

□ File No.: PS/00413/2020

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: On 06/01/2020, it had entry in this Spanish Agency of
Data Protection a document presented by A.A.A. (hereinafter referred to as the claimant),
through which you make a claim against UNÍSONO SOLUCIONES DE NEGOCIO,
S.A. with NIF A82365412 (hereinafter, UNISONO, the claimed or claimed entity),
for the installation of a video surveillance system in computer equipment of the
workers, with indications of non-compliance with the provisions of the regulations
of data protection. (...)

The reasons underlying the claim are as follows:

“After receiving notification from the Labor Relations Department of the Unísono company,
all the union sections, the company informs (attached document) that they are going to
implant webcams both to telecommuting workers and to the few who remain in
face-to-face work on the platforms that this company has in several provinces, these
cameras will capture the image of the workers in their privacy and at home, and the
recordings of said images will be transferred to third parties, that is, to the rest of
workers, from a minimum of 10 to a maximum of 500 people depending on the campaign or
department, all without the authorization of said workers.”

“As a union section at the State level, we have informed the company of the non-use of the
webcams (annex: allegation ***SINDICATO.1.pdf) with the following response
with the implementation of said system (annex: company response after allegation)”.

On this issue, he adds that in face-to-face work there are no cameras for the

carrying out the work of the telemarketer.

After citing a sentence condemning the company "Unisono

***LOCALIDAD.1" (attached copy), pointing out that in its foundations it is declared

that the consent of the workers is required for the use of images

for professional or commercial purposes, indicates that the facts denounced

do not comply with the personal data protection regulations due to the collection and dissemination of the images.

Attach the following documentation:

A) Emails dated 27 (two emails) and 05/29/2020, sent by the

Department of Labor Relations of the "Grupo Unísono" (RRLD Department)

to the union sections and the Works Committee of the center of ***LOCALIDAD.1,

outlined in Proven Fact 5 (the first two) and 7 (the email from

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05/29/2020).

B) Response emails dated 05/28/2020 from the union sections of

***UNION.1 and ***UNION.2 (...). These emails consist

outlined in Proven Fact 8.

C) Judgment of the Social Chamber of the National High Court of 06/15/2017 (SAN

2538/2017).

SECOND: Prior to the acceptance of this claim for processing, it is

transferred to the claimed on 07/13/2020, in accordance with the provisions of the

Article 65.4 of the Organic Law 3/2018, of December 5, on Data Protection

Personal and guarantee of digital rights (hereinafter, LOPDGDD).

The entity claimed filed a reply brief on 08/05/2020,

stating the following:

"First. On the treatment of the images of the teams of workers (both in the

face-to-face mode such as teleworking) for video surveillance

...it must be stated from the beginning that at no time has UNÍSONO dealt with or is

treating the images (neither video nor audio) of the employees through their equipment, none

thereof, for any purpose other than the execution of the employment contract of said

employees.

...the use of a video camera and the establishment of a voice and/or video communication are

becomes (or may become) necessary for the performance of your employment contract, both in the

internal sphere (meetings with other team members or with superiors/managers) or

to provide its services and/or communicate with UNÍSONO clients. this is the only one

purpose for the treatment of the data (images) obtained by video call of the

UNISONO workers and whose legitimate basis is the fulfillment of their employment contract.

Thus, from the declaration of the state of alarm decreed by the situation of the Covid-

19, UNISONO had to resort to teleworking so that practically all of its employees

could continue to provide their services.

For these purposes, due to this exceptional situation, three types of use of

equipment (PC or laptop) by workers, all of them with emission devices

video calls (webcams):

[...]

For all the above cases, out of respect for the privacy of the workers, UNÍSONO

established that the use of the webcam for all workers, under any modality (in

internally or with clients) and in any environment (telecommuting and in workplaces) it would be

totally voluntary.

To this end, document number 1 is attached to the email sent by

UNISON to its workers on May 27, 2020 informing them of this instruction

internal. Specifically, the evidence presented corresponds to the service provided by Unísono

to the company *** COMPANY.1.

In other words, without prejudice to the fact that voice communication with clients and/or internal... is mandatory.

for telemarketers as it is an activity of their work functions, the activation

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of video in such video calls is entirely voluntary.

In the event that the workers activate the video option in the video call, the same in

no case is subject to control or treatment, in real time or archive, for any purpose

different from the one indicated. These video calls are in no case recorded for

no kind of purpose.

Therefore, UNÍSONO in no way and by no means uses the equipment of the

workers for the purpose of video surveillance, security, labor control or any other purpose

of those exposed, neither in work centers nor in teleworking...

Second. On the treatment of the images of the teams of workers (both in the

face-to-face modality such as teleworking) for labor control.

...UNISONO does not use in any way or by any means the equipment of the workers

for purposes of video surveillance, security, labor control or any other purpose, or in the centers of

work or telecommuting...".

In the same brief responding to the transfer process, he cites the Judgment of the Court

Supreme, dated 04/10/2019, by which the appeal is upheld

filed by UNÍSONO against the ruling issued by the Social Chamber of the National Court, dated 06/15/2017, cited by the claimant.

Among other documents, it attaches a copy of two emails addressed to the agents that provide services for the entity "****EMPRESA.1", dated 25 and 05/27/2020, with the subject "Structure *** COMPANY.1 - Telecommuting". Content These emails are transcribed in Proven Fact 4.

THIRD: The claim was admitted for processing by agreement of 09/04/2020.

FOURTH

access to the information available on the claimed entity in "Axesor". (...).

: Dated 05/25/2021, by the General Subdirectorate for Data Inspection

FIFTH: On 07/09/2021, the Director of the Spanish Agency for the Protection of Data agreed to initiate a sanctioning procedure against the UNÍSONO entity, in accordance with the provisions of articles 63 and 64 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP), for the alleged infringement of article 6 of the RGPD, typified in article 83.5.a) of the aforementioned Regulation.

In the opening agreement it was determined that the sanction that could correspond, attended the existing evidence at the time of opening and without prejudice to what resulting from the instruction, would amount to 400,000 euros. Also, it was noted that The imputed infractions, if confirmed, may lead to the imposition of measures, in accordance with the provisions of the aforementioned article 58.2 d) of the RGPD.

