

□ Procedure No.: PS/00142/2019

938-300320

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) on 12/11/2018, filed
claim before the Spanish Data Protection Agency against B.B.B. (
ÁLORA CITY COUNCIL (hereinafter, the claimed party).

The reasons for "having joined a WhatsApp group days ago",
on 11/21/2018 at 10:26 p.m. you can see an entry by the number
***PHONE.1, with name B.B.B., which corresponds to the person of B.B.B.,
Councilor of *** of the municipality of Álora, who sends a screenshot of a
computer application of the City Council, called "Gestiona". Containing data about
your application submitted that same day at around 1:00 p.m. You state that your claim
it dealt with a request for the payment of remuneration and hours worked.

Provides:

- 1) - copy of letter of 11/22/2018 addressed to the mayor expressing the facts
happened asking for disciplinary action against said person.
- 2) - printed copy in which you can see WhatsApp photos, Group messages

Pso Alora.

-22.25 But it's upstairs.

-22.26 Forwarded contains the number that identifies the claimant, associated with B.B.B.
with the capture of an image of a computer application with the data of the claimant.

The extension includes "request to calculate the day as they should correspond and payment of

9369.73, 11/21/2018.”

-22, 28Be careful with the *** that is the best we have.

-22.28 B.B.B. Don't ask me, I have no idea...

-22.33 Of course, there is this climbed 7 steps.

In the display of the screenshot, the data of the claimant is read, the number of registration and time, and in the request "request to compute days as they should correspond and installment of 9,369.73.

SECOND: In view of the facts stated, the claim was transferred on 01/15/2019 to the requested, Álorá City Council, to inform:

1.

Copy of the communications, of the decision adopted that has sent the claim regarding the transfer of this claim, and proof that the claimant has received notice of that decision.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

2/13

Report on the causes that have motivated the incidence that has originated the claim.

Report on the measures adopted to prevent similar incidents from occurring.

two.

mation.

3.

lares.

4. Any other that you consider relevant.

The shipment appears to have been received on 01/16/2019, although no response was received to the request.

THIRD: On 03/18/2019, the Director of the AEPD agrees to the admission for processing of the claim.

FOURTH: On 11/4/2019, the Director of the Spanish Data Protection Agency agreed:

“FIRST: START A PUNISHMENT PROCEDURE against the CITY COUNCIL OF ÁLORA, for the alleged infringement of article 5.1.f) of the RGPD, in accordance with the provisions of the art. 83.5 of the aforementioned RGPD.

SECOND: START A SANCTION PROCEDURE against the CITY COUNCIL OF ÁLORA, for the alleged infringement of article 25.2 of the RGPD, in accordance with the provisions of the art. 83.4 of the aforementioned RGPD.”

FIFTH: Having been notified of the aforementioned initiation agreement, the respondent submitted a written allegations on 11/25/2019 in which, in summary, it stated:

-During the transfer of the claim, they did provide their response. Provide a copy of the same, that it is a document with date of departure, seal of the City Council 03/26/2019 no. ***NUMBER.1 recipient the agency, accompanied by a paper acknowledgment of pink receipt addressed to the agency, certified mail, with the literal Seizure secretary definitive guarantee entry registration 03/29/2019 date and time of entry with the stamp of the 03/28.

-Indicates the writing in which the SUBJECT appears "definitive guarantee seizure" that the mayor's office had knowledge of the facts denounced in writing presented by the same claimant in that City Hall on 11/22/2018, and a few days later he held a meeting with the. He informed him that until that very moment he was unaware of the facts denounced as alleged action of the councilor. I told him that this alleged action of that corporation, B.B.B., was attributable to it, within its private or particular sphere, "to the margin of my physical person as mayor of the municipality". He informed her that he "did not know the manner or method by which the Councilmember obtained that image, which image was uploaded and shared

with the rest of the members of the group”, product of his free action, and presumably from his own mobile phone so that as mayor “I cannot adopt measures disciplinary or other actions against the councilor”. It states that the WhatsApp group was formed by neighbors, as well as other elected officials of the City Council of the municipal group PSOE.

