

□ File No.: EXP202212875

## RESOLUTION OF TERMINATION OF THE PROCEDURE FOR PAYMENT

### VOLUNTEER

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

### BACKGROUND

FIRST: On April 11, 2023, the Director of the Spanish Agency for  
Data Protection agreed to start a sanctioning procedure against CORPORACIÓN DE  
MEDIA DE EXTREMADURA, S.A. (hereinafter, the claimed party), through the  
Agreement transcribed:

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Procedure No.: EXP202212875 (PS/0650/2022)

### AGREEMENT TO START THE SANCTION PROCEDURE

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

### FACTS

FIRST: On 04/21/22, the GOVERNMENT DELEGATION AGAINST THE  
GENDER VIOLENCE (hereinafter, the claimant) filed a claim  
before the Spanish Data Protection Agency (hereinafter, AEPD). The  
The claim is directed, among others, against the entity CORPORACIÓN DE MEDIOS DE  
EXTREMADURA, S.A., with CIF A78865441, (hereinafter, the claimed party). The  
The reasons on which the claim is based are the following:  
“The complaining party reported the publication in different media  
of a news item illustrated with a video in which images appear (in the seconds  
21 to 24 of the video) of a computer screen in which a spreadsheet is displayed.

Excel with personal data of 56 women registered in the VioGén system as victims of gender violence and different classifications based on their concrete circumstances. The complaining party provided links to the news published on the websites of the requested media, among which was the following link:

-

\*\*\*URL.1

“

SECOND: On 04/22/22, in accordance with article 65 of the Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of the digital rights (hereinafter, LOPDGDD), the claim was admitted for processing submitted by the complaining party.

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THIRD: The General Subdirectorate of Data Inspection proceeded to carry out of previous investigative actions to clarify the facts in matter, by virtue of the investigative powers granted to the authorities of control in article 58.1 of Regulation (EU) 2016/679 (General Regulation of Data Protection, hereinafter GDPR), and in accordance with the provisions of the Title VII, Chapter I, Second Section, of the LOPDGDD, being aware of the following extremes:

During the investigation proceedings, it was found that the claimed party published the video in which the personal data of women registered in the system were displayed

VioGén in the following link:

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\*\*\*URL.1

On 04/22/22, a precautionary measure for the urgent withdrawal of content was addressed to the claimed party, where the urgent withdrawal of the video was required from both the web address indicated above as any other address related to the entity, as well as the communication to this Agency of compliance with this measure.

On 04/27/22, a response was received from the claimed party in which the

Next information:

- That the aforementioned video had been provided by the ATLAS Agency in the framework of an agreement for the supply of news content.

- That the publication of the news they receive from the Atlas Agency is automatically, through an automated dump, without the

Respondent party can decide which news and materials are published and which No, and without being able to alter its content either.

- He affirms that the video has been immediately withdrawn as soon as it has been received notice of the AEPD request, providing a screenshot that evidence it.

- You affirm that you have requested Google to de-index the URL in which you the video appeared, in order to try to stop it from appearing in a possible cached copy that Google might have kept. Attach screenshot evidence of this request.

On 10/03/22, a request for information was made to MEDIASET ESPAÑA COMUNICACIÓN S.A (hereinafter, MEDIASET), since the Atlas Agency, which requested, among other things:

- The company name of all the clients to whom the video was transferred, with an indication

determination of whether or not the publication on their web portals was done automatically.

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- The content agreements or contracts under which the video was transferred.

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On 10/13/22, a response was received from MESIASSET to the request for information.

above, indicating in it, among other things, the following:

- He affirms that he made the video available to his clients on 03/31/22.

- He affirms that the publication in digital media is not automatic: MEDIA-

SET makes the content available to customers and they decide whether to release it to them.

load or not

- He affirms that MEDIASET has COMUNICA MEDIATRADER as a client

S.L., which acts as an intermediary for GESTIÓN DE MEDIOS Y SERVICIOS,

S.L.U (VOCENTO GROUP), whose corporate name was VOCENTO-

TO MEDIATRADER, S.L.U. at the time of signing the contract with the

Atlas Agency.

Attached contract for the provision of services and transfer of rights signed on 16

April 2007 between LATIN AMERICAN TELEVISION AGENCY OF

SERVICES AND NEWS SPAIN, S.A. (Atlas Agency) and VOCENTO MEDIA-

TRADER, S.L.U.

In clause 2, "Procedure" of the aforementioned contract, it is indicated that "Through

the ATLAS website, where the latter will locate the contents that are the object of this

contract available to VMT (Vocento), which will select those that are

of your interest."

In Annex II of the aforementioned contract it is indicated that "On the date of signing this agreement, the digital newspapers that belong to Vocento and that are the means to through which the contents subject to transfer will be publicly communicated of this contract are:

(...)

- The Today

(...)"