On the other hand, as a provisional measure, the temporary suspension of all processing of personal data relating to all workers (in the face-to-face and telecommuting) that results from keeping the webcam of their work teams during the entire working day in the so-called "Sala Mosaic". To this end, the respondent entity was granted a period of ten days

able to justify before the AEPD the attention of said requirement.

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SIXTH: On 07/16/2021, UNÍSONO communicated the temporary suspension of the treatment of the system with effects from the 12th day of the same month in the terms required by this Agency, as well as the submission of internal communications addressed to area directors, middle managers and team coordinators with the instruction not to use the webcam in the “Mosaic Room” environment.

Provide a copy of two emails sent on 07/12/2021, addressed to

“***EMAIL.1” of the “Center” and “North” zones, “***EMAIL.2” of the “Center” and

“North” and “***EMAIL.3” from “Centro”, North”, ***LOCALITY.2, Valencia, Gijón,

***LOCATION.1 and Barcelona; with the subject “The use of a camera in the Chamber is prohibited Mosaic”. The text of these emails is as follows:

“At the moment the use of the camera in the Mosaic room in virtual environments is prohibited.

We know that it is an environment where you find the teams, some with a camera if so want and others do not. And of course the room can continue to be used. The only thing is that it doesn't we can activate the camera. Please, keep them all in mind and transfer it to your equipment”.

“In compliance with the provisions of EU Regulation 2016/679 General for the Protection of Data and Organic Law 3/2018 on the Protection of Personal Data and Guarantee of the Digital Rights, and in order to guarantee regulatory compliance in terms of data protection by Unísono in its capacity as data controller the data of its workers, with an effective date from July 12, 2021

The use of images is prohibited in the Mosaic Room, whose function is to provide a mute environment that keeps the image of workers visible in the performance of their duties job functions. In any case, the use of the webcam of any device is prohibited. in this environment by Unisono workers. For any questions or queries, You can contact the Security team of Grupo Unisono (**EMAIL.4)".

SEVENTH: Notification of the aforementioned initial agreement and extension of the term granted for formulate allegations, and having obtained a copy of the proceedings, the entity claimed filed a document dated 07/30/2021, requesting the filing of the sanctioning procedure according to the following considerations:

1. The state of alarm decreed in March 2020 forced to enable work in remote, which implied a series of negative consequences in the people who carried out their entire day in this modality, as demonstrated by the view of various works carried out by entities such as the International Organization of Work or the National Institute of Safety and Health at Work (provides a copy of the document "Prevention of psychosocial risks in remote work situations due to Covid-19", prepared by the last entity cited), which include recommendations addressed to companies, such as the establishment of communication channels individualized and/or group communication, to promote the emotional well-being of Workers.

In regular meetings between the teams and their superiors, the transfer of the situation of stress and anxiety that the company's personnel were experiencing due to that the implementation of measures was proposed so that people suffered a minimal impact from the change to a telework environment, and launched a plan for action that covered the coordination needs in a similar way to the dynamics of a call management center and develop mechanisms to prevent

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People will develop negative feelings.

On 04/20/2020, a work team was formed that, after carrying out consult and ask for suggestions in group sessions held with workers of different campaigns, defined a project that contemplated the qualification of different virtual video conference rooms where the staff can connect during the working day to promote the feeling of team and social cohesion ("Sala Mosaic", Corrillo room, Coordinators room).

A test of the system was started for workers who provided services to the entity "****EMPRESA.1", establishing at an initial moment that the connection of workers with active camera would be mandatory.

Prior to the adoption of the initiative, on 05/27/2020, the workers' representatives, exposing them to teleworking environments and the level of use of the camera and microphone in each of the rooms.

Given the doubts generated by these workers' representatives about the obligation to keep the camera active in the "Mosaic Room", the decision was made that its activation would be voluntary, and so said representatives were informed through emails from 06/08/2020 and to the working people. So, the use of the camera in this room was never mandatory.

Likewise, it informs that the Provincial Labor and Safety Inspection Social de Pontevedra investigated this initiative and, on 06/15/2020, concluded that the company had decided that activation of the camera by staff in the tool "Mosaic Room" was voluntary and that there was accreditation on the

information to the workers' representatives by e-mail from

06/09/2020.

In this regard, UNÍSONO highlights that the union sections of ***SINDICATO.2

and ***SINDICATO.1 (...), by email on 07/15 and 23/2021,

respectively, testified that the entity did not force at any time to activate the camera in the "Mosaic Room".

2. After insisting that the "Mosaic Room" does not imply a system of video surveillance or labor control, nor are images recorded, the entity refers claimed in his brief of allegations to the operation of that virtual environment noting that it is a product video conferencing tool

“***APPLICATION.1”, in which, by default, the camera and microphone are deactivated and, voluntarily, the worker can activate them.

He explains that he sent various emails to the workers informing them of how to access and operation of the tool.

Each agent accesses the room corresponding to their coordinator, so that a small window happens where you see the connected computer in windows in the form mosaic and allows you to interact through chat or have a conversation with the “audio” function and, on a voluntary basis, share your own image and see that of others colleagues using the “video” function, as well as share screen and play

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audiovisual content.

The license contracted by the company for this product allows video calls from

up to 100 participants without recording.

On the other hand, instructions were given to the workers so that in the rooms of videoconference use corporate wallpapers and do not show their areas private, with the aim of respecting their intimacy and privacy to the maximum, following the recommendations published by the AEPD in the document "Recommendations for protect personal data in situations of mobility and teleworking", published in September 2020.

3. Regarding the equipment made available to workers, it is clarified that the majority do not have a webcam, although the entity acquired a total of 1,738 cameras, of which only 330 have been delivered. According to the data that offers, 48% of the staff do not have a webcam on their computer.

On the acceptance of the project, it provides the tests carried out (internal surveys and comments on the intranet), which reflect that the workers are satisfied with the telework initiatives adopted

In relation to the use of the camera, he implemented a measurement system of audiences, the result of which reflects that just under 20% of services they used the "Mosaic Room" and only 10% have used the camera.

4. From the perspective of personal data protection

In compliance with data protection regulations, as well as by virtue of the principle of proactive responsibility, UNÍSONO carried out an analysis of the Project, taking into account the implications that the data processing associated with it could assume in the rights and freedoms of the interested parties, and the measures were identified to adopt tending to guarantee compliance with the guiding principles of the data protection regulations.