-also points out that to date there is no person to hold the position of Delegate of Data Protection, and it is stated that it was sent in writing to the Provincial Council of Malaga on 02/12/2019 of cooperation and assistance.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

3/13

SIXTH: On 05/29/2020, the instructor of the procedure agreed to open a period of practice of tests, considering incorporated the filed claim and its documentation, the documents obtained and generated by the General Subdirectorate of Inspection. Likewise, it is considered reproduced for evidentiary purposes, the allegations to the initiation agreement presented by the respondent and the documentation that accompanies them. In addition, it is decided to request the respondent to report on the following issues or provide the following documents.

1)

About the claimant's request that appears in the GESTIONA application, request Compute day as they should correspond and payment of 9369.73, 11/21/2018. Provide a copy of said request, and indicate the matter on which it deals or was classified, who responded to your request, and indicate whether Education and Youth had any competence over the case.

On 06/18/2020 the response is received, providing a copy of the request for claimant of entry in the City Council of 11/21/2018 in which he requests throughout the non-prescribed period of four years salary differences in relation to the working day manifesto made, with a total of 9,369.73 euros. Reports that the Department of Education and youth did not have jurisdiction over the matter what the request or claim was about two)

About the GESTIONA application, which stores and processes the documents processed by the CITY COUNCIL, you are asked to inform if all Councilors had and have access to the entire MANAGE application, its contents, input records and written contents, whatever the matter, or if they have to request the request in writing on the specific points that they need to know.

He replied that not all Councilors had access to the entire MANAGE application, that they could only access the files related to their Areas or Departments, as well as to the entry records equally linked to their tasks without it being for This must be expressly requested in writing.

3)
If that City Council has delivered or delivered to the Councilors mobile phones or other devices for the exercise of its powers.

It indicates that the City Council delivered to the Councilors of the Corporation 2015/2019 both mobile phones and tablet devices for the exercise of their powers.

4) If the Councilors who can or could access said application that contains personal data, they have been instructed on the use, custody and reservation of said data, which belongs to the claimed, owner and data controller. way in which did or in which it is done, accrediting it.

States that express training on data protection was not carried out the Councilors of the Corporation 2015/2019. Currently there have been different

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

4/13

training actions for Councilors and municipal staff in charge of the Delegate of Protection Data.

Access mode to the MANAGE application. Yes to B.B.B. password was provided

5)

name and user, dates between which your access was operational. If you had access to all the contents of all files. Reasons. Indicate which authority or person responsible for that people and depending on which title accesses or accessed said application.

It is reported that Councilor B.B.B., like the rest of the Councilors and employees of the municipal, had assigned its corresponding username and password for access to the GESTIONA platform, and this during the term of the corporate mandate (2015/2019), and only in relation to the files related or linked to your Department (not all files), being the Mayor (currently this condition falls on a different person, as a result of the last elections) who granted the Concessions the specific faculties of all those that the GESTIONA application allowed, and this in function to be related to the tasks of their Area or Department.

About the content that was exposed on WhatsApp that you know because

6)

they were transferred to the claim, they are asked to inform which was the menu or the application that appears in the photo, if it is from the entry register or to which part of the application it belongs and steps that must be taken for a user to access said image. I also know questions them if from the access to the application it is capable of extracting which users have accessed

on a given day and time.

It states that it seems to be the entry record presented in a certain day, where it is verified that on 11/21/2018 at 2:14 p.m. a document was registered with an order number ***NUMBER.2 submitted by the claimant. To access such information or image, the user (employee or councilor) must access the GESTIONA application through their username and password, and once it to the "tab" entry record, search or locate it by entry date or by user (interested party submitting it), "as long as it had the Councilor has express powers to do so", not having the information on the people who accessed (day and time) the information (notwithstanding that in your case said information could be provided by the company that owns the GESTIONA application, called ESPUBLIC).

7)

It is reported that it is incorporated into the procedure, because it is related to the matter the Opinion issued by the BASQUE DATA PROTECTION AGENCY obtained on the web, of 03/31/2016, Cn16-006, regarding requests for access by councilors to the registers of entrances and exits of the town hall.

