previously provided to the AEPD annexed to the writ of allegations to the initiation agreement. The document, as indicated in its point 1, has for the purpose of demonstrating the existence of a prevailing legal interest in the treatment carried out by the FIJ against the rights, freedoms and interests of the holders of the data. Well, point 7 of the document – "Operation of the files of EQUIFAX with information obtained from publicly accessible sources"- dedicates a section to analyze the guarantees that the file intends to implement and in point 1.1., under the heading "Principle of purpose", states the following:

On the other hand, the principle of finality includes the limitation of the subsequent uses of the data, since the RGPD prohibits in its article 5.1 a) the subsequent treatment of the data for purposes incompatible with those that motivated its collection, even if except from this limitation the use of data for archival purposes of public interest or scientific or statistical research. [...]" (emphasis ours)

It is noteworthy that the respondent has invoked in her pleadings brief the initial agreement that, with regard to the implications derived from the regulations of reuse of public sector information, "[...] the sources from which information has been collected the data to which the claims made refer and in general the data incorporated into the FIJ expressly enable the reuse of said information, therefore, without prejudice to the application of article 4.6 of the LRISP, the reference to said standard will not be relevant as an obstacle that allows the collection of the data by it." (emphasis added) And, then, refer to the general conditions of reuse of the website of the Official State Gazette.



It is surprising that he invokes the information on the BOE website when the regulation that is applicable as far as the reuse of public sector information is concerned is article 4.6 of Law 37/2007, of November 16, on "reuse of information from the public sector", according to which when the documents contain personal data the applicable legal regime is that of the regulations of data protection and, therefore, respect for the principle of limitation of the purpose provided for in article 5.1.b) RGPD.

Let us also remember that the AEBOE's response to the query made by claimants 35 and 55 about whether it was lawful for your personal data included in the notification announcements could be treated in order to integrate a database for profit. The AEBOE answered:

"[...] In accordance with the foregoing, this State Agency considers that the reuse of personal data such as names, surnames, ID associated with debts,

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published in the BOE, that you requests, it would not be a lawful treatment of data of personal nature of those provided for in art. 6 GDPR and therefore in accordance with what is regulated both in Regulation (EU) 2016/679 and in Organic Law 3/2018, of December 5, they must not be reused by third parties."

4. The legislator has established various measures that contribute to respecting the principle limitation of the purpose and that seek to reduce the impact on the right to protection of data of the administered that could derive from the obligation that

Public Administrations have to publish through newspapers and bulletins

official administrative acts containing personal data.

In this sense, it is worth mentioning, on the one hand, articles 40.5 and 46 of the LPACAP.

On the other hand, we must refer to the fact that Law 15/2014, of September 16, of

rationalization of the Public Sector and other administrative reform measures, introduced

the twenty-first Additional Provision of Law 30/1992, on the Legal Regime of

Public Administrations (LPAC) from which the implementation of the

06/01/2015 of the Single Edictal Board, where acts of all the

Public administrations.

The announcements of notifications that are published through the BOE are integrated in

an "independent" document, called "Supplement of

notifications". Royal Decree 181/2008, of February 8, organizing the newspaper

official Official State Gazette, modified as a result of Law 15/2014, configures for the

Notifications supplement a regime different from the one foreseen for the BOE. Among

other specialties, the aforementioned Royal Decree, restricts to three months from its

posting the period of time during which the Notice Supplement will be

accessible to the public.

Pursuant to Royal Decree 181/2008, the official gazette is structured as (i) "The content

of the "Official State Gazette", which includes sections I to V and the "Section of the

Constitutional Court", and in (ii) "a Supplement of notifications of a

independent" in which the notification ads will be inserted.

Article 11 of this Royal Decree specifies that "The State Agency Official Gazette of the

The State shall guarantee, through open telecommunications networks, access

universal and free to the electronic edition of the official newspaper of the State, without prejudice to

the provisions of article 14.4." And article 14.4 says:

"4. Notwithstanding the provisions of the preceding sections, the Supplement to

notifications will remain freely accessible on the electronic headquarters of the Agency

State Official State Gazette for a period of three months from its

publication, after which the verification code of the

corresponding notice of notification, which will be unique and not foreseeable.

Said code may only be conserved, stored and processed by the interested party.

or his representative, as well as by the bodies and Administrations that may

specify it for the exercise of the powers that correspond to them.

The State Agency Official State Gazette will adopt measures aimed at avoiding the

automatic indexing and retrieval of verification codes by subjects

different from those contemplated in the previous paragraph.

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Without prejudice to the provisions of the first additional provision, once the

period of three months established in the first paragraph, the State Agency Bulletin

Official of the State will facilitate, upon request, the information contained in the announcement of

notification only to the interested party or his representative, to the Public Prosecutor, to the

Ombudsman, and to the Judges and Courts.” (emphasis ours)

In the same sense, article 11 of the Royal Decree specifies that “The State Agency

Official State Gazette will guarantee, through open telecommunications networks,

universal and free access to the electronic edition of the official newspaper of the State, without

prejudice to the provisions of article 14.4.”

The precautions that Royal Decree 181/2008 adopts regarding the Supplement to

notifications, whose content is notification ads, do not end here.

Article 13 restricts the printed edition of the Notification Supplement to that the circumstances described in section 1.a). And article 17, which provides that the State Agency Official State Gazette (hereinafter AEBOE) will offer in its electronic headquarters, with a differentiated character to the electronic edition of the BOE "a base of free data that allows the search, retrieval and printing of the provisions, acts and announcements published in the "Official State Gazette", adds: "However, the search, retrieval and printing, through the database service data, from notification announcements published in the Notification Supplement, It will only be possible during the period of three months provided for in article 14.4." (The underlining is ours)

Any citizen who wishes to do a search for the Notifications Supplement published in a BOE three months after its publication you will not find it. In its Instead, the BOE website offers this message: "In accordance with article 14 of Royal Decree 181/2008, of February 8, organizing the official newspaper "Boletín Oficial of the State", the Supplement of notifications corresponding to this date has no longer freely accessible. More info"

Well, while in accordance with article 14.4 of the regulatory norm, After the period of three months, they will only be able to access the information contained in an advertisement, with prior authorization from AEBOE, the interested party or their representative, the Public Prosecutor, the Ombudsman and the Judges and Courts, we find ourselves with the paradoxical situation that EQUIFAX has that information in the FIJ, accessible to its associates for a period of six years under the documentation that works in the file.

The claimed party, aware of the time limit imposed by article 14.4 of the Real Decree 181/2008, has adopted the technical measures to store the information and dispose of it beyond the three months following publication.

The FIJ RAT, both the final version and document 4 of the first version, which EQUIFAX has contributed in response to the test carried out, as it shows. The Section 8 of the RAT, under the heading "Information suppression periods", says:

“The information is accessible for 3 months and then it is stored in a directory

Linux in order to be able to work with the data later. Bliss

information, saved in “PDF” format, will be available for a period of 10

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years from the date of publication, and this for the sole purpose of being able to meet the

possible claims and respond to requests for information by the

competent administrative body, as well as the courts and tribunals.” (The

underlining is ours)

5. In its arguments to the proposed resolution, EQUIFAX states that this principle has not undergone any modification in the RGPD, since it reproduces almost fully what was established by Directive 95/46/EC on it, and then goes on to affirm that “within the system of transposition of the Directive into our Law [...]” article 29.1. of the LOPD “did not appreciate that [...] it was contrary to the principle of purpose limitation enshrined in Directive 96/46/EC,” the processing of data personal data carried out by those who are dedicated to the provision of services of information on the patrimonial solvency and the credit consisting of the collection of personal data obtained from records and sources accessible to the public established for this purpose.

It also states that “the legal basis that justified the collection of the data subject to

publication [was] to obtain information on the solvency of assets and the credit of the interested parties based on the available information related to them”, and that “This legal basis was expressly included in the LOPD, owing

Article 29.1 should be interpreted in the sense that the processing was protected in the prevailing legitimate interest of those who proceeded, like my principal, to processing of the data, as there is an unequivocal legal authorization for said treatment could take place. (emphasis ours)

The respondent ends its argument regarding the "non-compliance with the principle of purpose" with the paragraph that we reproduce:

“In short, the processing of personal data does not take place in this case. contained in the FIJ for a purpose other than the one that motivated its collection, since this was precisely what justifies the maintenance of the data in the system and its access by the entities that were adhered to the FIJ with the purpose of know the equity solvency and the credit of its debtors or potential debtors, on the basis of a prevailing legitimate interest that, at least until the entry into force of the LOPDGDD was expressly enabled by the regulations of personal data protection.” (emphasis ours)

In the same line of argument he says that "this compatibility (or that character "does not different" from the purpose) was appreciated even after the entry into force of Royal Decree 181/2008, of February 8, organizing the official newspaper «Boletín Official of the State» (hereinafter, “RDBOE”), to which the Proposal”. Also, after the entry into force of Law 37/2007, of 16 November, on the reuse of public sector information and Law 19/2013, of December 9, transparency, access to information and good governance. (The underlining is ours)

He also makes another equally surprising statement: “[...] it must be remembered that the measures adopted by RBOE, which would come to reflect the restrictions that subsequently, with regard to open data, the Group revealed

Working Group of Article 29 (hereinafter WG29) in its Opinion 3/2013 on the limitation of purpose, [...], do not refer to data processing such as that carried out carried out by my principal through the FIJ, in which access to information is

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limited to creditors or potential creditors of the interested party. These measures, for

On the contrary, they try to avoid an access subject to the condition of creditor, real or potential, but an indiscriminate access to the data object of publication in the official journals.” (emphasis ours)

Indeed, the regulation of the principle of limitation of the purpose contained in the Directive 95/46/EC is practically the same as the text of article 5.1.b) of the GDPR. It is at this point that we can only agree with what is alleged by the claimed in its defense against the infringement of the purpose limitation principle that is attributed to him.

The defendant denies the violation of article 5.1.b) RGPD and affirms that the proposal has made a forced interpretation of Recital 50 of the RGPD. Interestingly, the explanation offered is certainly a forced interpretation. Thus, it shows that the processing of the data contained in the FIJ does not have a purpose other than that that has motivated its collection since, precisely for that purpose -the one that motivated the data collection - is what justifies keeping them in the system and

adhered entities have access to them.

This statement is based on the consideration that the purpose that gave rise to what calls "the collection" of the data is identified with the collection that EQUIFAX makes of the data published in newspapers and official bulletins and not with the collection of data for the original treatment, which is the one to which the RGPD, like the Directive, is referring. Affirmation that is based, in turn, on the fact that the rule of article 29.1 LOPD established the prevalence of a legitimate interest of those responsible for the asset solvency information systems such as the FIJ "since there is a unequivocal legal authorization so that said treatment could take place"

Two issues must be specified in this regard: the first is that the rule of the Article 29.1 of the LOPD was repealed by the LOPDGDD, which entered into force on 07/12/2018. The second, that the interpretation of article 29.1. LOPD that defends would mean that under this precept the data controller was exempted from an information system such as the FIJ of the fulfillment of the obligations that imposed by the LOPD, such as those provided for in article 4.2 LOPD.

Well, article 37 of the RLOPD, "General regime", framed in title IV -

Provisions applicable to certain privately owned files - Chapter I

-information files on equity and credit solvency-, established:

"The processing of personal data on capital solvency and credit, provided for in section 1 of article 29 of Organic Law 15/1999, of 13 December, will be subject to what is established, in general, in said organic law and in these regulations."

In short, at the same time it argues that the purpose limitation principle does not has changed its regulation in the Directive and the RGPD -affirmation that seeks to support its thesis that there has been no regulatory change between the existing legal regime during the term of the LOPD and that provided for in the RGPD, so having adjusted



their behavior to the same legal regime is the AEPD who, given the identity

standards, is adopting different solutions - and affirms that it does not violate the principle

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limitation of the purpose provided for in the Directive - which was transferred to our Law

in article 4.2 LOPD – because a rule of domestic law, which has no

correlated in Directive 95/46/CE, article 29.1. LOPD, exempts you from complying with said

beginning. And this, supported by his statement that article 29.1 LOPD “does not

I appreciate that the treatment to which he referred was contrary to the principle of limitation of purpose.

Thus, through the interpretation of article 29.1 of the LOPD, this

provision has the scope to establish a legal presumption of prevalence of interest

of the entities responsible for files such as the FIJ and to exempt them from

compliance with the obligations imposed by the LOPD, in particular for what is here

interested in article 4.2. LOPD.

On the other hand, the claimed, brings up on several occasions the Royal Decree

181/2008, ordering the official gazette Official State Gazette (RDBOE). Nail

times to affirm that “this compatibility (or this “non-distinct” character of the

purpose) was appreciated even after the entry into force” of the RBOE and

others to make inadmissible considerations, such as that the measures adopted by

RDBOE, “do not refer to data processing such as that carried out by my

principal through the FIJ, in which access to information is limited to

creditors or potential creditors of the interested party.”

6. From the preceding statement it is concluded that EQUIFAX has been treating the personal data of claimants through the FIJ in violation of the principle of limitation of the purpose provided for in article 5.1.b) of the RGPD.

This infringement is typified in article 83.5.a) of the RGPD, which establishes:

“The infractions of the following dispositions will be sanctioned, in accordance with the paragraph 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the global total annual turnover of the previous financial year, opting for the largest amount:

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

On the other hand, for prescription purposes, the LOPDGDD qualifies in its article 72.1.a) the violation of article 5.1.b) of very serious infringement.

Of the infringement of the principle of legality

SAW

1. The RGPD deals in article 5 with the principles that govern the treatment of personal data and in section 1.a) provides that personal data

They will be treated in a "lawful, fair and transparent manner in relation to the interested party". In

In the same sense, Recital 39 states that "All processing of personal data must be lawful [...]"