Initially, the decision was made that in this case the legitimate basis would be the compliance with the contractual employment relationship. This would be consistent with the legitimization

used for the other uses that were made of the image of people

workers within the framework of the employment relationship by UNISONO, according to the opinion of the Supreme Court thrown in its Judgment 304/2019 of April 10.

Next, the characteristics of the project were communicated to the representatives

of the workers, who expressed their doubts about the suitability of some

aspects of it, giving rise to a review of the analysis previously carried out. In

specific in relation to the determined legal basis, it was considered that the

performance of a contractual relationship is not clearly connected with

the purpose pursued by UNISONO with the treatment, that is, to improve the

working conditions for those who feel the consequences of isolation and

the confinement. To guarantee its voluntariness, as well as in attention to the purpose

pursued, it was concluded that the adequate legitimacy for data processing was

the consent of the worker. This change took place prior to

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the start-up of the project.

Through the aforementioned communication of 06/08/2020, this change was communicated to the representatives of workers and working people

At this point, the AEPD has understood that the consent given for the

treatment object of the actions does not meet the requirement of being a manifestation

of free will, due to the situation of imbalance of power between the person responsible for the

treatment and the interested party in an employment relationship.

To reach this conclusion, it is necessary to assess whether this imbalance exists, whether the

consent is conditional and contingent upon performance of the contract and if
may authorize separately, without any prejudice being foreseen. All this, according to
what is understood by the WG29 in its Guidelines on consent, which understands
that interpretation of consent in the workplace as a presumption
iuris tantum.

“However, this does not mean that employers can never rely on the
consent as a legal basis for data processing. There may be situations in
which the employer can demonstrate that consent has been freely given. Given the
power imbalance between an employer and its staff members, workers
they can only give their free consent in exceptional circumstances, when the
The fact that they do or do not give such consent does not have adverse consequences”.

This is confirmed in the resolution issued by the AEPD in the procedure
PS//00136/2009, of 07/13/2009. In this case, a company installed a system of
cameras that broadcast their offices live, 24 hours a day, being
The images are available for viewing on the company's website. In that case,
that implies a data treatment with a risk notoriously greater than the
raised by UNÍSONO, the AEPD stated that:

“In conclusion, the action of..., consisting of capturing images of the interior of the
company and its transmission to the web, for the purpose of promoting the company requires the
consent of those affected, consent that has been accredited that..., obtained,
therefore, it has complied with the principle of consent regulated in article 6 of the LOPD and
The file regarding said infraction proceeds.”

In this case, all workers were informed that there was no obligation
to activate the camera, without this entailing any damage to the interested party,
has the purpose of labor control and UNÍSONO does not keep track of people
who decide to activate the camera nor does he foresee any type of positive or

negative associated with this action. Proof of this is the data relating to effective use of the detailed camera.

In this regard, it reiterates that the union sections of ***LOCALIDAD.2 testified this voluntariness of the use of the camera in the “Mosaic Room”.

Therefore, the respondent understands that the consent given within the framework of this project is free and this is clearly perceived by all interested persons.

In addition, the system used by the entity allows consent to be given through

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a clear affirmative act, marking or unmarking the camera icon, which agrees with the provisions of Recital 32 of the RGPD, where it is provided that This action may consist of “choosing technical parameters for the use of information society services. Likewise, the revocability of the consent given by the same means.

5. UNÍSONO dedicates the last section of its arguments to the circumstances concurrent that must be considered for the graduation of the sanction, for the in the event that your request to file the proceedings is not accepted.

With your letter, you provide the following documentation:

. Document on “Prevention of Psychosocial Risks in a work situation at distance due to Covid-19. Recommendations for the employer” of the Institute National Safety and Health at Work.

. Emails sent by UNISONO to the representatives of the workers from ***LOCALITY.1, ***LOCALITY.2, Gijón, Valencia, Barcelona,

reporting on the coordination system in a teleworking environment and explaining its

characteristics, including the voluntary use of the webcam in e-mail

06/08/2020.

. Emails sent by UNISONO to workers informing them that

the activation of the webcam is, in any case, voluntary.

. Diligence 36/0004681/20 of the Provincial Inspection of Labor and Social Security

from Pontevedra.

. Chain of emails exchanged between UNÍSONO and the Section

Union of ***SINDICATO.2 in ***LOCALIDAD.2 where the perception of

total voluntary use of the camera.

. Chain of emails exchanged between UNÍSONO and the Trade Union Section of

***SINDICATO.1 in ***LOCALIDAD.2 where the perception of total

voluntariness of the use of the camera.

. Email sent by UNISONO to the workers in which they are

give instructions on how to update the background of the image in

“***APPLICATION.1”. Likewise, the corporate wallpapers are accompanied.

. Analysis of data on the use of the teleworking environment and web cameras.

. Judgment 304/2019, of 04/10/2019, of the Supreme Court.

From this documentation, the content outlined in the Acts stands out.

Tested.

FIFTH: On 02/16/2022, a resolution proposal was formulated in the sense

Next:

1. That the Director of the Spanish Data Protection Agency declare the

inexistence of infraction, in relation to the imputation to the UNÍSONO entity of a

possible violation of the provisions of article 6 of the RGPD.

2. That the Director of the Spanish Agency for Data Protection agrees

LIFT the provisional measure ordered in UNISON in the agreement to open the

This sanctioning procedure, in accordance with the provisions of art. 69 of the

LOPDGDD and art. 56 of the LPACAP, which led to the temporary suspension of all

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processing of personal data relating to all workers (in the

face-to-face and telecommuting) that results from keeping the webcam of their

work teams during the entire working day in the so-called "Sala

Mosaic" of your videoconferencing system.

Of the actions carried out in this procedure and the documentation

in the file, the following have been accredited:

PROVEN FACTS

1. The object of the claimed entity, UNÍSONO, is mainly to provide

telemarketing services, customer service and business advice. For him

development of this activity, the company's staff provides services related to

with the teleoperator sector in centers of the entity located in different cities

Spanish.

2. Due to the state of alarm declared in March 2020 throughout the territory

nationally, UNÍSONO enabled remote work so that employees could

Develop your day in the teleworking modality.