SEVENTH: A resolution proposal is issued on 06/30/2020 with the literal:

"That by the Director of the Spanish Agency for Data Protection is sanctioned with warning to the CITY COUNCIL OF ÁLORA, with NIF P2901200B, for infractions of the articles:

- 5.1.f) of the RGPD, in accordance with article 83.5.a) of the RGPD.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

- 25.2 of the RGPD, in accordance with article 83.4 a) of the RGPD

PROVEN FACTS

1) The claimant was part of a WhatsApp group, called “Grupo

***GROUP.1” and on 11/21/2018, 10:26 p.m., from the line ***TELEPHONE.1 that corresponds to “B.-

B.B.”, a message was sent with a screenshot containing his personal data.

These data correspond to a document that the claimant had submitted to the registry

general entrance of the Town Hall that same morning. The claimant states that the

Minte is B.B.B., Councilor for Education of the Álorá City Council.

2) Municipal employees and Alora Town Councilors can access

to the application of digital computer management of administrative files of the City Council,

MANAGES, which is not owned by the claimed party, but by an entity called

ESPUBLICO with which the City Council contracted its implementation. Access to the platform

It is done through user keys and password. According to the defendant, the

Councilors agree to said application to the files of the branch of which they are holders.

3) The image that was contained in WhatsApp corresponded to the application screen,

MANAGE, check-in. To access it, in addition to identifying yourself with the user and

password, in the entry registration tab, you can search and locate by date of

input or by user data of the person who submits it.

4) According to what the respondent states at the time of filing his

written by the claimant, B.B.B. had jurisdiction over the matter referred to in the

claim for remuneration and working hours that the claimant requested before the City Council.

5) There is no evidence that B.B.B. You will be informed by the claimant of the use of the application

MANAGES in terms of data protection matters and repercussions when the

facts. From the appointment and designation of the data protection delegate (it was made

the petition to the Provincial Council on 02/12/2019) and in the testing period, the respondent indicates that

Training actions are being carried out on data protection for municipal staff and

Councillors.

6) It can be deduced from what was stated by the City Council that the access system to the Computer application for file management by Councillors.

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of control, and according to the provisions of articles 47 and 48 of the LOPDGDD, the Director of the Spanish Agency for Data Protection is competent to initiate and resolve this process.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

6/13

The RGPD defines in its article 4:

II

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

2) "processing": any operation or set of operations performed on data personal data or sets of personal data, whether by automated procedures or not, such as the collection, registration, organization, structuring, conservation, adaptation or modification, extraction, consultation, use, communication by transmission, diffusion or

any other form of authorization of access, collation or interconnection, limitation, suppression or destruction;

4) "file": any structured set of personal data, accessible in accordance with determined criteria, whether centralized, decentralized or functionally distributed or geographic;

7) "data controller" or "controller": the natural or legal person, authority, service or other body which, alone or jointly with others, determines the ends and means of the treatment; if the law of the Union or of the Member States determines the purposes and means of treatment, the person responsible for treatment or the specific criteria for its appointment may be established by the Law of the Union or of the Member States;

The document presented by the claimant at the Town Hall contains data whose responsible for management and custody is the City Council and its character and destiny are not the dissemination for the knowledge of third parties. The City Council as responsible for the personnel that has access to said document, and responsible for the aforementioned treatment must put the means and measures so that all its personnel know and fulfill their responsibilities in the handling of personal data, have access only to assigned personnel, and within the technical and organizational measures at the time of dispatch and after it.

The brief presented by the claimant as a matter to be managed, is susceptible to identify its signatory through the data contained and relates it in terms of matter, with the classification of your request.

The document was addressed to the municipality of Álora. To the computer application management of files MANAGES the claimed one allowed access to the Councillors, according to indicates only the matters of the management branch of each one, although it does not detail how discriminate such accesses.

To access the image that was sent by WHATSAPP object of the claim, it was accessed through password and user and in the entry registration tab it was possible to

do the search or by day.

Regarding the question of authorization in the treatment that may or may not have a

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

7/13

Councilor for the fact of being one, so that he has access to the management computer application

of records of the city council claimed and as mentioned in the report of the Agency of

Basque data protection, Cn16-006, regarding requests for access by users

councilors to the registers of entrances and exits of the town hall, :“The analysis of this

question involves assessing the existing tension between the right to participate in public affairs

recognized in article 23 of the Constitution and the right to privacy of

citizens, a fundamental right extracted from article 18.4 of the Constitutional Text. Is

The issue has already been analyzed by the Basque Data Protection Agency in different

opinions, whose doctrine we will try to summarize.