(www.hoy.es)

On 03/06/23, the following were incorporated into the inspection actions:

- The Legal Notice of the web portal www.hoy.es, which indicates that "This page web page, with URL address www.hoy.es ("Website"), is operated by the company Extremadura Media Corporation, S.A. ("Company"), with C.I.F.

num. A78865441, registered in the Mercantile Registry of Badajoz, Volume 31, Folio 62, Sheet BA-314, whose address is Avenida del Diario Hoy, S/N.

06008 Badajoz."

- The Privacy Policy of the web portal www.hoy.es, which indicates in its point to 1, "Identification and contact details of the Co-responsible for the treatment" to", the following:

"The personal data that you provide through this Service (web page or app), are the responsibility of the following Joint Controllers:

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☐ The company responsible for this service, duly identified

in the Legal Notice (hereinafter, the "Company"), and

☐ Vocento Gestión de Medios y Servicios, S.L.U., with address at C/

Josefa Valcárcel, 40 bis, Madrid, with NIF B82462813 (hereinafter,

"VGMS"). (...)

Notwithstanding the foregoing, the Company is independently responsible with

regarding the processing of personal data included in the news with fi-

news and journalistic purposes"

## FUNDAMENTALS OF LAW

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### Competence

In accordance with the powers that article 58.2 of the RGPD grants to each authority of

control and as established in articles 47, 48.1, 64.2 and 68.1 of the LOPDGDD,

The Director of the Agency is competent to initiate and resolve this procedure

Spanish Data Protection.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures

processed by the Spanish Data Protection Agency will be governed by the provisions

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

regulations dictated in its development and, insofar as they do not contradict them, with character

subsidiary, by the general rules on administrative procedures."

## II

### Synthesis of the facts

According to the documentation provided, MEDIASET created and published a piece of news

Illustrated with a video showing a computer screen displaying

an Excel sheet with names and surnames of 56 women registered in the system

VioGén as victims of gender violence, as well as different classifications of

these depending on their specific circumstances (Pending O.P., active without O.P., active not locatable, new terminated).

Such news was made available by MEDIASET, on 03/31/22, to various entities with those that have signed content assignment contracts, among which is COMUNICA MEDIATRADER S.L, intermediary of the VOCENTO GROUP (in Go ahead, VOCENTO). The news is published on various web portals, including find [www.hoy.es](http://www.hoy.es), for which the claimed party is responsible for the treatment, which belongs to VOCENTO.

According to the claimed party, he proceeded to immediately withdraw the video as soon as has been informed of the request from the AEPD, providing a screenshot that evidence.

As specified in the content assignment contract between MEDIASET and VOCENTO (group to which the claimed party belongs), the delivery procedure

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of news between them consists of the fact that the news is located by MEDIASET in the Atlas Agency website, the other party to the contract being in charge of accessing the web page and select those contents that were of interest, to later publish them in your medium.

Right to data protection

II

People have the power to dispose of their personal data, as well as on its dissemination, resulting, without a doubt, deserving of protection the person

whose personal data is disseminated in violation of the legal system.

Thus, the STC 292/2000, of November 30 provides that

“The content of the fundamental right to data protection consists of a power of disposal and control over personal data that empowers the person to decide which of these data to provide to a third party, be it the State or an individual, or which can this third party collect, and that also allows the individual to know who owns that personal data and for what, being able to oppose that possession or use. These powers of disposition and control over personal data, which constitute part of the content of the fundamental right to data protection are legally specified in the power to consent to the collection, obtaining and access to data personal data, their subsequent storage and treatment, as well as their use or possible uses, by a third party, be it the State or an individual. and that right to consent to the knowledge and treatment, computerized or not, of the data personal, requires as essential complements, on the one hand, the power to know at all times who has that personal data and to what use it is putting them, and, on the other hand, the power to oppose that possession and uses.

In this sense, and regardless of the legal basis legitimizing the treatment, all controllers must respect the principles of treatment included in article 5 of the GDPR. We will highlight article 5.1.c) of the GDPR which establishes that:

"1. Personal data will be

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

However, we are faced with a fundamental right that is not absolute,



since, if necessary, the Fundamental Right to Data Protection can give in to the prevalence of other rights and freedoms also constitutionally recognized and protected, such as the Fundamental Right to Freedom of Information, weighing it case by case.

However, in the present case, it must be considered that the treatment carried out carried out by the complained party within the framework of the freedom of information has been excessive, as there is no prevailing public interest in information in the dissemination of the names and surnames of 56 victims of gender violence, making them clearly

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identifiable. By weighing the conflicting interests and, taking into account the circumstances concurrent in this case, that is, the especially sensitive nature of the data and the intense affectation to the privacy of the victims deserves greater Protection of the interest of the holders of the right to the protection of their data personal information and that they not be disseminated in the face of the alleged public interest in their diffusion.

IV.

Information right

In the struggle between the Fundamental Rights to Freedom of Information in relation to the Fundamental Right to the Protection of Personal Data, even when an equal degree of protection is recognized for both constitutional rights, ordinarily the first is usually endowed with prevalence by our courts, after assess and weigh all the elements at stake.

However, preponderance does not mean prevalence when, after all the

concurrent circumstances in a specific case, the limits set are exceeded

normatively and jurisprudentially.