In accordance with article 6.1 of the RGPD so that the processing of personal data is lawful must be based on, at least, one of the circumstances that this precept relates. Letter f) of article 6.1. provides that the processing of personal data

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will be lawful when “the treatment is necessary for the satisfaction of interests legitimate pursued by the data controller or by a third party, provided that over said interests do not prevail the interests or the rights and freedoms fundamental data of the interested party that require the protection of personal data, in particularly when the interested party is a child.

The STJUE of 11/24/2011, cited so many times, which declared the direct effect of the provision of article 7.f) of Direct 95/46, regarding the legal basis of the prevalence of legitimate interest, pointed out that the aforementioned precept establishes two requirements cumulative for a processing of personal data to be lawful, namely, by a part, that the processing of personal data is necessary for the satisfaction of the legitimate interest pursued by the controller or by the third party or third parties to whom the data is communicated, and, on the other hand, that the fundamental rights and freedoms of the interested party (section 38). Also add to purpose of the weighting, which will depend, in principle, on the circumstances specific to the particular case in question and in which framework the person or institution carrying out the weighting must take into account the importance of the rights that articles 7 and 8 of the Charter of Fundamental Rights of the European Union granted to the interested party (section 40).

Recital 47 of Regulation (EU) 2016/679 contributes to the task of specifying the content and scope of the legitimizing circumstance of article 6.1.f) RGPD. The Opinion 6/2014 prepared by the Article 29 Working Group (hereinafter, GT29) regarding the "Concept of legitimate interest of the data controller data under article 7 of Directive 95/46/CE", dated 04/09/2014, facilitates the interpretation of article 7.1.f) of the Directive and offers guidelines for the mandatory

weighting of conflicting interests and rights.

The application of article 6.1.f) RGP requires that there is a legitimate interest of the data controller or third party; that the treatment is necessary for the satisfaction of the legitimate interest pursued; and that in weighing the interest of the data controller or third parties on the one hand and the impact that on the interests, fundamental rights and freedoms of the interested party causes the treatment of data that is intended to be carried out, on the other, the first prevails.

However, in order to conclude that a certain processing of personal data is based on the prevalence of the legitimate interest of the controller or third parties against to the interests or fundamental rights of the owners of the data -as

EQUIFAX adduces with respect to the FIJ- , following the guidelines of the Opinion of WG29 6/2014, the analysis must begin by examining whether the legitimate interest invoked (i) is lawful, is that is, in accordance with national and EU legislation. applicable; (ii) sufficiently specific, that is, it is articulated clearly enough to allow the balancing test is carried out against the interests and fundamental rights of the interested party and (iii) represent a real and current interest, not speculative.

Therefore, the first element to examine is the legality of the legitimate interest invoked; that is, if the treatment necessary to satisfy such interest is in accordance with the legislation national and EU WG29 Opinion 6/2014 says that an interest can considered legitimate “provided that the data controller can pursue

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this interest in accordance with the laws relating to data protection and with the rest of the legislation. (emphasis ours)

The respondent has specified in her pleadings brief to the initial agreement what is the legitimate interest that it seeks to satisfy with the data processing carried out by the FIJ and states that it is a double interest:

(i) An interest linked to the evaluation of the solvency of those affected and (ii) an interest linked to fraud prevention. Regarding the first -related to the evaluation of solvency - considers that they hold it themselves, EQUIFAX; the third parties that consult the information contained in the file and the borrowers and consumers.

She justifies the interest linked to the evaluation of the solvency of which she is the holder in that information systems related to solvency information they are a necessary tool to know the risk in which the borrowers in their operations and, he affirms, that the legislator implicitly recognizes that function of information systems related to information on solvency by having articulated in article 20 of the LOPDGDD a presumption iuris Tantum of legality of the treatment in relation to the files to which this document refers. precept. It also invokes the STJUE OF 12/18/2014 (case C-449/13) which recognizes the possibility that the lender resorts to these sources to assess the creditworthiness of the consumer.

Regarding the interest linked to the evaluation of the solvency that the third parties who consult the information contained in the FIJ explains that, through the file, obtain complete information on the circumstances that occur in the potential borrower when joining the one that the credit institution obtains from the information regulated in article 20 of the LOPDGDD. In his opinion, the recognition of this legitimate interest of third parties is reflected in the Preamble of the Circular 1/2013, of May 24, of the Bank of Spain, on the Information Center of

Risks and in the obligations that, in order to make effective the principle of granting the responsible credit, impose Law 16/2011, of June 24, on credit contracts to the consumption and Law 5/2019, of March 15, regulating credit contracts real estate.

It also asserts a legitimate interest related to the evaluation of the solvency of borrowers and consumers, which justifies that a more correct assessment of the risk in the granting of credit will allow better conditions in its granting and will benefit all consumers, which leads him to conclude that therefore "the Legitimate interest pursued by the treatment also has a dimension of interest Social".

Regarding the legitimate interest linked to the prevention of fraud, he says that through of data processing carried out through the FIJ provides the borrowing entities information that allows them to verify if the information they have and that they associate with certain data is consistent or inconsistent with that contained in bulletins and official newspapers and adds that the AEPD revealed the existence of an interest legitimate in the common fraud prevention systems that is reflected in the Legal Cabinet reports 318/2013, 105/14, 106/14, 103/16 and 256/16.

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2. Thus, the interest of the data controller will be legitimate if it is "lawful", that is that is, if the treatment necessary to satisfy it is respectful of the legislation national and EU that is applicable. Therefore, from the point of view of the RGPD

It will be necessary to determine if the data processing that the claimed party carries out through

of the FIJ complies with the norms that regulate the fundamental right to the protection of data and, in particular, the principles that govern the treatment.

As has been stated in the preceding argument, it is proven that the treatment that EQUIFAX has been doing of the personal data of the claimants

It violates the principle of limitation of the purpose provided for in article 5.1.b) of the RGPD.

This breach has the consequence of causing the legitimate interest invoked by EQUIFAX, on whose alleged prevalence it supports the foundation legal of the data treatment that it carries out (article 6.1.f, RGPD), cannot comply with the legality requirement.

Ultimately, the interest defended by the respondent is incompatible with compliance of the law that regulates and guarantees the fundamental right to data protection personal. That interest requires for your satisfaction a treatment of data that

It clearly violates the RGPD and, as stated in Opinion 6/2014, “[...] the data controller [...] may pursue any interest, provided that it does not be illegitimate.”

The illegality of the interest pursued by EQUIFAX is reinforced by the fact that the data processing carried out by the FIJ not only violates the principle of limitation of the purpose (article 5.1.b RGPD), but, as will be explained later, we consider that it violates other precepts of the RGPD: the principle of accuracy of the data (article 5.1.d); article 14 of the RGPD in relation to article 5.1.a) and the data minimization principle (article 5.1.c).

Based on that circumstance, it would not be necessary to carry out the test of weighing or weighting between the interest invoked by EQUIFAX and the impact that the treatment supposes on the fundamental right of the administered ones, for the simple reason that the first of the conditions for applying the legal basis of article 6.1.f) RGPD following the system offered by the

Opinion 6/2014 of the GT29.

However, we proceed to make such weighting between the interest defended by EQUIFAX and the rights and interests of those affected.

First of all, article 6.1.f) requires that the treatment be “necessary”, in the sense in which the concept of necessity is interpreted by the European Court of Human Rights (ECHR). Notwithstanding that the treatment of the data of the claimants is "useful", "desirable" or "reasonable", as specified by the ECHR in its Judgment of 3/25/1983 the term “necessary” does not have the flexibility that is implicit in those expressions. What EQUIFAX qualifies as a legal interest pursued through of the processing of personal data incorporated into the FIJ – knowing the debts and claims of natural persons to give "security to commercial traffic", "prevent delinquency" and "assess the financial solvency" of these people- can be obtain through other instruments that do not involve such a resounding attack on the fundamental right protected by the RGPD. You will have to go to the media less invasive to serve the same purpose.”

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At this point we refer to the report of the Legal Office of the AEPD 372/2016 that, on the occasion of the assessment of a treatment of personal data obtained from public sources with the purpose of analyzing the solvency of their holders, indicated that “Necessity should not be confused with convenience. The judgment of the solvency could be considered, in accordance with the terms of the consultation, convenient, but in no case necessary [...]. Credit or solvency risk



debtor's economic risk is a risk that is by no means exclusive to a security company.

insurance, but proper to any commercial or financial relationship.” (The underline is our)

Focused on weighing the conflicting interests and rights, we have to go

to the criterion repeatedly followed by the Constitutional Court on the

constitutionality of a restrictive measure of a fundamental right (SSTC

66/1995, of May 8, FJ 5; 55/1996, of March 28, FFJJ 6, 7, 8 and 9; 207/1996, of

December 16, FJ 4 e), and 37/1998, of February 17, FJ 8)

To check if a restrictive measure of a fundamental right passes the judgment

of proportionality, it will be necessary to verify that it meets the three requirements or

following conditions: if that measure is likely to achieve the objective

proposed (judgment of suitability); if, in addition, it is necessary, in the sense that it does not

there is another more moderate measure to achieve such purpose with the same

effectiveness (judgment of necessity); and, finally, if it is weighted or balanced,

for deriving from it more benefits or advantages for the general interest than harm

over other assets or values in conflict (judgment of proportionality in the

strict).

In the present case, it cannot be admitted that the judgment of necessity is met, therefore

indicated and because there are other alternatives to obtain the information on the

economic solvency.

Nor is the judgment of suitability fulfilled, since, for the treatment that

carried out by the FIJ could really satisfy the interests it invokes - linked to the

information on financial solvency and fraud prevention-, it would be

essential that the information on the alleged debts attributed to the

claimants was up to date -the principle of accuracy that the FIJ fails to comply with- and,

also, have data on those affected that fully identify them. In the wake of

the entry into force of the LOPDGDD and by virtue of the provision of its provision

additional seventh, in the case of publications of administrative acts -in which no

The data of the complete DNI / NIF will appear - unequivocal identification will be impossible

of the data owners. It is added regarding the suitability that the information

that is provided represents a small part of the people who have debts

pending with the Public Administrations, only to the small group that does not

has been able to be notified personally and has forced the Administration to carry out the

pertinent notification through the publication of announcements or edicts.

And, finally and fundamentally, there is no balance between the interests that

EQUIFAX pursues through the FIJ and the damages suffered by the holders of the

data. To the absolute inexistence of an expectation of the owner of the data to which

produce a treatment of them, collected from an official newspaper, by a

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private company that prepares and operates a file with solvency information

negative, is added the obvious negative impact that this treatment produces in the

data owner.

In the case we are examining, the fundamental right that empowers its owner to

disposing of the personal data that concerns them must prevail over what

EQUIFAX considers your legitimate interest.

The evident convenience that it may represent for a certain sector of the

commercial activity to see the risk inherent in its activity diminished is not proportional

to the clear violation of the fundamental right recognized in the C.E. (article 18.4) and

in the Charter of fundamental rights of the E.U. (article 8) that is perpetrated with the data processing carried out by the FIJ. Following the same criteria, it would be necessary to allow in the future “à la carte” interference when other sectors of the activity commercial they also considered it very convenient for their interests. with full clarity has ruled on this issue the STS of 06/20/2020 (R. cassation 1074/2019), whose sixth Legal Basis says, regarding one of the questions of appeal raised in the Order admitting the appeal, which “The commercial interests of a company responsible for a data file have to yield to the legitimate interest of the owner of the data to protect them”. Nor is it admissible to justify this interference in the fundamental right in the function that the claimed one attributes: that of being a necessary tool for know the risk that borrowers may incur in their operations that affects the correct functioning of the economic activity related to the credit solvency.

On the other hand, the different legal norms that refer to the consultation of solvency information systems to comply with the principle of credit responsible -cited in full detail by the defendant in her pleadings brief- always make a very clear precision: that the information systems on solvency and the measures adopted must fully comply with the regulations of Personal data protection.

As a complement to the above, another element to assess in this weighting but not related to the fundamental right guaranteed in article 18.4 C.E., is the relative to the “interests” of those affected by this treatment; interests (without the adjective “legitimate”) that article 6.1 f) of the RGPD also takes into consideration in the conflict with the legitimate interest of the data controller or third parties to whom the data is communicated. Thus, it should be appreciated -following the report of the

Legal Office 372/2016- an interest in favor of the claimants in knowing and giving their consent to the processing of your personal data influence their future relationships with credit institutions.

In short, the conclusion of the weighing trial could in no case be favorable to the prevalence of the interest that EQUIFAX intends to satisfy through the FIJ.

This conclusion is not altered in light of the arguments that EQUIFAX has put forward in his pleadings brief to the initial agreement in favor of the prevalence

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of the legitimate interest invoked. On the contrary, the arguments advanced –“evidence” in the terminology used- come to confirm the illegality of the data processing carried out by the FIJ, since the circumstances it alleges should be rejected for obvious reasons that derive from what has been argued so far. moment. However, we proceed to analyze the arguments or "evidence" alleged in favor of the prevalence of the “legitimate interest of Equifax, its user companies and society itself” on the rights and interests of the data subjects:

a. The recognition that the LOPD made, through article 29.1, of the prevalence of the legitimate interest that she invokes. It adds that the currently applicable regulations do not has changed substantially with respect to the previous one, but "the legal bases and principles applicable to treatment remain unchanged as a result of the entry into force of the GDPR”.

b. The fact that the LOPDGDD, article 20, establishes a presumption iuris tantum

of prevalence of the legitimate interest of credit information systems. It states that, since “the legitimate interest that justifies the treatment [of the information systems credit information of article 20 LOPDGDD] is identical to that pursued by the FIJ” and that “the impact on the rights and interests of the interested parties as a consequence of the treatment of your data in the FIJ is [is] substantially similar to the one that generates the processing of your data in credit information systems”, article 20

LOPDGDD constitutes an evident indication of the prevalence of the legitimate interest that the FIJ aims to satisfy.

c. The reference to the jurisprudence of the CJEU, which specifies in the aforementioned STJUE of 11/24/2011.

d. The attitude of the AEPD, which, in his opinion, has been "until now recognizing the legality of these systems without having carried out a requirement, warning or any warning addressed to my principal, as has been analyzed in the third allegation of this writing.” To which was added the knowledge that the AEPD had had that ASEDIE's draft Code of Conduct included an examination of the prevalence of the legitimate interest of the entities that manage these information systems information without having made any statement contrary to such matter.