Article 23 cited above enshrines the right of citizens to

participate in public affairs, directly or through representatives, freely

elected in periodic elections by universal suffrage.

Article 77 of the Law of Bases of the Local Regime establishes:

"All members of local corporations have the right to obtain from the Mayor or

President or of the Government Commission as many antecedents, data or information

are held by the services of the Corporation and are necessary for the development of

its function.

The request to exercise the right set forth in the preceding paragraph must be resolved

reasoned within the five calendar days following the day on which it was filed.

do".

The development of said article contained in Royal Decree 2568/1986, of 28/11 approving the Regulations for the Organization, Functioning and Legal Regime Law of Local Entities (ROF), articles 14 to 16. The same mention of the need of the information for the development of the functions of the councilor is contained in the article 14.1:

"1. All members of Local Corporations have the right to obtain from the Mayor or President or of the Government Commission any background, data or information are held by the services of the Corporation and are necessary for the development of its function".

Article 15 establishes the obligation to provide information to councilors in the case of corporations that hold delegations or management responsibilities, and the information is specific to the corresponding areas; is also obliged to yield to the councilors the information and documentation corresponding to the matters that have to be treated by the collegiate bodies of which they are a part, as well as the resolutions or agreements adopted by any municipal body and, finally, that information that be freely accessible to citizens.

Finally, article 16 regulates in detail the consultation procedure and examination of files, books and documentation in general.

The councilors' right to information appears narrowly and directly related to "the development of its function", and especially, in the terms of the article 22.2 a) of the LBRL itself, with the functions of "control and inspection of the governing bodies". It is this work that "not only protects the right to information, but it imposes the duty of knowledge of the data that must be prior to the

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

8/13

proposal, discussion and decision at the plenary session of the Corporation" (STS of 7 December 1988), because the "essence of the request for information is in the control nature of the government action that the councilors must carry out" (STS of June 27, 1988).

The fundamental right of political participation article 23 EC would lose all its effectiveness.

cacia if the exercise of the position were mediated or arbitrarily prevented through the

denial of necessary information, but neither can you be given access by default.

access to all data in all starting areas, such as access to systems

more information on file management, since the aforementioned right is a right of

legal setup.

From the reading of the precept it can be extracted that it is a right to obtain informa-

tion, which at all times is necessary for the development of its function, structured

in a procedure based on prior request and subsequent resolution. The writing of the claim

mante is disseminated the same day it was entered in the register of the town hall headquarters.

The general principle of data processing must also be remembered, that of «mini-

Data misization "which establishes article 5.1.c of the RGPD that personal data se-

will: "adequate, pertinent and limited to what is necessary in relation to the purposes for which

are treated"

The Law of bases of the local regime does not therefore foresee an indiscriminate access to the

municipal information, which is what the respondent participates in with the Councillors, because although

they represent the citizens of the municipality, but they do not have to have access

permanently to all your data at any time. They could have access to

information and data in the manner expressed, for which the

consent of their owners, but always contemplating the minimization of data, without having to access the content such as telephone number, address, because it is not necessary among other issues for such work, even more so if the matter does not correspond to the sectoral branch managed by the councillor.

The Entry Register has an obvious connection with the processing of administrative procedures that are followed in the City Council, being therefore one of the Its main purposes are to serve its correct processing. Its instrumental purpose, linked to the management of the documents that enter and leave the local entity and to the legal certainty of administrative traffic, does not connect you with the specific purpose of political control.

On the other hand, personal data may be included in the registry entries. of all kinds, such as those of a special category: health, or related to union affiliation or documents that are not even addressed to the receiving Administration, but are allocated to another Public Administration.

The need for weighting is also present in the rules that regulate the Access to public information; thus, Law 19/2013, of 9/12, on transparency, access to public information and good governance, by regulating the right of access or passive transparency, includes the need for weighting in article 15.3, even in the case of data not specially protected. It is true that the right of councilors to access the information may be a qualified right with respect to that of citizens in general, not

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

9/13

However, this faculty cannot imply an automatic access to the total information and in

at all times due to the lack of correlation and disproportionality given to this type of access.