3. In support of remote work, the respondent provided a tool for

videoconference to create a virtual work environment that would support the

teleworkers.

This project contemplated the enabling of different virtual videoconference "rooms"

where the staff can connect during the working day, to contact the

coordinator, solve doubts, request support or contact, hold meetings with the

classmates ("meet your classmates, share your experiences, spend some time

relaxed with those people who, at the moment, you cannot see in person").

One of these "rooms" is called "Mosaico", which is configured as a "room of

"silent" videoconference to generate the feeling of a team". The agent must be

connected to this "room" throughout the working day with the microphone

disabled. Regarding the "video" function, in the initial phases of the project

UNÍSONO planned the obligatory activation of the webcam of the device of the

agent, but finally, before the actual implementation of the

videoconferencing tool, it was established that the use of the camera would be

volunteer for the agent.

According to the operation of this tool, each agent accesses the "room"

corresponding to its coordinator, so that a small window appears

where the connected equipment is seen in mosaic windows and it is allowed

interact through chat or have a conversation with the "audio" function and

share your own image and see that of other colleagues through the "video" function,

as well as share screen and play audiovisual content.

This tool has a function that allows you to use wallpapers to

that the real environment of the user is not shown.

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The videoconferencing system acquired by UNÍSONO is the product

“***APPLICATION.1”. This system is designed so that, by default, the camera and the microphone are deactivated and the user voluntarily activates them.

The license contracted by the company for this product allows video calls from up to 100 participants without recording.

4. UNÍSONO has stated that a test of the videoconference system has begun for workers who provided services to the entity “***EMPRESA.1”.

On 05/25/2020, the claimed entity sends an email to the agents that provide services for the entity “***EMPRESA.1”, with the subject “Estructura ***COMPANY.1 - Telecommuting” and the following information:

“Below we transfer you what is the organization and structure of the Teleworking environment that we follow in ***EMPRESA.1:

Organization in rooms (meet), with the following rooms...

. Mosaic Room: connect throughout the work day; camera on; microphone disabled...

We enclose a table with the details of the rooms, the meaning of each of them and how to access stay on it (micro on or off and camera on or disabled).

Throughout your working day you should remain connected to the Mosaic Room of your coordinator. The rest of the rooms are used on an occasional basis (enter and exit)...

This is the telecommuting environment...

Mosaic Room: Work in the Mosaic room by going in where your teammates are.

We get into this room with microphone off. You will see that you are not alone teleworking...”.

On 05/27/2020, the claimed entity sends a new email with the same subject and the following text:

“Of course, the use of the camera is not mandatory in any of the rooms... We love it see you... But at no time is the use of it obligatory” (all the text in capital letters and bold font).

5. On 05/27/2020, the Human Resources Department of the “Grupo Unísono” sent a email to the union sections of the centers of ***LOCALIDAD.1, Gijón, Valencia and Barcelona, as well as the Company Committee of these centres, with the subject “Operation systems in a teleworking environment”. This email informs the representatives of the workers “in accordance with art. 64.5 ET” on the cited system indicating that "it will be carried out, among other tools, by means of a web, in order to facilitate compensation for the elements of collaboration that would exist in a traditional contact center platform, and which are key to team cohesion and management of work. These are virtual chat and video room systems, in which, among other things, will facilitate the resolution of doubts of the workers, applicable news, meetings, etc."

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It also explains the roles of the people who will make up the chat "rooms" and video of the videoconference system (agent, command and force), the details of the rooms available and the function of each of them. Regarding the "room" called

“Mosaic” means:

"Video:

(Account)/Mosaico: “Silent” videoconference room to generate the feeling of a team.

All the cameras of the agents and the coordinator will be on.”

And ends up reporting the following:

“Lastly, clarify that the room system is not a new issue, but that it comes to reproduce the current work system on a face-to-face platform. Nevertheless, We understand that the Webcam communication system is a novelty in relationships therefore, and taking into account the 15-day notice, the activation of the camera It will be voluntary until June 12, 2020, the date from which its use will be mandatory.

Clarify that in no case will the images be recorded, but rather that it is a element that aims to promote cohesion between work teams, taking into account In addition, according to experts, the feeling of isolation and loneliness can be a risk psychosocial when assessing telework”.

6. On 05/27/2020, the Human Resources Department of the “Grupo Unísono” sent a email to the union sections of the centers of ***LOCALIDAD.1, ***LOCALIDAD.2, Gijón, Valencia and Barcelona, as well as the Company Committee of these centers, with the subject "Operation systems in a teleworking environment", and the following text:

“Additionally, clarify that the Mosaic room is for voluntary use until June 12, in the as its purpose is videoconferencing. The corrillo rooms and the coordinated room if will be used on a mandatory basis, although the activation of the camera will be voluntary until the aforementioned June 12”.

7. On 05/29/2020, the Human Resources Department of the “Grupo Unísono” sent a email to the union sections of the center of ***LOCALIDAD.1, as well as to the Company Committee of this center, with the subject “Operation systems in teleworking environment”, and the following text:

“We proceed to answer your questions:

. Regarding whether the measure affects people in Telecommuting in the company. Yes, it affects everyone, and also to the people who are in person at the Unísono offices

insofar as they can be part of a mixed work team, that is, integrated

by face-to-face people and telecommuting...

. Regarding expert reports, which recommend the use of Webcam, to reduce or eliminate the feeling of isolation and loneliness, when telecommuting. In addition to the numerous news in different publications, there are INSST publications related with Teleworking and with the Prevention of Occupational Risks in a situation of Teleworking in the that indicate the aspects to take into account in teleworking. There are other INSST NPT more old, which are also quite illustrative in this regard.

. Regarding the contribution of cameras. The company will be in charge of supplying them to the working people who do not have the same...

. Regarding whether the objective of the camera is time control... we must tell you that the camera does not have this purpose... what this system tries to reproduce is the system of current work on the face-to-face platform, collaborating in providing support and assistance to the
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agent by not having face-to-face support in his daily work, thus avoiding the possible feeling of isolation and loneliness and... because the time control system... is already guaranteed by other means.

8. In response to the email outlined in Proven Fact 5, the section union of ***SINDICATO.2 of the center of ***LOCALIDAD.2, by mail email of 05/28/2020, requested UNÍSONO a meeting at the state level “with all the union sections with representation in Unísono, to deal with this issue, since the application is in all the provinces where Unísono has platforms”.