Well, all the elements, considerations or evidence -in the words of the claimed- favorable to the prevalence of the legitimate interest that EQUIFAX seeks satisfy through the FIJ must be rejected.

With regard to the first factor that he adduces, it is worth making this clarification:

As much as article 29.1 LOPD supposedly established a presumption iuris tantum of prevalence of the legitimate interest defended in favor of the information on capital solvency and credit characterized only, so that here it is of interest, because of the source or origin from which they obtained the information, as a result of the STJUE cited so many times, which declares the direct effect of article 7.f) of the Directive

95/46, it could not be ignored that these information systems on patrimonial solvency referred to in article 29.1 LOPD were obliged to comply with the principles that governed the processing of data in the LOPD, the principle of quality of the data and specifically that of limitation of the purpose or that of accuracy (articles 4.2. and 4.3 LOPD), with the consequences that this entailed regarding the legality of the treatment carried out by EQUIFAX through the FIJ. Deny this objective reality with the argument that "the legal bases and principles applicable to the treatment remain unchanged as a result of the entry

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in force of the RGPD", is to mix interestedly what is comparable with what is not.

The principles that govern the treatment of the data and the legal bases of the treatment, but article 29.1 LOPD was neither one thing or the other.

The claim to extend the presumption iuris must also be rejected.

tantum that the LOPDGDD has established in favor of information systems credit of article 20 with information systems such as the FIJ. This, for the reason fundamental that, in the system designed by article 20 LOPDGDD, it is the creditor, who obviously maintains a relationship with the debtor, who communicates the personal data to the file, so the principle of limitation of the purpose and, from that point of view, the treatment necessary to satisfy that interest is respectful of the purpose limitation principle.

Second, because these files are surrounded by guarantees to comply with the principle of

accuracy. In them, it is the creditor, in general, who communicates the debt to the file. Nothing to do with the information collected from an advertisement published in a official diary.

On the other hand, the holders of asset solvency files, for the purpose of respect the principle of accuracy, articulate rigorous mechanisms of their own accord and effective for updating the data and thus avoid incurring an infringement of the data protection regulations. Thus, in this type of file, the associates who who report an unpaid debt must periodically confirm the information reported to the file. So the reported incidents are not remain in these systems sine die, but their permanence is subject to the confirmation to the system. When reiterating the information by the creditor, the latter must have verify that the non-payment situation continues -which you can perfectly do already that it is he who knows first-hand whether the debt has been extinguished or not- and At the same time, if the creditor does not reiterate the communication of the debt, the system of credit information, automatically proceeds to cancel that annotation. If this were not enough, the legislator of the LOPDGDD attributes to the informant creditor the obligation to guarantee the accuracy of the debt, without prejudice to the fact that the RGPD, Article 26, grants the informant creditor the condition of co-responsible together with the entity that maintains the credit information system.

Third, for the remaining guarantees that are established in favor of the holders of the data: guarantees of transparency and limitation of the time during which the information will be available. The inclusion of a debtor's data in one of these systems provided for in article 20 LOPDGDD has been preceded by the information about the adverse consequences that would derive for him from not attending the payment of Debt. In addition, the LOPDGDD in article 20 has doubly reinforced the guarantees in favor of the debtor regarding the system provided for in article 29.2 LOPD and

38 and following of the RLOPD: the maximum time of inclusion has been reduced to 5 years from the expiration of the obligation (article 20.1.d, LOPDGDD) and the entity responsible for the information system is obliged to keep the data of the affected during the thirty days following the notification of the debt to the system (article 20.1.c, LOPDGDD)

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The remaining two factors cited by the respondent to support the prevalence of interest that it defends are equally unacceptable and regarding them, we refer to the considerations made in other sections of this motion for a resolution.

3. The principle of proactive responsibility obliges the data controller to be in a position to demonstrate that the treatment carried out is covered on the legal basis it invokes.

With regard to the analysis that the respondent should have carried out before the effective application of the RGPD to verify the existence of a legitimate interest prevailing under article 6.1.f) which, as it has been stating, constitutes the legal basis for the processing of the data carried out through the FIJ, is worthy of mention, due to its obvious importance in the assessment of the element culpabilistic of the infraction, the affirmation that it has made that with the application of the RGPD did not consider it necessary to carry out an analysis that effectively prevailed against the right of the owners of the data the legitimate interest that defend. It has stated in its pleadings brief to that effect that the “cited evidence coupled with the fact that, in their opinion, the requirements



established by the GT29 in its Opinion 6/2014” sufficiently accredited the interest legitimate whose prevalence it defends.

Thus, it affirms that it considered it unnecessary to carry out an analysis of the legitimate interest specific to the FIJ since “[...] the regulations themselves when weighting the interests applicable to the treatment regulated in article 20 of the LOPDGDD and was sufficient to replace the adoption of this measure.”

It should be added that the document on the analysis of the prevailing legal interest prepared in December 2019 that has provided both in the test phase and as an annex to his brief of allegations to the initiation agreement, (LIA Judicial File, Legal Analysis, December 2019), to which we have made reference in the Legal Basis precedent and will be done in the following Legal Basis, shows its full knowledge that the treatment carried out violated principles of treatment provided for in the RGPD and that, therefore, it was not possible to invoke the application of the Article 6.1.f) RGPD as the legal basis of the treatment.

4. The respondent states in her allegations to the proposed resolution that contained in the proposal is sufficient to refute what was stated in his allegations to the start agreement; allegations that he considers reproduced and supplemented with what which now states:

That EQUIFAX has an "obvious legal basis, the concurrence of an interest prevailing legitimate, for the treatment of data in the FIJ.” Thus, he says that “[...] These information systems were expressly equipped with a presumption of prevalence of the aforementioned legitimate interest”. (emphasis ours)

Later he adds:

“Evidently, article 29.1 of the LOPD did not regulate the basic principles or the legal bases of the treatment, but determined that, based on principles and legal bases identical to those contained in the RGPD, the processing of data

collected in it was lawful. In other words, either article 29.1 of the LOPD is

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overreached with respect to the regime contained in the Directive, enabling nothing less

that a treatment that violated its articles 6 and 7 in the terms assumed by the

Motion for a Resolution, something that neither the Court nor the Institutions of the Union

Union (and even less so the AEPD itself) did not even insinuate at any time or,

principles and legal bases remaining immutable, this treatment is as

according to the RGPD as it was to the Directive. This fact is indubitable, however

try to force the argument in another direction.” (emphasis ours)

It states, on the other hand, that in its previous allegations it proved that, in the

present case, the triple judgment concurred - suitability, necessity and proportionality strictu

sensu- required by constitutional jurisprudence so that the treatment carried out

by the FIJ will be in accordance with the RGPD; weighing that, he affirms, is favorable to the

legitimate interest that justifies it. With regard to the triple judgment mentioned, it is limited to

make various considerations in relation to what is argued in the proposal of

resolution. Considerations that, for the most part, do not conform to the truth or do not

they respect the context in which they were made. We reproduce some of them:

“[...] the Resolution Proposal: [considers] that the legitimate interest underlying the

processing of the data in the FIJ is nothing more than a mere "convenience" for

"perpetrate" what is called "intrusions a la carte" in the rights of

stakeholders (the expressions used are from the Motion for a Resolution, not from me)

represented)."

"[...] in the opinion of the AEPD, the [CIRBE is] the only information system that contributes to the purpose pursued by the treatment carried out by the FIJ."

"[...] converting the AEPD the principle of reasonable expectation (derived nothing less of the fact that these systems exist in our law and have been expressly regulated by it since 1992 and that the debtor should reasonably expect that your creditworthiness will be assessed before obtaining credit) in the "reasonable hope" delinquent debtor that his debt is not known and the financing is granted, even when this harms the principles of responsible credit enshrined in the legislator".

Of what is alleged by the respondent in that brief in defense of the alleged non-existence of the infringement of article 6.1. GDPR two relevant conclusions are drawn:

The first, that, in the entity's opinion, the legal basis for data processing made by the FIJ during the validity of the LOPD and after the STJUE of 11/24/2011 was based on a presumption of prevalence of interest legitimate established in article 29.1 LOPD. Precept that, otherwise, no contained no guarantee or safeguard in favor of the owners of the data. This despite the fact that this interpretation of article 29.1 LOPD defended by EQUIFAX entered in contradiction with the principle of purpose limitation set forth in article 4.2. LOPD.

The second consequence is that, to the extent that the claim constructs the basis of the data processing carried out by the FIJ during the validity of the LOPD in a rule of domestic law, namely, in article 29.1 of the LOPD -because It is on this article that he bases the dispensation to respect the obligation imposed by article 4.2. LOPD- cannot continue to maintain that there has not been a substantial change between the legal regime established by the LOPD and the regime legal introduced by the RGPD.

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The direct consequence of his allegation regarding the non-existence of infringement of the article 6.1 RGPD is that it invalidates its own argument that the AEPD, with the opening of this sanctioning file, has violated the principle of legitimate trust.

In light of the alleged violation of the principle of legitimate expectations attributed to the AEPD has been maintaining that, according to the doctrine of the Contentious Chamber Administrative Court of the National High Court, given that it is not admissible introduce a change of criteria in a sanctioning procedure and that in the present case the change of criteria could not be covered by the existence of a change regulation between the Directive and the RGPD since the principles and legal bases of the RGPD are essentially those established by the Directive, we should proceed to the archive of the file and also the element of the guilt, which would also lead to the file of the procedure for absence sanctioning liability

These assertions of the respondent, which are examined in the Foundations Legal precedents, start from a premise exposed by that entity with reiteration: that there has been no regulatory change between the Directive and the RGPD that could support the change of position of the AEPD since the principles and bases

The legal provisions of the GDPR are almost identical to those established by the Directive In light of the exposition that the respondent makes to deny the infringement of the principle of legality that is imputed to him as well as what was stated to deny the infraction of the

principle of purpose limitation, it is obvious that the basis of his argument is not the rules of the Directive (that is, the principles and legal bases contained in it) establish) but the reference to a rule of domestic law, article 29.1 LOPD, which is neither currently in force nor derives from the transposition of the Directive 95/46/CE, nor does it exist in the RGPD.

In short, as already noted in the motion for a resolution, the respondent alleges that it is not possible to justify the change of criteria of the AEPD - materialized in the sanctioning file that concerns us - in an alleged regulatory change every time that said regulatory change has not entailed a change in the legal bases of the treatment and the principles that govern said treatment, setting the terms of the comparison in the Directive and the GDPR. And at the same time, in parallel, the claimed argues as a basis for the treatment that she had been carrying out during the LOPD regime article 29.1 LOPD, a provision that, as indicated in the proposal, nor does it contain a legal basis for the treatment or a guiding principle of the treatment provided for in Directive 95/46/EC and which, furthermore, is not a consequence of the transposition of Directive 95/46/EC into Spanish law.

5. Of the preceding statement and the documentation in the file regarding the claimants, it is proven that EQUIFAX has been treating the personal data of those affected included in the FIJ infringing the principle of legality, because the treatment was not based on any of the legal bases that relate article 6.1 GDPR.

The behaviors in which the data processing carried out by the that claimed in violation of article 6.1 RGPD, in relation to article 5.1.a) of the same rule, consisted of collecting the data published in newsletters and official newspapers and, also on occasions, on edictal boards or the electronic headquarters of Public Law entities; in the storage of that information and in the

possible transfer of these data to third parties, associates or clients of EQUIFAX.

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The infringement of article 6.1 RGPD is typified in article 83.5.a) RGPD that establishes:

“The infractions of the following dispositions will be sanctioned, in accordance with the paragraph 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the global total annual turnover of the previous financial year, opting for the largest amount:

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

On the other hand, for prescription purposes, the LOPDGDD qualifies in its article 72.1.

as a very serious infringement “b) The processing of personal data without the concurrence any of the conditions of legality of the treatment established in article 6 of the Regulation (EU) 2016/679”.

Of the infringement of the principle of accuracy

7th

1. Article 5.1.d) of the RGPD, regarding the principle of accuracy, provides that the data personal object of treatment will be “accurate and, if necessary, updated; I know will take all reasonable steps to remove or rectify without delay personal data that are inaccurate with respect to the purposes for which are treated («accuracy»)”

Recital 39 adds that all reasonable steps must be taken to ensure that personal data that is inaccurate is rectified or deleted.

The principle of accuracy implies that the data controller who has personal information will not use such information without taking steps that ensure, with reasonable certainty, that the data is accurate and updated. In turn, the obligation to guarantee the accuracy of the data must be considered in the context of the purpose of the treatment. The GDPR imposes on the controller responsible for the treatment the obligation to keep the data updated because it says that the data will be exact “and, if necessary, updated”; need that is connected to the purpose of the treatment.

EQUIFAX has stated that the purpose of the treatment carried out through the FIJ is linked to the “assessment of the solvency of those affected”. therefore only if the data included in the file reflects the current situation, they will be suitable for the intended purpose of assessing the creditworthiness of borrowers.

The sources from which the FIJ draws are the official newspapers and gazettes. The information contained therein, and accessed by the FIJ, is pertinent to that the Public Administration can fulfill the purpose it seeks to satisfy and that it has justified that personal data of the administered be made public. Without

However, this information is not adequate for the purpose of a file such as the FIJ. The disparity and incompatibility between the purpose of the original treatment and the pursued by the FIJ determines that the information that this file collects is fragmentary - it has only part of the information related to the debt and in

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occasions only part of the identification data of the alleged debtors- and

it is also disconnected from the evolution of the debt.