The respondent provided access to the councilor who obtains the data. the claimed in addition, he had not informed his staff or the councilors of the limitations of use of the data you access.

Access to said document is possible since the claimant authorizes as user of the entry and exit system of the registry to a Councilor of the City Council, position which is within the organization of the data controller.

It is thus estimated that the claimed party has infringed article 5.1.f) of the RGPD, which indicates 1.

The personal data will be:

f) processed in such a way as to ensure adequate security of the data including protection against unauthorized or unlawful processing and against their accidental loss, destruction or damage, through the application of technical measures or appropriate organizational measures ("integrity and confidentiality").

To which should be added section two of article 5, which indicates:

"two. The data controller will be responsible for compliance with the provisions of the paragraph 1 and able to demonstrate it ("proactive responsibility")."

Obligation that is modalized in article 5 of Organic Law 3/2018, of 5/12, of Protection of Personal Data and guarantee of digital rights (hereinafter LOPDGDD), which specifies:

"1. Those responsible and in charge of data processing as well as all persons that intervene in any phase of this will be subject to the duty of confidentiality to the referred to in article 5.1.f) of Regulation (EU) 2016/679.

2. The general obligation indicated in the previous section will be complementary to the duties of professional secrecy in accordance with its applicable regulations.

3. The obligations established in the previous sections will be maintained even when

the relationship of the obligor with the person responsible or in charge of the treatment had ended.

III

On the other hand, the defendant is charged with the infringement of article 25.2 of the RGPD, which specifies the data treatment established by default, which indicates:

"two. The data controller will apply the technical and organizational measures

with a view to guaranteeing that, by default, only those

personal data that is necessary for each of the specific purposes of the

treatment. This obligation will apply to the amount of personal data collected, the

extension of its treatment, its conservation period and its accessibility. such measures

They will guarantee in particular that, by default, personal data are not accessible, without the

intervention of the person, to an indeterminate number of natural persons."

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

10/13

And in article 28.2 of the LOPDGDD:

"two. For the adoption of the measures referred to in the previous section, those responsible

and processors shall take into account, in particular, the increased risks that

could occur in the following cases:

a) When the treatment could generate situations of discrimination, usurpation of

identity or fraud, financial loss, reputational damage, loss of

confidentiality of data subject to professional secrecy, unauthorized reversal of the

pseudonymization or any other significant economic, moral or social damage to the

affected.

b) When the treatment could deprive those affected of their rights and freedoms or

could prevent them from exercising control over their personal data.”

The respondent has not outlined or analyzed the real needs for access to the information of the councilors in the access to the data with the specific functions of specific control attributed by the regulations.

Should have limited general access to the database management files of the councillors, given that permanent contact with said councilors is not necessary. data and access, and have been established as such by default in the system.

The establishment of these measures is aimed at safeguarding the rights individual, being therefore its perspective different from the infraction of the principle established in the article 5.1.f of the RGPD. There is, as is proven in this case, access to a basis of file management with the risk of interested use by third parties, thus, in the At the time treatment is started, data protection issues need to be considered.

data and the adoption of measures that are in accordance with the provisions of these principles of data processing by default, also considering that it is a public entity, and inferring that accesses to the application continue today.

IV

Article 83.5 a) of the RGPD, considers that the infringement of “the basic principles for treatment, including the conditions for consent under articles 5, 6, 7 and 9” is punishable, in accordance with section 5 of the aforementioned article 83 of the Ci-Regulation, with administrative fines of a maximum of €20,000,000 or, in the case of of a company, of an amount equivalent to a maximum of 4% of the turnover global annual total of the previous financial year, opting for the highest amount.”

Article 83.4 a) of the RGPD, indicates: “Infringements of the following provisions will be sanctioned, in accordance with section 2, with administrative fines of 10,000,000 maximum EUR or, in the case of a company, an amount equivalent to 2% as maximum of the total global annual turnover of the previous financial year, opting-

I know for the highest amount:

“The obligations of the person in charge and the person in charge in accordance with articles 8, 11, 25 to 39, 42 and 43”.

v

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

11/13

Article 83.7 of the RGPD indicates:

“Without prejudice to the corrective powers of the control authorities under the Article 58(2), each Member State may lay down rules on whether it can, and to what extent, impose administrative fines on state authorities and public bodies established in that Member State.