The union section of ***SINDICATO.1 of the center of ***LOCALIDAD.2, for its part, responded to that email with another of the same date, addressed to the rest of union sections of that center and the RRLL department of UNÍSONO, in the following terms:

“Regarding the implementation of the mandatory use of web cameras, from the Trade Union Section of ***SINDICATO.1 in Unison, declares the inadmissibility of said measure.

The objectives for which you want to incorporate the aforementioned camera system can be perfectly achieved, as they have been doing, without the need to use cameras, in addition that it could collide with the right of privacy of people workers.

Therefore, we request the annulment of said mandatory activation as established.

9. UNÍSONO has stated that it made the decision that the activation of the camera in the videoconference system to which the actions refer would be voluntary, and that this was communicated to union representatives and workers

On 06/08/2020, the Human Resources Department of the “Grupo Unísono” sent two emails to the union sections and the Works Council of the centers of the entity in ***LOCALIDAD.1, ***LOCALIDAD.2, Valencia and Barcelona with the subject "Operation systems in a teleworking environment", reporting the following:

"We hereby inform you that the company has made the decision to modify the initial instruction, so that the use of the webcam by the workers is performed voluntarily on a permanent basis.

We understand that with said modification there are no qualifications in your contradictory report”.

Also by email dated 06/08/2020, the sections were informed trade unions and the Company Committee of the center of Gijón as follows:

“We hereby inform you that the company has made the decision to establish that the use of the webcam by the workers will be carried out on a voluntary basis. By

what we understand to be understood except for the discrepancies outlined in the report contradictory...".

10. On 06/08/2020, the Human Resources Department of the "Grupo Unísono" sent a e-mail to the trade union sections and the Company Committee of the center of

*** LOCATION.2, with the subject "Operation systems in a teleworking environment", with the following text:

"No worker has been informed that the use of webcams is mandatory. Please, If you know of any case in which this obligation has been mentioned, let us know.

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rectify it".

11. On 06/15/2020, "****POST.1" sent an email with the

subject "****SUBJECT.1", addressed to "****POST.2", "****POST.3", "****POST.4",

"****PUESTO.5", "****PUESTO.6", with a copy to several people and to "****PUESTO.7",

"****POST.8" and "****POST.9", with the following text:

"Today we will start working with the teleworking environment in some of the campaign business. To do this, several virtual meet rooms have been created to which

Both managers and coordinators will be able to access (they will receive the invitation throughout the day):

Connection Room: This is a telepresence room in which the connection of

daily form without audio. It's just a connected viewing room where everything

the world must leave the mute on.

(...)

All these rooms are audio + video, but the latter is voluntary on the part of the people

to access the rooms...”.

12. On 06/23/2020, the “***PUESTO.10” of the Unísono Group sent an email to fourteen people who provide service in said entity, indicating the

Next:

“A virtual room application is being set up, the same options that we had in...

For meetings, training, enter through this link...

Important to know:

Video

. in the mosaic we have to enter and be connected all our day is voluntary the

have the camera connected for the agents, but you have to disable the microphone, it's just a virtual room.

. the rest of the video rooms... are with a microphone and video (whoever wants to activate it)...”.

13. On 06/15/2020, the Provincial Inspection of Labor and Social Security of

Pontevedra raised "Diligence" to the UNÍSONO entity with the following result:

“The company was summoned to provide information regarding the Mosaico system,

teleworking tool that was intended to be used on a mandatory basis from 12

June. It consists of a kind of silent videoconference in which the agents' cameras

and their coordinators must be turned on...

On June 9, a telephone conversation was held with the Human Resource Department

Humans of the company. This provides information in a complementary manner to that

transferred to the representatives of the workers in application of article 64.5 of the ET

by email on May 27. It is reported that the images are not recorded or

reproduced to third parties, which is not intended to control the day or form of provision

of the work of the operators but to promote cohesion at work and avoid the feeling of

isolation in a similar way to the work system that had been carried out on the platform

when it was face-to-face.

Taking into account the doubts raised and the controversy generated about whether the tool could violate the privacy of workers, the company decides that the tool Mosaic is voluntary (activation of webcams by staff) and is credited that the workers' representatives have been informed of this by email dated 9 June.

This concludes the case."

14. By email dated 07/14/2021, the Human Resources Department of UNISONO, consult the union section of ***SINDICATO.2 of the center of www.aepd.es

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***LOCATION.2 on the use of webcams:

“Can you confirm the following?

. Have you participated in meetings through video calls with your managers or groups?
of work?

. In those calls, have you ever been forced to use a webcam?

. Do you have evidence that any colleague has been forced?

. Are there people who don't put their camera on during group video calls?

The aforementioned union section responds by email on 07/15/2021:

“In response to your questions, we indicate that we have no record of these practices and less imposed by the company. It was already clear months ago that the use of the webcam. We as a union section issued a report in this sense that later it was corroborated by the sending of an insert, by the company, to all the workers where the matter was made clear. In no case have we received complaints or

we are aware that no one has been forced or penalized for not connecting the camera web and in our professional activity in campaigns we have the record of NO USE of said camera.

15. By email dated 07/22/2021, the Human Resources Department of UNISONO, consult the union section of ***SINDICATO.1 of the center of ***LOCATION.2 on the use of webcams:

“Can you confirm the following?

. Have you participated in meetings through video calls with your managers or groups? of work?

. Has the camera been actively used in the silent/mosaic rooms?

. Do you have evidence that a colleague has been forced to use the camera in silent/mosaic rooms?

. Are there people who don't put their camera on during group video calls?

. Are the majority those who put it or those who don't?

The aforementioned union section responds by email on 07/23/2021:

“We have not participated in meetings via video call, a video call allows

talk and see each other through the screen, in the courses we have taken we have not seen each other.

In the mosaic room where the delegates of ***SINDICATO.1 connect, all day

of work, each one in his campaign, there is nobody with the active camera. We do not have

evidence that no one has been forced to use the camera in the different rooms. Either

we are aware that there are people who put the camera in group video calls,

In all cases we have always understood that having the camera on or not is something optional, not mandatory.