The debt is linked to a natural person in an act of notification that sees the light

public at a specific time. The avatars that from that moment can

affect the existence of the debt and its link to the alleged debtor are

innumerable. Among them, to mention a few, the payment by the debtor or the execution

compulsory payment of the debt by the Administration, of which EQUIFAX will not have

notice if the notification of the acts of the execution procedure is carried out

personally and it is not necessary to go to the notification through the publication of

edicts.

In this way, the information collected by the FIJ remains without updating,

unalterable in the file for a maximum period of six years computed from the

date of publication, unless the affected party exercises the right of suppression or

rectification. In the present matter, with respect to the claimants, there are notes

of non-payment published in 2013, although the vast majority of the announcements are

published between 2016 and 2019.

The answer that EQUIFAX has given to the question formulated in the test phase

about the mechanisms for updating the information included in the FIJ is a

implied acknowledgment that you have no means of verifying its accuracy. So that

the information that the FIJ collects is updated, and thus be able to guarantee the

principle of accuracy, it would need to have the collaboration of the holders of the

data or the creditor Administration, which obviously does not happen.

It is enough to remember how the entities that maintain information systems

provided for in article 20 of the LOPDGDD act to comply with the

principle of accuracy in order to be able to appreciate the absurdity of maintaining in a



file up to six years debts that one day were published in an official newspaper and which nothing more is known since that date. The mechanics of internal functioning of such systems that those responsible have designed with the purpose of complying with the principle of data accuracy.

A proof that the FIJ cannot guarantee the accuracy of the information it offers is that more than 25% of the claimants, before going to the AEPD, had already contributed to EQUIFAX documents that showed that the FIJ was publishing inaccurate information associated with your data. In the file were linking extinguished debts to your personal data. We refer to the documents of the claimants identified with the numbers 19,22,27,30, 37,38,40,41,42,50,52,53,54,59,61,62,72,73,75,77,80,83 and 87.

The violation of the principle of accuracy incurred by the FIJ has another manifestation, which concerns the identity of the presumed debtors. The publications from which the FIJ collects information do not always allow the identification unquestionably to the alleged debt holder. As evidenced by documentation that is in the file of the presumed owners of the debts that are registered in the FIJ are frequently identified not by the NIF, but by name and two surnames combined with an address. It should be noted in particular that the great Most of the incidents that appear in the FIJ associated with the claimants are

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prior to 2018 and that, as of 12/07/2018 (date of entry into force of the

LOPDGDD) in accordance with the provisions of the seventh Additional Provision of the

LOPDGDD does not include the address data in the notifications through announcements and publications of administrative acts carried out by any Public administration.

The seriousness of this fact is evident when the EQUIFAX associate has access to information that does not unequivocally identify the person to whom it refers your query and then tries to identify it "by approximation"; that is, once does the search in the FIJ for the data that identifies the person he wants contract with him, if the FIJ does not have that person's NIF registered, it will provide the EQUIFAX associate the information available from persons who have name and matching surnames for the associate, based on verifying if any of the address coincides with that of the person you want to hire, you can determine if this meets the required solvency conditions. Situation giving rise to, when the supposed debtor exercises access before EQUIFAX -every time the claimed one does not has its NIF included in the FIJ- requires, for identification purposes, the addresses that he has had over the years as a way to determine whether or not he is the debtor. This absolute indeterminacy of the person of the debtor, in other words, inaccuracy of the data, has not been an obstacle so that, previously, the associate of EQUIFAX has verified that in the FIJ there is one or several persons with name and surname coinciding with that of the person intending to contract with him and, when in doubt as to whether it is or not him to whom the FIJ refers, I granted him the initial presumption of insolvency. Situation which is clearly reflected in the case of claimants 18, 26, 27, 32, 36 and 94.

Thus, the file owned by the defendant fails to comply with the principle of accuracy also with regard to the identification of the debt holders. The conclusion that we can extract is that it can hardly serve the legitimate interest that wants to attend linked to "the prevention of fraud".

On the other hand, in view of the particular circumstances that determine that the

Administration is forced to notify an administrator by posting of advertisements (suppositions of article 44 LPACAP), a rigorous application of the principle of accuracy should lead to not accepting, without further verification, as a datum exact information regarding the address that until the entry into force of the LOPDGDD appeared published in the official newspaper or gazette. This, despite the fact that the reason for notification by posting ads is not at all cases where the address is wrong or the interested party is unknown. If you analyze the information provided by EQUIFAX in the testing phase regarding notifications practiced, of the total of those that were unsuccessful, just over 90% were because the address was incorrect or the addressee was unknown. (Done tested tenth)

2. The position maintained by the respondent both in its response to the evidence and in the allegations to the initial agreement is, obviously the opposite.

In the first place, regarding the infringement of the principle of accuracy, the claimed has stated in its allegations that the RGPD has not introduced modifications or in the enunciation of the principle nor in its consequences, in comparison with what established the Directive, therefore, understands that through the initial agreement the AEPD

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has adopted a "new criterion" that violates the principles of legal certainty and legitimate trust. On this matter we limit ourselves to making a reference to what exposed in the corresponding Legal Basis IV of this resolution.

The respondent affirms that the FIJ fully respects the principle of accuracy. that the

published data enjoy the presumption of accuracy recognized by article 4.2.d)

of the LOPDGDD, so it is not responsible for the inaccuracies that

they could suffer. It states that it has made available to those affected the

mechanisms to correct or delete inaccurate or incomplete data, respecting in

In any case, the requirements set forth in the LOPDGDD and the RGPD, such as providing the

documentation that proves the inaccuracy of a data whose deletion is requested. By

For this, he understands that there is no reversal of the burden of proof when the

claimants who request the deletion of their data from the FIJ who provide the

supporting documents of the payment of the debt but only the fulfillment of

the requirements set forth in current regulations (article 14 LOPDGDD)

Regarding the presumption of accuracy contemplated in article 4.2.d) LOPDGDD, it is necessary to

indicate that article 4 begins by referring in paragraph 1 to the principle of accuracy

of article 5.1.d) RGPD, which says, among other things, that the data must be

updated when necessary for the purposes of the treatment. There are situations in

which it is absolutely necessary to check and even update

periodically the accuracy of the data due to the damage that could be caused to the

interested if the data were inaccurate.

So the starting point is a situation in which the respondent collects a

information that you know you cannot update, and this, despite being the update of the

information a requirement for the FIJ to fulfill its purpose. EQUIFAX knows

perfectly this fact and freely chooses to collect that information, so

She must assume the responsibility derived from the inaccuracy of the data she processes.

On the other hand, regarding article 4.2.d) LOPDGDD, the presumption invoked -if

applicable to the case, an extreme that is not shared- could operate exclusively

regarding the information that comes from the Public Bankruptcy Registry. In no case

of official newspapers and bulletins that do not have the status of public record.

Regarding the mechanisms that the respondent affirms that it makes available to the affected to rectify or delete their data, it is enough to point out that it does nothing but comply with an obligation imposed by the GDPR. Chapter III "Rights of the interested party" regulates these rights in articles 16 to 19 and article 14 LOPDGDD provides that, when necessary, the affected party provides supporting documentation of the inaccuracy.

In response to the question that was asked in the test phase about what was the protocol it had had for the last six years to ensure that the data personal information that was incorporated into the FIJ were duly updated, in all time, EQUIFAX responded that the protocol is based primarily on the "Limitation of the sources from which the FIJ file is nourished", the information that is obtained from the Official Gazettes published by the State, the Communities Autonomous and Provincial Councils. Which, in his opinion, guarantees that all the information that is collected is considered "official and authentic" according to the Article 3.1 of Royal Decree 181/2008, of February 8, on the organization of the official gazette State official newsletter. He considers that this is "a guarantee that there are no

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doubts about the updating and veracity of the information included in the FIJ." Y adds that "the bulletins are downloaded the same day they are published, so the FIJ information is updated daily with the information contained in the Newsletters."

With regard to the respondent's response, it should be noted that, indeed, the Information published in the Notification Supplement and in the BOE is guaranteed

of “authenticity”, that is, the guarantee that it actually comes from the authority who signs the act or provision.

The respondent's comment that "the FIJ information is updated regularly on a daily basis with the information contained in the Bulletins" is absolutely true if by updating we mean “enrich”. Indeed, the FIJ is getting richer every day with the new information it collects from the newsletters; but that has nothing to do with the updating or updating of the annotations for debts that already appear in the file linked to natural persons.

The respondent has also referred in its response to the questions formulated in the test phase to the "Automatic information capture processes: the download of the bulletins and the subsequent registration of the data in the FIJ" and says that it has implemented specific recording criteria “in order to ensure that holders are unequivocally identified so that their inclusion in the FIJ proceeds”, from which concludes without further ado that “These criteria guarantee that there is only data from holders duly identified”.

There is no doubt that the information regarding the personal data contained in the bulletins and newspapers is transferred to the FIJ with accuracy. But, as abundantly the defendant knows, that is not the issue to which the violation of the principle of accuracy so, in this sense, his statement that “These criteria guarantee that there is only data on holders duly identified”

The respondent referred in its response to a new measure implemented that, in its opinion, would guarantee the accuracy and updating of the data: “4) Notification of inclusion: this part has been made to the holders whose data has been collected from May 25, 2018, a specific notification of its inclusion in the FIJ, as a measure to guarantee the updating of the data. Said communications

allow those interested, in a free and simple way, to check if effectively the data that have been published by the different official gazettes and that have been collected by my client contain some error.” question to which we will refer in another Legal Basis of the resolution.

3. In its arguments to the proposed resolution, EQUIFAX places the starting point of his argument in the necessary clarification of "what is the purpose of the FIJ", since "article 5.1.d) of the RGPD links "accuracy" with "the purposes for which they are processed" the data". It goes on to state that the "purpose of the FIJ" is to "reflect the existence of a debt as stated in the advertisement and at the time of its publication in the source corresponding official". (emphasis ours)

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From the foregoing, he infers that the circumstance that the FIJ cannot show which is the debt situation at the time of the query does not allow the information to be qualified of inaccurate in the terms provided in article 5.1.d) RGPD. It is not inaccurate, says claimed - because it correctly collects the information that is necessary for the purpose sought by the FIJ, "to help Equifax customers to assess solvency".

For this reason, he clarifies, the information would be inaccurate if, "contrary to what the file", will not correctly reflect the information contained in the published announcement.

He conjectures that the AEPD, with the aim of qualifying as inaccurate the data contained in the FIJ, has proceeded in the proposed resolution, incorrectly, to associate the "evaluation of the solvency of those affected" with information about the "situation current" at the time of the consultation of the debt of the people."

It goes on to refer to the suitability of the information contained in the FIJ to assess the solvency of a person; suitability that, it affirms exhaustively, is out of all doubt as has been confirmed for twenty-five years by the "enormous number of entities that have been resorting to the FIJ to assess solvency" He warns that a suitability judgment requires a thorough knowledge of the subject matter and that to the extent knows the AEPD is not an entity that carries out analyzes on a day-to-day basis of solvency.

It states that the FIJ "covers an undeniable need of the creditor market and the fight against late payments and fraud" and then states: "[...] it is clear that the FIJ information constitutes a complement to the files referring to the debts contracted with in the private sector [...]. It is obvious that "in an ideal world" it would be preferable if the FIJ could be updated as completely as it is with the credit information systems of article 20 of the LOPDGDD.

Unfortunately, this is not possible since the Administrations do not publish information in this regard, without such circumstance being considered in any case as an assumption of "inaccuracy" of the information, for the reasons already stated." (emphasis ours)

It also argues, as it did in the pleadings brief on the initial agreement, that article 4.2 d) LOPDGDD establishes a presumption of accuracy that cannot be distorted "by the result of the AEPD investigation, not even by the contribution of evidence by the interested party" and "contains an imperative mandate of exemption from liability to the person who has collected the data under their contents".

It indicates that this provision - 4.2.d) LOPDGDD- has to be connected with the regulatory regulations of the BOE that "establishes a presumption of veracity and authenticity of the information contained therein, which guarantees the principle of



accuracy” and concludes that “the accuracy of the information referred to in the notifications incorporated into the FIJ [...] derives directly from said publication [in the BOE] and the LOPDGDD”.

Finally, it invokes two more arguments: That until the repeal of the LOPD EQUIFAX “was [...] protected by the express legal authorization contained in the article 29.1 LOPD and the action of the AEPD by which documentation was required accrediting the payment so that it proceeded to its suppression”. And regarding the accuracy of identification data of the alleged debtors, states that “it proved during the trial period that only proceeds to the treatment of those data regarding of which it has sufficient means to guarantee the accuracy of the information treated.”

It also states that, as a result of the entry into force of the LOPDGDD, it has adopted measures so that only the data of the

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interested parties of whom there are sufficient elements to guarantee their full identification, which has been reflected in a decrease in the number of inclusions in the file.

In view of what is claimed by the respondent, it seems sterile to discuss the new concept of accuracy of the data intended to report on the solvency of the affected. Even more so when the entity itself recognizes that “it would be preferable that the FIJ could be updated as completely as it happens with the systems of credit information of article 20 of the LOPDGDD.”

4. Article 5.2, in connection with 5.1.d) RGPD, shows that it is up to the responsible for the treatment the burden of proving the accuracy of the data that are the subject of treatment; For what is of interest here, EQUIFAX bears the burden of proving the accuracy of the debts included in the FIJ associated with accurate personal data of the presumed debtors.

The obligation imposed by article 5.2. RGPD implies that the person responsible for the treatment must have, during all the time in which the treatment is maintained, data processing, of mechanisms that guarantee that the information processed -debts linked to personal data- is found at all times updated.