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

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

d) order the person in charge or in charge of the treatment that the operations of treatment comply with the provisions of this Regulation, where appropriate, in accordance with a specified manner and within a specified time.

The Spanish legal system has chosen not to sanction with a fine those public entities, as indicated in article 77.1. c) and 2. 4. 5. and 6. of the LOPDDGG:

"1. The regime established in this article will be applicable to the treatments of which are responsible or in charge:

c) The General Administration of the State, the Administrations of the communities

autonomous and the entities that make up the Local Administration.

2. When those responsible or in charge listed in section 1 committed

any of the infractions referred to in articles 72 to 74 of this organic law, the

competent data protection authority will issue a resolution sanctioning

the same with warning. The resolution will also establish the measures that

appropriate to adopt so that the conduct ceases or the effects of the infraction are corrected.

would have committed

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

depends hierarchically, where appropriate, and those affected who had the status of

interested, if any.

4. The data protection authority must be notified of the resolutions that

fall in relation to the measures and actions referred to in the sections

previous.

5. They will be communicated to the Ombudsman or, where appropriate, to the analogous institutions of

the autonomous communities the actions carried out and the resolutions issued to the

protection of this article.

6. When the competent authority is the Spanish Agency for Data Protection, this

will publish on its website with due separation the resolutions referring to the

entities of section 1 of this article, with express indication of the identity of the

responsible or in charge of the treatment that had committed the infraction.”

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

Therefore, the data controller, Álora City Council, being the Councilor integrated in it by virtue of his status as a member, which is, in turn, the body of government and administration of the municipality and for which he is elected "by suffrage universal, free, direct and secret" of the neighbors. For the performance of their functions, in this case, their access to the databases of the management system of files, without the system of access to said information being properly organized. application, in accordance with the RGPD and the LOPDGDD.

As a corrective measure, it is necessary that the requested party does not grant access indiscriminate to all entries of writings to all Councilors, and is articulated as determined by the regulations examined, expressly instructing the use of the data to which they have access

Therefore, in accordance with the applicable legislation and accredited the violations,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE ÁLORA CITY COUNCIL, with NIF P2901200B, for a violation of article 5.1.f) of the RGPD, in accordance with article 83.5 a) of the RGPD, a warning sanction.

SECOND: IMPOSE ÁLORA CITY COUNCIL, with NIF P2901200B, for a infringement of article 25 2 of the RGPD, in accordance with article 83.5 a) of the RGPD, a warning sanction.

THIRD: Considering that article 58.2.d) of the RGPD empowers the control authority to: "order the person in charge or in charge of the treatment that the treatment operations comply with the provisions of this Regulation, where appropriate, in a certain manner and within a specified period", the respondent is urged to provide Within one month of receipt of this resolution, detail the organizational measures and techniques so that the materialization of another infraction such as the one analyzed is difficult

realization. As an indication to adopt, those suggested in this resolution are valid.

FOURTH

: NOTIFY this resolution to the ÁLORA CITY COUNCIL.

FIFTH

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

: COMMUNICATE this resolution to the OMBUDSMAN, of

SIXTH: 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.

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 period of one month from the day

following the notification of this resolution or directly contentious appeal

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

13/13

before the Contentious-Administrative Chamber of the National High Court, with

in accordance with the provisions of article 25 and section 5 of the fourth additional provision

of Law 29/1998, of 13/07, regulating the Contentious-administrative Jurisdiction, in the

period of two months from the day following the notification of this act, as

provided for in article 46.1 of the aforementioned Law.

Finally, it is 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 interested party

states its intention to file a contentious-administrative appeal. If this is the

In this case, the interested party must formally communicate this fact in writing addressed to the Spanish Agency for Data Protection, presenting it through the Electronic Registry of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the remaining records provided for in art. 16.4 of the aforementioned Law 39/2015, of 1/10. Also must transfer to the Agency the documentation that accredits the effective filing of the Sponsored links. If the Agency was not aware of the filing contentious-administrative appeal within 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

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es