“...other delegates confirm that they have participated in meetings through video calls, they tell me that the camera is connected by whoever wants it”.

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of Regulation (EU) 2016/679

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(General Data Protection Regulation, hereinafter RGPD), recognizes each

Control Authority, and according to the provisions of articles 47, 48.1, 64.2 and 68.1 of the

LOPDGDD, the Director of the Spanish Data Protection Agency is

competent to initiate and resolve this procedure.

Article 63.2 of the LOPDGDD determines that: "The procedures processed by the

Spanish Agency for Data Protection will be governed by the provisions of the

Regulation (EU) 2016/679, in this organic law, by the provisions

regulations issued in its development and, as long as they do not contradict them, with a

subsidiary, by the general rules on administrative procedures.

II

Taking into account the meaning of the motion for a resolution that was drawn up by the

instructor of the procedure, by virtue of the provisions of article 82.4 of the Law

39/2015, of October 1, of the Common Administrative Procedure of the

Public Administrations, the process of hearing the interested party was dispensed with. In

said article establishes the following:

"4. The hearing process may be dispensed with when they do not appear in the procedure or are

taken into account in the resolution other facts or other allegations and evidence that the

adduced by the interested party".

III

The physical image of a person, in accordance with article 4.1 of the RGD, is a personnel and their protection, therefore, is the subject of said Regulation.

It is, therefore, pertinent to analyze whether the processing of personal data (image of the natural persons serving in UNISON as employees) carried out at through the web camera system for video calls implemented by the entity claimed, both for telecommuting workers and those who provide service in person on the entity's platforms, is in accordance with the provisions of the GDPR.

Article 6.1 of the RGD establishes the assumptions that allow the legalization of the treatment of personal data.

"1. The treatment will only be lawful if at least one of the following conditions is met:

- a) the interested party gave his consent for the treatment of his personal data for one or various specific purposes;
- b) the treatment is necessary for the execution of a contract in which the interested party is a party 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 processing is necessary to protect the vital interests of the data subject or another person

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physical;

- e) the treatment is necessary for the fulfillment of a mission carried out in the public interest or in the exercise of public powers conferred on the data controller;

f) the treatment is necessary for the satisfaction of legitimate interests pursued by the responsible for the treatment or by a third party, provided that said interests are not prevail the interests or the fundamental rights and freedoms of the interested party that require the protection of personal data, in particular when the interested party is a child. It The provisions of letter f) of the first paragraph shall not apply to the treatment carried out by the public authorities in the exercise of their functions.

In accordance with what has been expressed, data processing requires the existence of a legal basis that legitimizes it, such as the consent of the interested party validly, necessary when there is no other legal basis of the mentioned in article 6.1 of the RGPD or the treatment pursues a compatible purpose with the one for whom the data was collected.

Article 4 of the GDPR) defines "consent" as follows:

"11) «consent of the interested party»: any manifestation of free will, specific, informed and unequivocal by which the interested party accepts, either by means of a declaration or a clear affirmative action, the treatment of personal data that concerns you".

Also on consent, article 7 of the RGPD provides the following:

- "1. When the treatment is based on the consent of the interested party, the person in charge must be able to demonstrate that they consented to the processing of their personal data.
2. If the data subject's consent is given in the context of a written statement that also refers to other matters, the request for consent will be presented in such a way clearly distinguishable from other matters, in an intelligible and easily accessible manner and using clear and simple language. No part of the declaration will be binding. constitutes an infringement of this Regulation.
3. The interested party shall have the right to withdraw their consent at any time. The retreat of consent will not affect the legality of the treatment based on the consent prior to his withdrawal. Before giving their consent, the interested party will be informed of it. it will be so easy

Withdraw consent as give it.

4. When assessing whether consent has been freely given, it will be taken into account to the greatest extent possible whether, among other things, the performance of a contract, including the provision of a service, is subject to consent to the processing of personal data that are not necessary for the execution of said contract”.

It also takes into account what is expressed in recitals 32 and 40 to 44 (already cited in the Legal Basis VI) of the RGPD in relation to what is established in articles 6 and 7 above. From what is stated in these recitals, it is highlight the following:

“(32) Consent must be given by a clear affirmative act that reflects a free, specific, informed, and unequivocal manifestation of will of the interested party to accept the processing of personal data that concerns you... Therefore, silence, pre-ticked boxes or inaction should not constitute consent. The consent must

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be given for all treatment activities carried out for the same or the same purposes.

When the treatment has several purposes, consent must be given for all of them...”.

“(42) When the treatment is carried out with the consent of the interested party, the

The data controller must be able to demonstrate that the data controller has given

consent to the treatment operation. In particular in the context of a statement

in writing made on another matter, there must be guarantees that the interested party is

aware of the fact that you give your consent and the extent to which you do so. In agreement

with Council Directive 93/13/EEC (LCEur 1993, 1071), a model must be provided

declaration of consent previously prepared by the data controller with an intelligible and easily accessible formulation that uses clear and simple language, and that does not contain abusive clauses. In order for the consent to be informed, the interested party must know at least the identity of the person responsible for the treatment and the purposes of the treatment to which the personal data is intended. Consent should not be considered freely provided when the interested party does not enjoy true or free choice or cannot deny or withdraw their consent without suffering any prejudice”.

“(43) To ensure that consent has been freely given, it should not constitute a valid legal basis for the processing of personal data in a case in which there is a clear imbalance between the interested party and the person responsible for the treatment, in particular when said controller is a public authority and is therefore so unlikely that consent was freely given in all the circumstances of that particular situation. Consent is presumed not to have been freely given when does not allow separate authorization of the different personal data processing operations despite being appropriate in the specific case, or when the performance of a contract, including the provision of a service, is dependent on consent, even when this is not necessary for such compliance.

It is also appropriate to take into account the provisions of article 6 of the LOPDGDD:

“Article 6. Treatment based on the consent of the affected party

1. In accordance with the provisions of article 4.11 of Regulation (EU) 2016/679, consent of the affected party means any manifestation of free will, specific, informed and unequivocal by which it accepts, either through a statement or a clear affirmative action, the treatment of personal data that concerns you.

2. When the data processing is intended to be based on the consent of the affected party for a plurality of purposes it will be necessary to state specifically and unequivocally that said consent is granted for all of them.