The respondent completely lacks the means to fulfill this obligation. And before this lack, intends to be recognized as a skillful instrument for compliance of the obligation incumbent on her, which is nothing more than a requirement demanded by law the owner of the data that exercises the rights granted by the RGPD. Ultimately, the claimed seeks to be valued as a means of compliance with the obligation to accuracy imposed by article 5.2 RGDP in relation to article 5.1.d), the documentation that claimants must provide in order to prove the inaccuracy of the data that concerns them when they exercise before it the right of rectification (article 14 RGPD).

On the other hand, the respondent is perfectly aware that she does not have means to keep updated the information processed in the FIJ. Proof of it is the text that we reproduce, coming from document 8 of those that you sent in the of evidence, called "LIA Judicial File. Legal Analysis. December 2019", in which point 7, "Operation of Equifax files with information obtained from sources of public access", a section is dedicated to the guarantees that the implement in the future relating to the principle of accuracy:

“1.4. Principle of accuracy” “In compliance with this principle and given that the edict publication only recognizes the existence of the obligation to satisfy the owed, but there is no additional information available that would allow us to know effectively if that amount is due at the time of notice of inclusion, a possible solution to this problem would be the limitation of deadlines very brief references to the aforementioned communications, and in the analyzed system this requirement is fulfilled, by reducing the term to the publications that have occurred in the last five months. However, this reduction does not allow to fully avoid the risk derived from the treatment of this data, being able to see the qualification of a interested negatively by the fact of incorporating an edictal notification referring to a debt already satisfied in the same way that could be affected favorably the subject to whom a notification had been made with a

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seniority of more than five months and had not proceeded to pay the amount owed.” (emphasis ours)

5. In accordance with the foregoing and the documentation in the file, it is considers that the defendant has violated the principle of accuracy provided for in article 5.1.c) GDPR.

The infringement of article 5.1.c) RGPD that is attributed to EQUIFAX is typified in the article 83.5. RGPD that states: “Infringements of the following provisions are will be sanctioned, in accordance with section 2, with administrative fines of 20,000,000 Eur maximum or, in the case of a company, an amount equivalent to 4%

as a maximum of the overall annual total turnover of the financial year

above, opting for the highest amount:

b) The basic principles for the treatment, including the conditions for the consent under articles 5,6,7 and 9.”

Article 72 of the LOPDGDD qualifies as very serious - being the limitation period, in this case, three years - the infractions that suppose a substantial violation of the articles mentioned in article 83.5 RGPD and in particular:

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

Of the infringement of the principle of data minimization

viii

The RGPD establishes in its article 5.1.c) that personal data will be “adequate, relevant and limited to what is necessary in relation to the purposes for which they are treated (<<data minimization>>)”

Therefore, only the data that is adequate, pertinent and not excessive in relation to the purpose for which they are obtained or processed. This implies, for one part, that the categories of data selected for processing must be necessary to achieve the objective of the processing operations and that the controller of the treatment must strictly limit the collection of data to that information that is directly related to the specific purpose pursued by the treatment.

On the other hand, the RGPD requires that the data be relevant, which implies that the data treaties are suitable and proportional to the legitimate aim pursued. Also, that the personal data that is adequate and relevant, but constitutes an interference disproportionate to the fundamental rights and freedoms at stake, they must be considered excessive.

Compliance with this principle by the respondent, as is the case with other

principles already examined, such as legality or accuracy, is conditioned by the infringement of the principle of limitation of the purpose in which the entity incurs with the collection of data from newspapers and official bulletins that pursue a purpose incompatible with that of the FIJ.

As a result of the illicit nature of the subsequent processing of the collected data - that is, the one that claimed is carried out through the FIJ- it is becoming clear that the person responsible for the treatment is in a situation of practical impossibility of respecting the

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rest of the principles that, according to the RGPD, govern the treatment. Such is the degree of irregularity that some of the actions with which EQUIFAX intends to comply with the obligations imposed by respect for the principles that govern the treatment are become, in practice, an additional violation of the regulations for the protection of data.

As a first point, it should be noted that, as has been shown when examining other principles, particularly that of accuracy, the data that EQUIFAX obtains from through bulletins and official journals that feed the FIJ are not suitable for the purpose pursued by the file, for which they violate the principle of minimization of data. The fundamental reason is that they do not allow an update of the information regarding the solvency of the debtor. It is added to the above that, while the publication of the data does not include the address of the owner of the data, the claimed does not is in a position to be able to comply with the information obligation provided for in the article 14 GDPR.

On the other hand, it is necessary to refer to Additional Provision 7 of the LOPDGDD which, under the heading "Identification of the interested parties in the notifications by means of announcements and publications of administrative acts." establishes:

"1. When it is necessary to publish an administrative act containing personal data of the affected party, it will be identified by its name and surnames, adding four random numerical figures of the national document of identity, foreign identity number, passport or equivalent document.

When the publication refers to a plurality of affected these random figures they should alternate.

When it comes to notification through advertisements, particularly in the assumptions referred to in article 44 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations, will be identified to the affected party exclusively by means of the complete number of his national document identity card, foreign identity number, passport or equivalent document.

When the affected party lacks any of the documents mentioned in the two preceding paragraphs, the affected party will be identified only by name and surnames. In no case should the name and surnames be published together with the complete number of the national identity document, identity number of foreigner, passport or equivalent document.

In accordance with the provision transcribed, in the publications and notifications by means of announcements provided for in articles 45 and 44 LPACP will never be published address of the interested parties, nor jointly the name and surnames and the number complete identity document. In addition, in the case of notifications of announcements of article 44 LPACAP, the identification will be made by the complete number of the identity document, disregarding the reference to the name and surnames except that the holder lacks this data, in which case the name and surnames will be included. And in

publications of administrative acts that contain personal data will be included

the name and surnames and four random figures of the identity document.

This legal provision seeks to minimize the impact on the right

fundamental to the data protection of the administrators derived from the publication

of your data in newspapers or official bulletins.

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EQUIFAX responded to the question asked in the testing phase regarding the criteria

used by the FIJ to organize the personal data that is processed

in order that their owners are duly identified, (Made

proved sixth) in the following terms:

a) In the event that only the NIF/NIE is published: then “it is verified if on the date of

publication, the NIF/NIE in question is registered in the active information

of the FIJ (thus excluding the one that is blocked). Depending on the result

obtained, different actions are carried out:

a´) If the identifier is already included in the FIJ associated with a name and surname,

registers in the FIJ the new published information.

a´´) If that identifier is not included in the FIJ, the record recording is discarded.

b) In the event that the name and surnames and incomplete NIF/CIF are published:

discards the recording of the data in the FIJ file

c) Cases in which the name + surnames + address is published: Proceed

to the recording of the record in the FIJ file, associating both data.

d) Cases in which only name + surname appears published: In this

Of course, the recording of the data in the FIJ file is discarded.

(emphasis ours)

Thus, despite the limitations that they represent for the processing of the data, the criteria established in the Seventh Additional Provision of the LOPDGDD, the claimed based on the information that is active in the FIJ on the date of publication of the information; combines both information and proceeds to record in its file the new information published as long as the identifier - the only data that according to the Seventh Additional Provision of the LOPDGDD can be made public- either included in the FIJ associated with a given name and surname.

We believe that this behavior invalidates the measures provided by the legislator to protect the right of the owners of the data that are published for reasons of public interest in bulletins and official newspapers.

In the case at hand, it is proven that there are numerous claimants that, after 12/07/2018, date of entry into force of the LOPDGDD, they have annotations in the FIJ. Which means that, although the publication of the information did not contain their names and surnames but only the NIF, EQUIFAX, acting as explained, verified that this identifier was active in his file and, in addition, associated with a name and surname, and proceeded to give high score. In this sense, it is accredited that they were included in the FIJ, with after 12/07/2018, annotations related to the following claimants that in the aforementioned file they are identified by their name, two surnames and NIF: the numbers 2,6,7,9,13,14,15,21,32,43,48,49,58,59,71,74,79,82,83 and 89.

3. In her brief of allegations to the proposed resolution, the respondent states that the exposition made by the motion for a resolution in relation to the infraction of the data minimization principle imputed to it does not allow it to discern its connection with the aforementioned principle. It adds that “nowhere in the Proposal is



indicates that the collection of data referring to the name, surnames, document

identity, address and characteristics of the debt contracted are not adjusted to

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the aforementioned purpose nor is any judgment or assessment of proportionality carried out on the regard." It concludes that the aforementioned infraction seems to have been included in the resolution with "a mere intention to increase, [...] in a completely artificial way the reproach directed against" EQUIFAX.

It indicates that the reasoning of the AEPD in the proposed resolution leads to the fact that, when it is considered that a certain treatment breaches the principle of limitation of the purpose (which the defendant denies) "there would also be a breach of the principle of minimization, given that the processing of more data than those legally required in the opinion of the Agency. This argument, by definition would be inadmissible, [...]"

Lastly, it adds that, as a consequence of the entry into force of the LOPDGDD, "has put into practice measures aimed at making the processing of the data adjusted to the principles of accuracy and minimization and that only the treatment in the event that compliance with such principles is guaranteed, for which fails to understand the effect that the entry into force of said provision can generate in the alleged violation of the principle of minimization."

4. Based on the foregoing and the documentation in the file, we estimate that the conduct of the respondent violates the principle of minimization of data foreseen in article 5.1.c) RGPD.

The infringement of article 5.1.c) RGPD is typified in article 83.5.a) RGPD that establishes:

“The infractions of the following dispositions will be sanctioned, in accordance with the paragraph 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the global total annual turnover of the previous financial year, opting for the largest amount:

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

On the other hand, for prescription purposes, the LOPDGDD qualifies in its article 72.1. as a very serious infraction "a) The treatment of personal data violating the principles and guarantees established in article 5 of Regulation (EU) 2016/679”.

Of the infringement of the obligation imposed in article 14 RGPD

IX

1. The RGPD dedicates chapter III to the rights of the interested parties (articles 12 to 23).

Article 14, under the heading "Information to be provided when the data have not been obtained from the interested party" establishes the following:

"1. When the personal data has not been obtained from the interested party, the person in charge of the treatment will provide you with the following information:

- a) the identity and contact details of the person in charge and, where appropriate, of their representative;
- b) the contact details of the data protection delegate, if applicable;

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c) the purposes of the treatment to which the personal data is destined, as well as the basis legal treatment;

d) the categories of personal data in question;

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

f) where appropriate, the intention of the controller to transfer personal data to a consignee in a third country or international organization and the existence or absence of an adequacy decision by the Commission, or, in the case of transfers indicated in articles 46 or 47 or article 49, paragraph 1, second paragraph, reference to adequate or appropriate safeguards and means of obtaining a copy of them or the fact that they have been lent.

2. In addition to the information mentioned in section 1, the person in charge of the treatment will provide the interested party with the following information necessary to guarantee Fair and transparent data processing with respect to the interested party:

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

b) when the treatment is based on article 6, paragraph 1, letter f), the interests legitimate of the data controller or of a third party;

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

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

consent before its withdrawal;

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

f) the source from which the personal data comes and, where appropriate, if they come from public access fountains;

g) the existence of automated decisions, including profiling, to which referred to in article 22, paragraphs 1 and 4, and, at least in such cases, information about applied logic, as well as the importance and consequences provisions of said treatment for the interested party.

3. The data controller shall provide the information indicated in sections 1 and two:

a) within a reasonable period of time, once the personal data has been obtained, and no later than within a month, taking into account the specific circumstances in which said data is processed;

b) if the personal data is to be used for communication with the interested party, at the latest at the time of the first communication to said interested party, or

c) if it is planned to communicate them to another recipient, at the latest at the time that the personal data is communicated for the first time.

4. When the person in charge of the treatment projects the subsequent treatment of the data personal data for a purpose other than that for which they were obtained, will provide the data subject, prior to such further processing, information about that other purpose and any other relevant information indicated in section 2.

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5. The provisions of sections 1 to 4 shall not apply when and to the extent

in what:

a) the interested party already has the information;

b) the communication of said information is impossible or supposes an effort

disproportionate, in particular for processing for archival purposes in the interest

public, scientific or historical research purposes or statistical purposes, subject to

the conditions and guarantees indicated in article 89, paragraph 1, or to the extent

that the obligation mentioned in paragraph 1 of this article may

disable or seriously impede the achievement of the objectives of such treatment. In

In such cases, the person in charge will adopt adequate measures to protect the rights,

liberties and legitimate interests of the interested party, including making public the

information;

c) the obtaining or communication is expressly established by the Law of the

Union or of the Member States that applies to the data controller and that

establish adequate measures to protect the legitimate interests of the interested party, or

d) when the personal data must remain confidential on the basis of the

basis of an obligation of professional secrecy governed by Union law or

of the Member States, including an obligation of secrecy of nature

statutory.”

Recital 39 also refers to the right of data subjects to be informed

of the processing of your data, in the following terms:

“[...]For natural persons it must be totally clear that they are collecting,

using, consulting or otherwise treating personal data that

concern, as well as the extent to which said data is or will be processed. The beginning

of transparency requires that all information and communication regarding the treatment of

such data is easily accessible and easy to understand, and that a language is used

simple and clear. This principle refers in particular to the information of the interested parties about the identity of the person in charge of the treatment and the purposes of the same and to the information added to guarantee a fair and transparent treatment with regard to the natural persons affected and their right to obtain confirmation and communication of personal data concerning them that are subject to treatment. [...]"

From the date of effective application of the RGPD (05/25/2018) the claimed party was obliged to inform, in the terms of article 14 RGPD, all interested parties whose personal data were being processed through the FIJ in that moment. This is because the new transparency regime introduced by the RGPD affected all the treatments that were maintained on that date, with regardless of the regime in force when the data was collected, and establish a norm or the criterion of the Contentious-Administrative Chamber of the National audience.