3. The execution of the contract may not be subject to the affected party consenting to the treatment of personal data for purposes that are not related to the maintenance, development or control of the contractual relationship”.

Consent is understood as a clear affirmative act that reflects a free, specific, informed and unequivocal manifestation of the interested party's accept the treatment of personal data that concerns you, provided with sufficient guarantees so that the person in charge can prove that the interested party is aware of the fact that you give your consent and the extent to which you do so. Y must be given for all treatment activities carried out with the same or same purposes, so that, when the treatment has several purposes, the consent for all of them in a specific and unequivocal manner, without being able to subject the execution of the contract to the affected party consenting to the treatment of their

personal data for purposes that are not related to the maintenance, development or control of the business relationship. In this regard, the lawfulness of the processing requires that the interested party be informed about the purposes for which the data is intended

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(informed consent).

Consent must be given freely. It is understood that consent is free when the interested party does not enjoy true or free choice or cannot deny or withdraw your consent without prejudice; or when you don't know allows separate authorization of the different data processing operations despite being appropriate in the specific case, or when the fulfillment of a

contract or provision of service is dependent on consent, even when it not necessary for such compliance. This occurs when consent is included as a non-negotiable part of the general conditions or when imposes the obligation to agree to the use of additional personal data to those strictly necessary.

Without these conditions, the provision of consent would not offer the data subject a true control over your personal data and its destination, and this would be an illegal treatment activity.

The Article 29 Working Group analyzed these issues in its document "Guidelines on consent under Regulation 2016/679", adopted on 11/28/2017, revised and approved on 04/10/2018.

These Guidelines have been updated by the European Committee for Data Protection on 05/04/2020 through the document "Guidelines 05/2020 on consent in accordance with Regulation 2016/679" (keeps literally identical the parts that are transcribed below). In this document 5/2020 it is expressly stated that the Opinions of the Working Party on Article 29 (WP29) on Consent remain relevant, as long as they are consistent with the new legal framework, declaring that these guidelines do not replace previous rulings, but rather expand and complete.

Of what is indicated in the document of the European Committee for Data Protection mentioned above, it is now interesting to highlight some of the criteria related to the validity of consent as a "manifestation of free will".

Understand that the term "free" implies actual choice and control on the part of interested, so that if the subject is not really free to choose, he feels required to give your consent or you will suffer negative consequences if you do not give it, then the consent cannot be considered valid. If the consent is

included as a non-negotiable part of the general conditions it is assumed that has been freely given. Accordingly, consent will not be deemed to be has freely provided if the interested party cannot deny or withdraw their consent without damage.

According to these Guidelines, the analysis of the validity of consent requires consider the notion of imbalance between the data controller and the interested. This imbalance of power is analyzed in the field of relationships employment in the following terms:

“Also in the context of employment there is an imbalance of power. Given the dependency resulting from the employer-employee relationship, it is unlikely that The interested party can deny their employer consent to the processing of data without

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experience real fear or risk that their refusal will have harmful effects. Seems unlikely that an employee would be able to respond freely to a request for your employer's consent to, for example, activate camera surveillance systems in the workplace or to fill in evaluation forms, without feeling pressured to give your consent. Therefore, the EDPB considers it problematic that employers carry out the processing of personal data of current or future employees on the basis of the consent, as it is unlikely to be freely given. In the case of most of this data processing at work, the legal basis cannot and should not be the consent of the workers [article 6, paragraph 1, letter a)] due to the nature of the relationship between employer and employee.

However, this does not mean that employers can never rely on the consent as a legal basis for data processing. There may be situations in which the employer can demonstrate that consent has been freely given. Given the power imbalance between an employer and its staff members, workers they can only give their free consent in exceptional circumstances, when the The fact that they do or do not give such consent does not have adverse consequences”.

IV

The claim is based on the presumed illegality of the instruction of the one claimed by the that forced all workers (in face-to-face and teleworking mode) to keep the webcam of their work teams on during the whole of the working day in the so-called "Mosaic Room" of the videoconferencing system authorized by that entity. This would entail a treatment of the image of the workers continuously throughout the working day.

The motivation for this processing of personal data, according to the communications sent by UNISON to the representatives of the workers, refers to the establishment of individualized and/or group communication channels to foster a sense of team and social cohesion and promote emotional well-being of workers against the feeling of isolation and loneliness that can produce remote work, following the recommendations contained in reports from “experts” and publications from entities such as the Institute of Health and Safety in the I work on the aspects to take into account in the teleworking situation.

Regarding the legal basis of the treatment, UNÍSONO has stated that in the initial analyzes carried out on the implementation of the videoconferencing system It was thought that the data processing was covered by compliance with the contractual relationship, reason why the voluntary use of the camcorder was planned installed on worker devices only until 06/12/2020.

This Agency understands that there is no obligation to activate the webcam in the room called "Mosaico" or similar (continuous activation of the webcam during the working day in a mute environment), given its purpose, is related with the benefits derived from the employment contract, since the purpose would be generate, in structures where part of the workers are teleworking, a sense of team similar to that generated in the work modality face-to-face at the workplace; therefore, the legitimizing basis of the article 6.1.b) of the RGPD.

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However, UNÍSONO adds that, after communicating the characteristics of the project to the representatives of the workers and knowing the doubts raised by them, unison reviewed the initial analysis and considered that compliance with the contractual relationship is unrelated to the purpose pursued with the treatment, previously described. It was concluded that the adequate legitimation for the treatment of data was the consent of the worker and that this guaranteed the voluntariness of the use of the video camera. Notice that this change took place with prior to project start-up.

With the documentation provided by the claimant, outlined in the Proven Facts

5 and 7, the Department of RRLL communicates the implementation of the mandatory lighting of the webcams for the various rooms as of 06/12/2020 (being voluntary your turned on until that day). Specifically, the rooms would be called "Mosaic" (silent videoconference room to create a team feeling), "Corrillo" room

(it would act in a similar way to a meeting room) and the "Coordinators" room, where the coordinator would enter each time an agent "raises his hand". in the mail of the day 05/29/2020 some issues are clarified, mentioning that it would affect everyone the company's workers (in teleworking and face-to-face mode) and that the purpose of the measure would seek to eliminate the sense of isolation and loneliness that can make an act of presence in the teleworking modality (based for these statements in a reference to publications of the National Institute of Security and Occupational Hygiene).