Obligation, on the other hand, was well known to all those responsible for treatments that during the two years prior to the effective application of the RGPD were preparing the adaptation to the new legislation of the treatment of personal data they made.

It seems obvious that EQUIFAX did not comply with the obligation imposed by article 14 RGPD to notify the holders of the data that on that date were recorded in the FIJ.

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For this, it is enough to compare the figures provided: in 2018 the people whose data

were subject to treatment by the FIJ exceeded four million and, nevertheless, the number of notifications made that year does not reach three hundred and forty thousand. In this sense, an infringement of article 14 RGPD is already appreciated in relation to the article 5.1.a) GDPR.

On the other hand, there is no doubt that EQUIFAX is obliged to inform the interested in the terms of article 14 RGPD each time you incorporate your FIJ personal information.

In line with this obligation, we must reiterate what was already stated about the violation of other provisions of the GDPR. In the behavior analyzed we start from illicit processing of personal data, since data is collected that was initially processed for a purpose that is incompatible with the purpose for which pursues further treatment, that is, the FIJ, which conditions, how could it be otherwise, compliance with the obligations that the RGPD imposes on the responsible for the treatment to the point that these are impossible compliance if not in violation of other provisions of the GDPR.

As EQUIFAX has repeatedly recognized, the information that the FIJ collects It basically comes from official newspapers and bulletins. It has already been indicated that, as a result of the entry into force of the LOPDGDD and the application of Additional Provision 7, The data of the domicile of the administrators whose personal data are object of publication in accordance with articles 44 and 45 LPACAP.

It turns out, therefore, that having EQUIFAX the obligation to inform the interested parties whose data is included in the file completely lacks the possibility of complying with respect to new registrations such an obligation, to the extent that the advertisements published will not provide you with the information of the address that allows you to inform you in the terms indicated in article 14 RGPD. Circumstance that is obviously not

Obstacle for the infringement of article 14 RGPD to be appreciated, particularly with respect to

to the annotations that on the date of entry into force of the RGD already appeared in the FIJ, but to highlight, once again, the absolute irregularity of the FIJ.

2. EQUIFAX has stated in its allegations to the initial agreement that "it comes making the holders whose data have been collected since May 25, 2018, a specific notification of its inclusion in the FIJ, as a measure to ensure data updating. Such communications allow interested parties, in a free and simple way, check if the data is actually that have been published by the different official bulletins and that have been collected by my represented contain some error."

As has been pointed out, the notification that it announces will not be possible, at least with the only information offered by the newspapers and bulletins in which the data is published. With regard to this new measure that the defendant announces to us, we must clarify that we are not facing a proactive action by the entity, as it has declared, but before an obligation imposed by the RGD. On the other hand, it is reiterated already indicated about the impossibility of practicing that informative notification to the interested in lacking the information of the address and that the attempt to link the number

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identifier of an interested party that is published in an official gazette with the information

It is recorded in the FIJ, so the data of the address is of interest here, it constitutes its time an infringement of the data minimization principle.

Lastly, the entity's repeated comment about the non-existence of an obligation to inform the owner of the data being processed



as established in article 5 of the LOPD. The respondent has stated that there was an express endorsement of the National High Court that it was not required the compliance with such obligation because their actions are included in the regime of the article 29.1 LOPD and has cited to this end the SSAN of 06/29/2001 (Rec.1012/1999); 11/29/2001 (Rec.531/2000) and 02/27/2008 (Rec. 358/2006) However, the aforementioned judgments seem to show that the regime to which he refers is connected with the prevailing criterion at that time that a treatment of data that had been obtained from public sources defined by article 3.j LOPD was lawful in accordance with article 6.2 LOPD. Therefore, we understand that after the publication of the judgments so often cited of the CJEU and the T.S. there was no reason for EQUIFAX does not comply with the obligation established in article 5 LOPD.

3. In its allegations to the proposed resolution, regarding this infraction, the claimed analyzes three different scenarios.

(i) The regime prior to the entry into force of the LOPDGDD, in which, it affirms, exempted from the obligation to inform the interested parties of the processing of their data carried out in the FIJ as confirmed by a "repeated jurisprudence" that determined that from the SAN of 02/27/2008 the AEPD does not dictate any sanctioning resolution for non-compliance with the obligation to notify.

(ii) The existing regime during the term of the LOPD, from the date on which it is dictates the judgment of the CJEU of 24/11/2011. Considers that the situation was identical to the above and that it was the proposed resolution that "creates ex novo" a line argument that understands that the previous criterion was modified from the aforementioned STJUE. In the opinion of the respondent, the proposal eliminates "the possibility of founding the of the FIJ in the provision of article 29.1 LOPD". Therefore, it requires that the exclusion from the duty to inform did not derive from the nature of the sources from which

obtained the information, but from article 29.1, in relation to 29.4 and in relation to article 5.5. LOPD.

(iii) The system after the effective application of the RGPD, in which EQUIFAX has considered "necessary to comply with the duty to inform". After which, add that, "despite the fact that he could have considered that the causes that exonerated him from said obligation under the LOPD that, do not forget, remained in force until the 7th of December 2018, they continued to protect him." This commitment assumed as a result of the effective application of the RGPD has materialized in the "notification to all interested in the inclusion of their data in the FIJ", which constitutes a "commitment of the entity with the guarantee of the right to data protection".

The respondent affirms that the proposal considers that "this duty of information is not has complied with respect to the data included in the FIJ prior to entry into force of the LOPDGDD, that is, when there was a rule that excluded the duty to information." It also states that after the entry into force of the LOPDGDD, could distinguish "two types of data": (i) Those entered prior to the

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entry into force of the RGPD, regarding which it says that "[...] the principle of minimization and the cited interpretation of article 11 excluded the possibility of obtaining additional information with the sole protection of complying with the duty to inform". A purpose of article 11 RGPD indicates that it can be interpreted by analogy, in what affects the processing of additional data to those required for compliance with the purpose of the treatment, the provisions of that precept, according to which "[i]f the purposes for

which a controller processes personal data do not require or no longer require the identification of an interested party by the person in charge, the latter will not be obliged to maintain, obtain or process additional information with a view to identifying the interested party with the sole purpose of complying with this Regulation. Therefore, he considers that it would be possible to conclude that, if the purposes of the treatment do not justify the treatment of additional data, could hide behind GDPR compliance to collect such data.

(ii) Those incorporated into the FIJ after said entry into force, with respect to the that Equifax chose, compared to the other entities in the sector, to comply with the Article 14, proceeding to notify all interested parties of the incorporation of their data to the FIJ.

The entity concludes that it has fully complied with the duty of information regarding all those treatments carried out since the entry into force of the RGPD, therefore, "Under the previous regulations (LOPD) it was exempt from compliance with that obligation." and after "the entry into force of the RGPD, it was applicable to these treatments what provided in article 14.5 a) of the RGPD, as the information is impossible or requires disproportionate efforts, something that the Proposal itself explicitly recognizes."

The respondent affirms that the proposal considers that "this duty of information is not has complied with respect to the data included in the FIJ prior to entry into force of the LOPDGDD, that is, when there was a rule that excluded the duty to information." However, what the proposal says is that once it entered into force the RGPD, the obligation imposed by article 14 RGPD should be fulfilled in relation to the data previously included in the FIJ, whose treatment is kept. Forget the claim that the RGPD, once it is effectively applied, is applicable in its entirety and that, therefore, EQUIFAX had the obligation from that date of informing the owners of the data in the terms of article 14 RGPD whose treatment continued to be carried out through the FIJ, even though the data was

included in the file under the validity of other regulations. It must be remembered,

furthermore, that the conduct referred to as constituting an infraction of the

The principle of data minimization is what the entity claims to carry out, as a result of the

entry into force of the LOPDGDD, since according to the additional provision

seventh, the announcements of notifications do not include the information of the address: a crossing of

data between the information that already works in the FIJ, in which, as inferred from what

manifested, the address information does appear, with which it is published in the advertisements

inserted in bulletins and official journals.

Therefore, contrary to what EQUIFAX alleges, it was not exempt from the obligation to

notify the holders of the data that were still in the FIJ on the date of application

of the GDPR. Nor can he be excused from fulfilling that obligation on the basis of

apply article 11 RGPD or with the pretext of avoiding breaching the principle of

minimization of data, since with respect to the data already included in the FIJ, it is not practiced

no data crossing. And the breach is patent. It suffices to compare the

number of people included in the FIJ on the date of application of the

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RGPD and the number of notifications that in that year and in successive ones

EQUIFAX.

4. Article 14 RGPD imposes on the claimed party an obligation to inform the

interested parties when the processed data had not been collected from them, which is

consequence of the principle of transparency that governs data processing

according to article 5.1.a) RGPD.

It is a proven fact that EQUIFAX did not notify the interested parties whose data had been dealing through the FIJ as a result of the effective application of the RGPD, the 05/25/2018, this, despite the fact that the interested parties were never informed of the treatment to which your personal data was submitted under an interpretation of the LOPD that the National High Court had done before the judgments of the CJEU of 11/24/2011 and the T.S. of 02/25/2012.

As far as the complainants are concerned, it is found, as already indicated, that there are numerous inclusions subsequent to the date of entry into force of the LOPDGDD. In all cases, it is about interested parties of which there were inclusions previous in the FIJ. However, not all of them appear in the FIJ, among the data that concern them, the data of the address.

4. Based on the foregoing and the documentation in the file, we estimate that the conduct of the respondent violates the obligation imposed by article 14 RGPD, in relation to article 5.1.a) RGPD.

The infringement of article 14 RGPD is typified in article 83.5 RGPD that establishes:

“The infractions of the following dispositions will be sanctioned, in accordance with the paragraph 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the global total annual turnover of the previous financial year, opting for the largest amount:

- a) [...]
- b) the rights of the interested parties pursuant to articles 12 to 22;”

For prescription purposes, the LOPDGDD qualifies in its article 72.1. as a violation very serious “h) The omission of the duty to inform the affected party about the treatment of your personal data in accordance with the provisions of articles 13 and 14 of the Regulation

(EU) 2016/679 and 12 of this organic law”.

X

The respondent revealed in her pleadings brief the non-existence connection between the claims made by the claimants and the object of the sanctioning procedure directed against it. In this sense, it emphasizes that the claims made relate exclusively to the exercise of rights that the RGD recognizes in articles 16 to 22 and that furthermore that The entity attended, in most of the cases, the request made by the affected. For this reason, he considers that this extreme, the non-existent link between the

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claims made and the expressed object of the procedure, would force the file of the procedure.

Apart from the fact that in some of the claims the claimants refer expressly that the inclusion of their data in the FIJ (case of claimants 35, 39, 46 or 55) this allegation must be dismissed, since the facts revealed manifest in the claims are closely linked to the object of the process. In addition, from the examination of said claims, it turns out that the action of the responsible entity transcends the claims presented.

The RGD has established its own and specific regime regarding the Procedures before the control authorities in matters of data protection. The Chapter VIII of the RGD is entitled "Remedies, responsibility and sanctions", and the The first of the articles of said Chapter VIII, article 77, establishes the right to

file a claim with a supervisory authority. Art. 77.1: "Notwithstanding any other administrative resource or judicial action, all interested parties shall have the right to present a claim before a supervisory authority, in particular in the State member in which he has his habitual residence, place of work or place of alleged infringement, if you consider that the processing of personal data that concern violates these Regulations." In turn the art. 79 RGPD establishes that "[w]ithout prejudice to the available administrative or extrajudicial remedies, including the right to file a claim with a supervisory authority under the Article 77, every interested party shall have the right to effective judicial protection when consider that your rights under this Regulation have been violated as a consequence of processing your personal data."

We see therefore that a "claim" of an individual can give rise to two types of procedures, one of them related to infractions of the RGPD, with a general, and another for violation of their rights.

In the LOPDGDD this distinction has been embodied in Title VIII, which regulates jointly the procedures in case of possible violation of the regulations of Data Protection. Thus, your art. 63.1, Legal Regime, includes (a) the procedures in case of infringement of the RGPD and the LOPDGDD itself and (b) those derived from a possible violation of the rights of the interested parties. The LOPDGDD does not foresee any additional type of procedure in case of possible violation of the regulations of data protection, so that all the functions and powers that the RGPD granted to the control authorities in arts. 57 and 58 RGPD must be exercised at through these procedures in case of possible violation of the regulations of Data Protection. There are no others.

It follows, also taking into account art. 64 LOPDGDD, which when the procedure is directed exclusively to the lack of attention to a request

of the rights articles 15 to 22 RGPD a claim will be necessary, but that  
(art. 64.2 LOPDGDD) [w]hen the purpose of the procedure is to determine the  
the possible existence of a violation of the provisions of the Regulation (EU)  
2016/679 and in the present organic law, it will be initiated by means of an initial agreement  
adopted on its own initiative or as a result of a claim. That is, both the  
RGPD as the LOPDGDD consider that a claim from an affected party can be  
the way or means of bringing to the knowledge of the control authority a possible

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violation of data protection regulations, but in no case restricts the  
action of the control authority to the specific and concrete complaint of those affected.

And this for many reasons, among which stands out, as may be the case in the  
this proceeding, that from the confluence of several claims of people  
individuals affected reveals an action by the person in charge who, with  
general character (that is, not only in the specific cases presented by the  
claimants) which shows that these specific cases are the reflection of a pattern  
or common policy applied to all those affected persons who are in the same  
case those interested.

To do otherwise would be inconsistent with the purpose and will of the Community legislator,  
expressly embodied in the RGPD that the control authorities control and  
enforce the RGPD, and with the provisions of the RGPD that they can dispute  
I manifest "infractions" of the data protection regulations through  
"claims" that may transcend the individual claims themselves



formulated.

Consequently, the AEPD has decided to analyze the repercussion of the treatments that are carried out, with the result that the deficiencies noted with respect to the data protection have a general scope, so that all are affected the holders of the personal data registered in it, and not only the claimants, which would result, as has been stated, that the infringement is not produced exclusively with respect to these, but in general.

It cannot be said, therefore, that there is no link between the object of the procedure and claims.

In any case, no rule prevents the body that exercises the power sanctioning, when it determines the opening of a sanctioning procedure, always ex officio (art. 63.1 law 39/2015, of October 1), determine its scope according to the circumstances revealed, even if they do not fit strictly to the statements and claims of the complainant. That is, the agreement to initiate the sanctioning procedure is not constrained by the complaint (the "claim") filed by the individual. This is not the case in the case of procedures processed at the request of the interested party, in which article 88.2 of the LPACAP requires that the resolution be consistent with requests made by East. Even in this case, the authority of the Administration to initiate ex officio a new procedure.

This same article 88 of the LPACAP, referring to the content of the resolution, in its Paragraph 1 establishes the obligation to decide all the issues raised by the interested parties and those others that derive from the procedure, including questions related not raised by the interested parties. This article expressly establishes

Next:

"1. The resolution that puts an end to the procedure will decide all the issues

raised by the interested parties and those others derived from it.

In the case of related issues that have not been raised by the interested parties, the competent body may rule on them, putting it before manifesting them for a period not exceeding fifteen days, so that

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formulate the allegations they deem pertinent and provide, where appropriate, the means test".

In the sanctioning procedure, even the facts that are reveal during their instruction, which will be determined in the resolution proposal, and may motivate the modification of the imputations contained in the agreement to initiate the procedure or its legal qualification.

In this sense, when referring to the specialties of the resolution in the sanctioning procedures, article 90 of the LPACAP establishes:

"two. In the resolution, facts other than those determined in the resolution may not be accepted. course of the procedure, regardless of its different legal assessment...".

Of the medial contest of infractions

eleventh

Article 29.5 of Law 40/2015, of October 1, on the Legal Regime of the Sector

Public (LRSP) provides:

"When the commission of an offense necessarily derives from the commission of another or others, only the sanction corresponding to the most serious infraction should be imposed. serious offense".

In the opinion of this Agency, as stated in the preceding Grounds, the conduct of EQUIFAX in relation to the treatment of data that it carries out through the FIJ, constitutes an infringement of articles 5.1.b) RGPD; 6.1, in relation to the article 5.1.a GDPR; 5.1.d) GDPR; 5.1.c) RGPD and 14 of the RGPD.

The assumption analyzed offers unusual profiles. Starting from an initial violation of the RGPD, the violation of the principle of limitation of the purpose provided for in article 5.1.b) RGPD, the behaviors in which the remaining infractions of the Regulations for which the entity is held responsible are presented as a necessary consequence of the first, without a doubt the most serious infraction.

Although the five violations attributed to EQUIFAX are very serious violations with according to the LOPDGDD and all of them are typified in article 83.5. of the GDPR, the most serious offense committed is the violation of the principle of limitation of purpose to the extent that it has led, in this specific case, in light of the particular characteristics of the facts analyzed, to which the claimed incurs the remaining four GDPR violations for which it is held responsible.

Taking into account the connection between the five violations of the GDPR committed by EQUIFAX in relation to the FIJ and the extraordinary uniqueness of the case, in which the most serious infraction, the violation of the principle of limitation of the purpose set forth in article 5.1.b), entails the commission of the remaining four offences, this Agency considers that in the specific case at hand, attending to the particularities that it has, there is a medial contest between the violation of article 5.1.b) RGPD, on the one hand, and violations of articles 6.1, in relation to 5.1.a; 5.1.d), 5.1.c) and 14 of the GDPR.

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Of the sanctions and corrective measures imposed on the claimed

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1. The powers that the RGPD attributes to the control authorities are detailed in the article 58 whose paragraph 2 refers, in particular, to the so-called powers

“correctives”. The precept establishes:

“Each supervisory authority shall have all of the following corrective powers

listed below:

(...)

f) impose a temporary or definitive limitation of the treatment, including its prohibition;

g) order the rectification or deletion of personal data or the limitation of the

treatment in accordance with articles 16, 17 and 18 and the notification of such measures to

the recipients to whom personal data have been communicated in accordance with the

article 17, paragraph 2, and article 19;

(...)

i) impose an administrative fine in accordance with article 83, in addition to or instead of the

measures mentioned in this section, according to the circumstances of each case

particular;

(...)”

2. The respondent expressed in her allegations to the initial agreement her total disagreement

with the corrective measures and the fines that were included in the agreement to open the

record indicating that the imposition of a sanction in the amount established in the aforementioned

agreement would imply that the company left the market “for the benefit of other

competing companies that handle the same information”. draws attention to

the fact that the AEPD has decided to “adopt the most serious measures

provided for in the data protection regulations” when the RGPD offers the control authorities a wide range of corrective measures (article 58) and that the article 83 RGPD expressly provides, in the event of a regulatory breach, the possibility of not imposing an administrative fine and sanctioning with some other corrective measures of article 58 RGPD.

In his arguments to the motion for a resolution, he once again stresses the character disproportionate amount of the proposed administrative fines and requests that they be appraised the following extenuating circumstances that reflect a qualified reduction of his culpability in the treatment of your data in the FIJ:

Which has been implementing, since the approval of the RGPD and the LOPDGDD, different measures aimed at further minimizing the impact that data processing carried out by the FIJ could produce in the private sphere of the interested parties. That has never received any sanction from this AEPD in relation to the treatment carried out carried out by the IJF. That Equifax has repeatedly addressed any request or request for information related to the FIJ and lack of negligence or fault, as indicated in section 3 of this allegation (article 83.2 b) of the GDPR).

Circumstances to Reject.

3. In the present case, it is considered convenient, taking into account the circumstances that concur, impose the corrective measures described in the sections

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f) and g) of article 58.2 RGPD. This, without prejudice to the administrative fines provided

in letter i) of the precept, in accordance with the provisions of article 83.5 RGD.

As stated in Recital 129 of the RGD, "In particular, any measure must be adequate, necessary and proportionate with a view to guaranteeing compliance with the this Regulation, taking into account the circumstances of each specific case..."

Regarding the reasons that justify the adoption of these measures, we must point out that,

As has been proven in the resolution, EQUIFAX incorporates into the FIJ file,

through which it pursues, primarily, a purpose linked to the evaluation of the

solvency of natural persons, information with personal data of

admins you get from notification ads and event posts

administrative documents that are published in official gazettes and journals for

fulfill a purpose related to the public interest. The purpose pursued by the FIJ is

different and incompatible with the one that justifies the treatment carried out by the

Public Administrations, so that any further processing of the data with

the purpose pursued by the FIJ violates the RGD. The data processing that the FIJ

carried out violates the principle of limitation of the purpose (article 5.1.b, RGD). Starting

from here, it incurs an infringement of the principle of legality (article 6.1 in relation to the

5.1.a). It is added to the foregoing that, since the information contained in the

FIJ to report on the solvency, the claimed one does not have mechanisms to

update and keep up to date that information or to unequivocally identify the

alleged debtors. To carry out this treatment, the FIJ violates other principles

of the RGD that it is obliged to respect, such as the accuracy and minimization of

data (articles 5.1.d, and 5.1.c) and, the data controller is not in a position

(for not having the information regarding the address of all the holders whose

data are processed) to fulfill obligations that constitute a right

of those affected to guarantee the transparency of the treatment (article 14

GDPR).

These GDPR violations respond to the modus operandi of the FIJ and are not Specific violations of current regulations related exclusively to the claimants in this file.

The mechanics of the file's operation is incompatible with respect for the RGPD.

These are the reasons that advise adopting the only measures that can guarantee compliance with the regulations governing the fundamental right that

This Agency must protect and restore all natural persons who are suffering from the illicit processing of your personal data through the FIJ in the full disposal of the fundamental right that the Constitution recognizes in article 18.4.

Therefore, in accordance with article 58.2 RGPD, it is agreed to adopt the following corrective measures:

(Yo)

(iii)

Pursuant to section f) definitively prohibit EQUIFAX from continue with the processing of personal data carried out through of the FIJ, given that the treatment is incompatible with the GDPR compliance.

Pursuant to its section g) order the person in charge of the FIJ to proceed to the deletion of all personal data that are subject to treatment

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in the aforementioned file linked to alleged debts, in accordance with the provided for in article 17.1.d) of the RGPD.

The corrective measure consisting of definitively prohibiting EQUIFAX from continuing carrying out the data processing that it performs through the FIJ is provided to the situation of non-compliance with current regulations and also necessary. Also It is necessary to delete all the personal data of those affected because being the treatment carried out illegal, only in this way can it be returned to the people affected by such treatment in the enjoyment of their fundamental right.

#### 4. Administrative fines.

In order to determine the amount of the administrative fines that it is appropriate to impose for each of the GDPR violations for which EQUIFAX is held responsible, it must be in accordance with the provisions of articles 83.1 and 83.2 of the RGPD that establish, respectively:

“Each control authority will guarantee that the imposition of administrative fines under this Article for infringements of this Regulation indicated in sections 4, 9 and 6 are in each individual case effective, proportionate and dissuasive.”

“Administrative fines will be imposed, depending on the circumstances of each individual case, in addition to or as a substitute for the measures contemplated in the Article 58, paragraph 2, letters a) to h) and j). When deciding to impose a fine administration 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 such as the number of interested parties affected and the level of damages that have suffered;
- b) intentionality or negligence in the infringement;
- 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 person in charge or of the person in charge of the treatment, 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 person in charge or the person in charge of the treatment;

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 measure;

i) when the measures indicated in article 58, section 2, have been ordered previously against the person in charge or the person in charge in question in relation to the same matter, compliance with said measures;

j) adherence to codes of conduct under article 40 or 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 infringement.”

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In relation to section k) of article 83.2 of the RGPD, the LOPDGDD, article 76,

“Sanctions and corrective measures”, provides:

"two. 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 treatment of personal information.
- c) The profits obtained as a result of committing the offence.
- d) The possibility that the conduct of the affected party could have induced 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 not mandatory, a data protection delegate.
- h) Submission by the person in charge or person in charge, on a voluntary basis, to alternative conflict resolution mechanisms, in those cases in which there are controversies between them and any interested party.”

Violations of the GDPR for which EQUIFAX is held liable in this agreement start are typified in article 83.5., precept that sets the maximum amount of the penalty to be imposed in the amount of 20,000,000 euros or, in the case of a company, of a amount equivalent to a maximum of 4% of the total global annual turnover of the previous financial year, opting for the highest amount.”

Determination of the modifying circumstances of the responsibility:

#### 4.1. Infringement of article 5.1.b) RGPD:

The concurrence as aggravating factors of the following factors that reveal a greater unlawfulness and/or culpability in the conduct of the defendant.

1.-The circumstance described in article 83.2.a) RGPD, which assesses the seriousness of the infringement taking into account the "scope or purpose" of the treatment operation.

We are not dealing with an isolated offending conduct or the result of a specific irregularity.

It is a perfectly articulated *modus operandi* outside the law that taking advantage of official publications that contain personal data seeks obtain an economic benefit by providing a service to third parties related to the information on the solvency of those affected. The scope of this operation transcends the affected claimants and extends to all persons whose data had been included in official publications in the past or that may be included in the future. We are dealing with a business structured on the Failure to comply with the regulations that guarantee the fundamental right recognized in the article 18.4 of the C.E. On the other hand, the data of those affected are called to communicate to third parties, despite the fact that their treatment clearly violates the RGPD. The extent of harm that may result from this treatment is unpredictable.

2.-The circumstance described in article 83.2.b) RGPD that values "the intentionality or negligence of the infringement". The defendant has not ignored that her conduct involves a violation of the GDPR. We are facing a very serious lack of diligence EQUIFAX that, despite being aware at all times that its actions

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violated a fundamental right of the people affected has maintained the data processing carried out through the FIJ.

3.- The circumstance described in article 83.2.a) RGPD referring to the number of affected stakeholders. The claims that have given rise to the opening of this disciplinary proceedings affect 96 people. However, it cannot be ignored disproportionate number of people potentially affected by the actions of

EQUIFAX that violates the RGPD, according to the information provided exceeds four million affected.

4.- The circumstance described in article 83.2.a) RGPD regarding damages suffered by those affected. It is valued to this effect that, in accordance with the established doctrine by the A.N., Contentious-Administrative Chamber, the inclusion of a person in a asset solvency file has obvious adverse consequences for the affected.

5.- The circumstance described in article 76.2.b) LOPDGDD in relation to the Article 83.2.k) RGPD: The total and absolute link between the business activity that EQUIFAX develops through the FIJ and the processing of personal data.

6.- The circumstance described in article 76.2.c) LOPDGDD in relation to the article 83.2.k) RGPD. The benefits obtained as a result of the commission of the infringement.

In view of the circumstances that concur, it is estimated that the amount of the fine administrative procedure that is appropriate to impose for the infringement of article 5.1.b) RGPD is of a million euros (€1,000,000).

Likewise, in accordance with article 58.2.f) of the RGPD, the prohibition that continue the processing of personal data carried out through the File of Judicial Claims and Public Organizations (FIJ) of which it is the owner.

Pursuant to article 58.2.g) RGPD, to proceed to the deletion of all data that are subject to treatment through the FIJ associated with alleged debts and that were obtained by the claimed from the publication of advertisements of notification inserted in the Single Edictal Board of the Official State Gazette, of bulletins and official newspapers or the electronic offices of organizations and entities of Public Law

4.2. Infringement of article 6.1, in relation to 5.1.a) RGPD:

The concurrence, as aggravating factors, of the following factors that reveal greater unlawfulness and/or culpability in the conduct of the defendant in the terms that are detailed for the infringement of article 5.1.b) RGPD.