In its reply to the transfer procedure, however, the entity claimed noted that the intended use of video camera communications and communications by voice/video by their workers is necessary for compliance with the employment contract, both internally (meetings) and to provide services and communicate with customers. Likewise, it indicates that, due to the situation generated by the pandemic moved to the teleworking modality to practically all of the workers and it was decided that, for the teleworking and face-to-face modalities, the activation of the video camera would be voluntary, both in internal communications such as those held with clients. As evidence of these statements is attached an email dated 05/25/2020 sent to the workers who provided services for "****EMPRESA.1", which explains the teleworking environment that would include the following rooms: Contact (to contact the Coordinator, the camera on), "Sala Mosaico" (general throughout the day, with camera on), Panic Button (to solve doubts during calls, with camera on), Incidents (with camera deactivated), Special Written Channel (camera and microphone deactivated), Relax (for moments of relaxation and rest, with voluntarily turning on the camera).

Taking into account what is described in the previous documents, the only ones incorporated

to the actions at the time of the opening of the sanctioning procedure, in this opening agreement was meant that it was not possible to consider the answer provided by the company as complete or exhaustive in relation to the instructions adopted on the activation of web cameras on the computers of the workers. The reason for this is the contradiction that becomes apparent when compare the emails attached to the claim, according to which the system will apply to all provinces where the company has platforms and the activation of the video camera will be mandatory for all workers during the day

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full of work; and the response provided by the respondent in the process of transfer of the claim, outlined in the Second Precedent, which accompanies a mail of the same date with the instructions addressed to the personnel who provide service for “***COMPANY.1”, indicating that the activation of the camcorder will be volunteer.

Based on the foregoing, it was agreed to open this proceeding in order to to determine whether or not the use of the camera was imposed as mandatory, as well as to analyze whether there is a legitimizing basis, in accordance with the protection regulations of data, which enables the mandatory or voluntary activation of the web camera of the teams of workers in the "Mosaic Room" (or similar), whose function is to provide a mute environment that keeps the image of the workers visible continuously throughout the working day to generate a sense of team, similar to that generated in the face-to-face work modality in the center of

worked; starting from the basis that, according to the claimant, the teams of workers are not used for video surveillance, security or control purposes labor.

During the investigation of the procedure, the entity claimed has provided various documentation proving that you shared the company's forecasts with the representatives of the workers and heeded their requests, in such a way that, Before the effective implementation of the video call tool, it communicated to these union representatives the decision not to impose the mandatory use of the webcam in video conferences.

It is stated in the proceedings that, by mail dated 06/08/2020, the Department of RRLL of UNÍSONO communicated the following to the union sections:

"We hereby inform you that the company has made the decision to modify the initial instruction, so that the use of the webcam by the workers is performed voluntarily on a permanent basis.

We understand that with said modification there are no qualifications in your contradictory report".

In addition, according to the information offered to the union representatives of the center of the company in ***LOCALIDAD.2, UNÍSONO failed to communicate to the workers the compulsory use of the camera

This circumstance is also proven by the proceedings carried out, in date 06/15/2020, by the Provincial Inspection of Labor and Social Security of Pontevedra. As stated in this documentation, said inspection services summoned the respondent entity to provide information in relation to the "system Mosaic" and its mandatory use as of June 12, concluding that the company had decided that the activation of the webcams would be voluntary by the staff and taking it as accredited that it had been reported to the representatives of the workers and the file concluded. In this

documentation indicates that the company reported "that the images are not recorded or are reproduced to third parties, which is not intended to control the day or form of performance of the work of the operators but to promote cohesion at work and avoid the feeling of isolation in a similar way to the work system that was coming performing on the platform when it was face-to-face".

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Finally, it is interesting to note that the union sections of the center of the entity in

***LOCATION.2 (two of them, as outlined in Proven Facts 14 and

15) in July 2021, that is, one year after the implementation of the system,

testified that the non-compulsory use of the webcam was made clear, that thus

the union section itself and the company had informed the workers in a

insert addressed to all employees. They add that they have no evidence that

has forced anyone to use the camera in the various rooms, or any complaint or

that no person has been sanctioned or forced for not having the face connected

Web. According to one of these sections, by its own activity it has

proof of the "no use of said camera" and that "the camera is connected by whoever wants".

On the other hand, it is interesting to highlight some aspects of the video call tool

installed by the claimed entity.

According to the operation of this tool, each agent accesses the "room"

corresponding to its coordinator, so that a small window appears

where the connected equipment is seen in mosaic windows and it is allowed

interact through chat or have a conversation with the "audio" function and

share your own image and see that of other colleagues through the “video” function, as well as share screen and play audiovisual content.

In any case, it is the user, the UNÍSONO worker, who has at their disposal the functionalities that the system has to activate or deactivate the microphone and the camera (the system is designed so that they are disabled by default)

In addition, this tool has a function that allows you to use funds from screen so that the user's real environment is not displayed. In this regard, it is stated in the actions that the respondent gave instructions to the workers so that they used corporate screen backgrounds, so that the private spaces.

Therefore, this Agency understands that the UNÍSONO workers have had a real and free option to not activate the webcam, without suffering any kind of consequence negative and without any conditionality.

In accordance with the exposed evidence, it is considered that the exposed facts do not breach the provisions of article 6.1 of the RGPD, proceeding the file of the penalty procedure.

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: DECLARE the non-existence of infraction, in relation to the imputation to the entity UNÍSONO SOLUCIONES DE NEGOCIO, S.A., with NIF A82365412, of a possible violation of the provisions of article 6 of the RGPD.

SECOND: LIFT the provisional measure ordered in UNISON SOLUTIONS OF BUSINESS, S.A. in the agreement to open this proceeding

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sanctioning party, in accordance with the provisions of art. 69 of the LOPDGDD and art. 56 of the LPACAP, which led to the temporary suspension of all data processing personal data relating to all workers (in person and in person) telecommuting) resulting from keeping the webcam of their work teams on during the entire working day in the so-called "Mosaic Room" of its video conferencing system.

THIRD: NOTIFY this resolution to UNISONO SOLUCIONES DE BUSINESS, S.A.

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 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-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

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