- 1.-The circumstance described in article 83.2.a) RGPD.
- 2.-The circumstance described in article 83.2.b) RGPD.
- 3.- The circumstance described in article 83.2.a) RGPD referring to the number of affected stakeholders.
- 4.- The circumstance described in article 83.2.a) RGPD regarding damages suffered by those affected.
- 5.- The circumstance described in article 76.2.b) LOPDGDD in relation to the article 83.2.k) RGPD.

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- 6.- The circumstance described in article 76.2.c) LOPDGDD in relation to the article 83.2.k) RGPD. The benefits obtained.

In view of the circumstances that concur, carefully assessed, it is estimated that, contrary to the provisions of the resolution proposal, the amount of the fine administrative procedure that is appropriate to impose for the infraction of article 6.1, in relation to the 5.1.a) GDPR is one million euros (€1,000,000).

Likewise, in accordance with article 58.2.f) of the RGPD, the prohibition that continue the processing of personal data carried out through the File of Judicial Claims and Public Organizations (FIJ) of which it is the owner.

Pursuant to article 58.2.g) RGPD, to proceed to the deletion of all data

that are subject to treatment through the FIJ associated with alleged debts and that were obtained by the claimed from the publication of advertisements of notification inserted in the Single Edictal Board of the Official State Gazette, of bulletins and official newspapers or the electronic offices of organizations and entities of Public Law.

#### 4.3. Infringement of article 5.1.d) RGPD:

The concurrence, as aggravating factors, of the following factors that reveal greater unlawfulness and/or culpability in the conduct of the defendant, all of them in the terms that are detailed for the infringement of article 5.1.b) RGPD.

1.-The circumstance described in article 83.2.a) RGPD.

2.-The circumstance described in article 83.2.b) RGPD.

3.- The circumstance described in article 83.2.a) RGPD referring to the number of affected stakeholders.

4.- The circumstance described in article 83.2.a) RGPD regarding damages suffered by those affected.

5.- The circumstance described in article 76.2.b) LOPDGDD in relation to the article 83.2.k) RGPD.

6.- The circumstance described in article 76.2.c) LOPDGDD in relation to the article 83.2.k) RGPD. The benefits obtained.

In view of the circumstances that concur, carefully assessed, it is estimated that, contrary to the provisions of the resolution proposal, the amount of the fine administrative procedure that is appropriate to impose for the infringement of article 5.1.d) RGPD is of a million euros (€1,000,000).

Likewise, in accordance with article 58.2.f) of the RGPD, the prohibition that continue the processing of personal data carried out through the File of Judicial Claims and Public Organizations (FIJ) of which it is the owner.

Pursuant to article 58.2.g) RGPD, to proceed to the deletion of all data that are subject to treatment through the FIJ associated with alleged debts and that were obtained by the claimed from the publication of advertisements of notification inserted in the Single Edictal Board of the Official State Gazette, of bulletins and official newspapers or the electronic offices of organizations and entities of Public Law.

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#### 4.4. Infringement of article 5.1.c) RGPD

The concurrence, as aggravating factors, of the following factors that reveal greater unlawfulness and/or culpability in the conduct of the defendant, all of them in the terms that are detailed for the infringement of article 5.1.b) RGPD.

1.-The circumstance described in article 83.2.a) RGPD.

2.-The circumstance described in article 83.2.b) RGPD.

3.- The circumstance described in article 83.2.a) RGPD referring to the number of affected stakeholders.

4.- The circumstance described in article 83.2.a) RGPD regarding damages suffered by those affected.

5.- The circumstance described in article 76.2.b) LOPDGDD in relation to the article 83.2.k) RGPD.

6.- The circumstance described in article 76.2.c) LOPDGDD in relation to the article 83.2.k) RGPD. The benefits obtained.

In view of the circumstances that concur, it is estimated that the amount of the fine

administrative procedure that is appropriate to impose for the violation of article 5.1.c) RGPD is of a million euros (€1,000,000).

#### 4.5. Infringement of article 14 RGPD

The concurrence, as aggravating factors, of the following factors that reveal greater unlawfulness and/or culpability in the conduct of the defendant, all of them in the terms that are detailed for the infringement of article 5.1.b) RGPD.

1.-The circumstance described in article 83.2.a) RGPD.

2.-The circumstance described in article 83.2.b) RGPD.

3.- The circumstance described in article 83.2.a) RGPD referring to the number of affected stakeholders.

4.- The circumstance described in article 83.2.a) RGPD regarding damages suffered by those affected.

5.- The circumstance described in article 76.2.b) LOPDGDD in relation to the article 83.2.k) RGPD.

6.- The circumstance described in article 76.2.c) LOPDGDD in relation to the article 83.2.k) RGPD. The benefits obtained.

In view of the circumstances that concur, it is estimated that the amount of the fine administrative that is appropriate to impose for the violation of article 14 RGPD is of a million euros (€1,000,000).

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Therefore, in accordance with the applicable legislation and having assessed the criteria for graduation of sanctions whose existence has been proven,



the Director of the Spanish Data Protection Agency,

RESOLVES:

FIRST: IMPOSE EQUIFAX IBÉRICA, S.L., with NIF B80855398, for a infringement of Article 5.1.b) of the RGPD, typified in article 83.5 of the RGPD, in medial competition, in accordance with the provisions of article 29.5 of Law 40/2015, with the Infractions of articles 6.1., in relation to article 5.1.a) RGPD; 5.1.d) GDPR; 5.1.c) RGPD and 14 of the RGPD, the following sanctions:

Pursuant to article 58.2.i) of the RGPD, an administrative fine of one million euros (€1,000,000).

Pursuant to article 58.2.f) of the RGPD, the prohibition to continue processing the personal data that you make through the File of Judicial Claims and Public organizations (FIJ) of which he is the owner.

Pursuant to article 58.2.g) RGPD, to proceed to the deletion of all data that are subject to treatment through the FIJ associated with alleged debts and that were obtained by the claimed from the publication of advertisements of notification inserted in the Single Edictal Board of the Official State Gazette, of bulletins and official newspapers or the electronic offices of organizations and entities of Public Law.

SECOND: NOTIFY this resolution to EQUIFAX IBÉRICA, S.L.

THIRD: Warn the sanctioned party that he must make the imposed sanction effective once

Once this resolution is enforceable, in accordance with the provisions of the art. 98.1.b) of Law 39/2015, of October 1, on Administrative Procedure

Common Public Administrations (hereinafter LPACAP), within the payment term voluntary established in art. 68 of the General Collection Regulations, approved by Royal Decree 939/2005, of July 29, in relation to art. 62 of Law 58/2003, of December 17, through its entry, indicating the NIF of the sanctioned and the number

of procedure that appears in the heading of this document, in the account restricted number ES00 0000 0000 0000 0000 0000, opened on behalf of the Agency Spanish Department of Data Protection in the banking entity CAIXABANK, S.A.. In case Otherwise, it will be collected in the executive period.

Received the notification and once executed, if the date of execution is between the 1st and 15th of each month, both inclusive, the term to make the payment voluntary will be until the 20th day of the following month or immediately after, and if between the 16th and last day of each month, both inclusive, the payment term It will be until the 5th of the second following month or immediately after.

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

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Against this resolution, which puts an end to the administrative procedure in accordance with art. 48.6 of the LOPDGDD, and in accordance with the provisions of article 123 of the LPACAP, the Interested parties may optionally file an appeal for reconsideration before the Director of the Spanish Agency for Data Protection within a month from counting from the day following the notification of this resolution or directly contentious-administrative appeal before the Contentious-Administrative Chamber of the National Court, in accordance with the provisions of article 25 and section 5 of the fourth additional provision of Law 29/1998, of July 13, regulating the Contentious-administrative jurisdiction, within a period of two months from the day following the notification of this act, as provided in article 46.1 of the

aforementioned Law.

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

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

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

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

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

web/], or through any of the other registers provided for in art. 16.4 of the

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

documentation proving the effective filing of the contentious appeal-

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

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

notification of this resolution would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

938-131120

## ANNEX I

Claimants are identified by a number. This Annex provides the

personal data - name, surnames and NIF- of each claimant and the reference of the

file opened by the AEPD for each of the claims filed.

Complainant 1: E/104/2020, (...).

Complainant 2: E/59/2020, (...).

Complainant 3: E/36/2019, (...).

Complainant 4: E/ 727/2020, (...).

Complainant 5: E/728/2020, (...).

Complainant 6: E/736/2020, (...) Represented by Inzertia Consultores Financieros,

S.L., CIF B87960472.

Complainant 7: E/743/2020, (...).

Complainant 8: E/745/2020, (...).

Complainant 9: E/954/2020, (...), Represented by Inzertia Consultores Financieros,

SL

Claimant 10: E/957/2020, (...). Represented by Inzertia Consultores Financieros,

SL

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(...),

(...).

Inzertia Consultants

(...). Represented by

Represented by Inzertia Consultants

represented by INZERTIA Consultants

(...). Represented by Inzertia Consultants

(...). Represented by Inzertia Consultants

Claimant 11: E/1206/2020, (...). Represented by Inzertia Financial Consultants,

SL

Claimant 12: E/1207/2020,

Financial, S.L.

Claimant 13: E/1209/2020,

Financial, S.L.

Complainant 14: E/1210/2020,

Financial, S.L.

Claimant 15: E/1211/2020. (...). Represented by Inzertia Financial Consultants,

SL

Claimant 16: E/1262/2020,

Financial, S.L.

Claimant 17: E/ 3321/2019, (...).

Claimant 18: E/3633/2019, (...).

Complainant 19: E/3912/2019, (...).

Claimant 20: E/4367/2019, (...).

Claimant 21: E/2021/2020, (...), represented by (...).

Claimant 22: E/2031/2020, (...).

Complainant 23: E/2035/2020,

Financial, S.L.

Complainant 24: E/2038/2020, (...), represented by Inzertia Consultores Financieros,

SL

Claimant 25: E/04391/2019, (...).

Complainant 26: E/04392/2019, (...)

Claimant 27: E/04839/2019, (...).

Claimant 28: E/04967/2019, (...).

Claimant 29:E/04978/2019, (...).

Claimant 30: E/04992/2019, (...).

Complainant 31: E/05109/2019, (...).

Claimant 32: E/05447/2019, (...).

Complainant 33: E/05471/2019, (...)

Claimant 34: E/06161/2019, (...).

Complainant 35: E/06172/2019, (...).

Complainant 36: E/06174/2019, (...)

Claimant 37: E/06186/2019, (...).

Complainant 38: E/06187/2019, (...)

Claimant 39: E/06848/2019, (...).

Complainant 40: E/06852/2019, (...)

Complainant 41: E/06853/2019, (...).

Complainant 42: E/07145/2019, (...)

Complainant 43: E/11624/2019, (...).

Complainant 44: E/11629/2019, (...).

Complainant 45: E/11638/2019, (...).

Complainant 46: E/2047/2020,

Financial, S.L.

Complainant 47: E/2048/2020,

Financial, S.L.

Complainant 48: E/2050/2020, (...).

Complainant 49: E/7159/2019, (...).

Claimant 50: E/07162/2019. (...)

(...). Represented by Inzertia Consultants

(...). Represented by Inzertia Consultants

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Claimant 51: E/07823/2019. (...).

Claimant 52: E/07825/2019. (...).

Claimant 53: E/08006/2019. (...)

Claimant 54: E/08008/2019. (...).

Complainant 55: E/08668/2019. (...). Represented by (...)

Claimant 56: E/09912/2019. (...).

Complainant 57: E/10232/2019. (...).

Complainant 58: E/10236/2019 (...).

Complainant 59: E/10367/2019. (...)

Claimant 60: E/10997/2019 and E/03977/2020. (...).

Complainant 61: E/11032/2019. (...)

Claimant 62: E/11619/2019. (...)

Complainant 63: E/11623/2019. (...)

Claimant 64: E/03261/2020. (...). Represented by INZERTIA.

Claimant 65: E/03262/2020. (...)

Claimant 66: E/03265/2020 (...). Represented by INZERTIA.

Complainant 67: E/03267/2020 (...)

Claimant 68: E/03257/2020. (...). Represented by INZERTIA.

Claimant 69: E/03269/2020. (...). Represented by INZERTIA.

Claimant 70: E/03272/2020. (...). Represented by INZERTIA.

Complainant 71: E/03274/2020. (...). Represented by INZERTIA.

Claimant 72: E/03279/2020. (...).

Complainant 73: E/03283/2020. (...).

Claimant 74: E/03349/2020. (...). Represented by INZERTIA.

Claimant 75: E/03550/2020. (...).

Claimant 76: E/03516/2020. (...).

Claimant 77: E/03517/2020. (...).

Claimant 78: E/03547/2020. (...).

Complainant 79: E/03617/2020. (...). Represented by INZERTIA.

claimant

Claimant 81: E/03604/2020. (...). Represented by INZERTIA.

Claimant 82: E/03610/2020. (...). Represented by INZERTIA.

Claimant 83: E/03613/2020. (...). Represented by INZERTIA

claimant

claimant

claimant

Claimant 87: E/03888/2020. (...)

88: E/03852/2020. (...).

claimant

89: E/04760/2020. (...). Represented by (...).

claimant

90: E/05250/2020. (...)

claimant

91: E/05048/2020. (...)

claimant

92: E/05045/2020. (...).

claimant

93: E/05254/2020. (...).

claimant

94: E/04999/2020. (...).

claimant

95: E/5454/2019. (...)

claimant



96: E/5459/2019. (...).

claimant

97: E/9910/2019. (...).

claimant

84: E/03618/2020. (...).

85: E/03649/2020. (...).

86: E/03729/2020. (...). Represented by (...).

80E/01366/2019. (...)

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