In this sense, the Article 29 Working Group in its Opinion 06/2014 on the

concept of legitimate interest of the data controller under the

Article 7 of Directive 95/46/EC, when examining the legal basis of the legitimate interest of the

Article 7.1.f) of Directive 95/46/CE, fully transferable to the current art. 6.1.f) of

GDPR, includes the right to freedom of expression or information as one of the

cases in which the question of legitimate interest may arise, asserting that,

“without prejudice to whether the interests of the data controller will ultimately prevail

term on the interests and rights of the interested parties when the

weighing test”.

Limits to the Fundamental Right to Freedom of Information

V

That said, the Fundamental Right to Freedom of Information is not

absolute. We can observe very clear limits established by the courts in the

civil sphere, in relation to the Right to Honor, to Personal and Family Privacy and to

the Image itself.

Thus, we will cite, for all, the STC 27/2020, of February 24, 2020 (appeal of

amparo 1369-2017) that provides, in relation to the image of a person, and

Starting from the undisputed fact that makes it identifiable, that:

“...the debated issue is reduced to pondering whether the non-consensual reproduction

of the image of an anonymous person, that is to say, of someone who is not

public figure, but who suddenly and involuntarily acquires a role

in the newsworthy event, in this case as a victim of the failed attempt to

murder by his brother and his subsequent suicide, was a

illegitimate interference in their fundamental right to their own image (art. 18.1

EC). [...]

...that criminal events are newsworthy events, even with

independence of the character of private subject of the person affected by the

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news. However, the limit is in the individualization, direct or indirect,

of the victim, since this information is not of public interest because it lacks

relevance for the information that is allowed to be transmitted (SSTC 20/1992, of 20

February; 219/1992, of December 3; 232/1993, of July 12; 52/2002, of

February 25; 121/2002, of May 20, and 127/2003, of June 30). So,

it is currently recognized by Law 4/2015, of April 27, on the statute of

victim of crime, in force since October 28, 2015, when it warns of

the need "from the public powers [to offer] a response as

as broad as possible, not only legal but also social, to the victims, not only

repairing the damage in the framework of a criminal proceeding, but also

minimizing other traumatic effects on the moral that his condition can

generate, all this regardless of their procedural situation. Therefore, the

present Statute, in line with European regulations on the matter and with the

demands posed by our society, intends, based on the

recognition of the dignity of the victims, the defense of their property

material and moral and, with it, those of the whole of society". In

Assumptions such as those raised in this appeal, this Court must grant

relevance to the prevalence of the right to the image of the victim of the crime

against information freedoms, since graphic information became idle or superfluous because the photograph of the victim lacks real interest for the transmission of information, in this case the apparent realization of a murder and subsequent suicide. (underlining is ours).

We will add the STS, from its First Civil Chamber, 272/2011 of April 11, 2011 (rec. 1747/2008), in which, regarding the data necessary to provide a information and limits to the public interest includes that:

“b) Trivial information is not protected (ATC 75/2006), but the fact that provide data that is not necessary in a case of violation (full name, initials of the last names, the portal of the street where the victim lived) that did not they have community relevance, they do not respect the reservation, they only seek to satisfy the curiosity, produce disturbances or annoyances and reveal in a way unnecessary aspects of personal and private life, allowing neighbors, close persons and relatives the full identification of the victim and the knowledge in great detail of a seriously infringing act against their dignity (STC 185/2002) or about a disease that has no interest public and directly affects the irreducible sphere of privacy and that it is revealed for the purpose of a pure joke or joke (STC 232/1993)”. (he underlining is ours).

Likewise, the STS, of its First Civil Chamber, Judgment 661/2016 of 10 November 2016 (rec. 3318/2014), in relation to the recruitment and disclosure in court of the image of a victim of gender violence provided that:

"1st) The interest of the questioned information is not discussed nor the right of the television channel sued to broadcast images recorded during the act of oral trial of the criminal case, since there is no limitation in this regard agreed by the court.

2nd) The only controversial point is, therefore, whether the identification of the plaintiff as a victim of the crimes prosecuted in said criminal case, through close-ups of his face and the mention of his first name and place of residence, was also included in the fundamental right of the defendant television channel to transmit truthful information or, for the contrary, it was limited by the fundamental rights of the plaintiff to their personal privacy and their own image.

3rd) Regarding this matter, the jurisprudence has recognized the interest general and public relevance of information about criminal cases (judgment 547/2011, of July 20), which are accentuated in cases of mistreatment physical and psychological (judgments 128/2011, of March 1, and 547/2011, of July), but he has also pointed out, regarding the identification of the people involved in the trial, that the defendant and the victim do not are on a level of equality, because in terms of that there is room for a full identification, and not by initials alone, due to the nature and social significance of the crimes of mistreatment (judgment 547/2011, of 20 of July). [...]

6) In short, the defendant television channel should have acted with the prudence of the diligent professional and avoid issuing images that represented the appellant in the foreground, either refraining from issuing the corresponding shots, either using technical procedures to blur

their features and prevent their recognition (judgment 311/2013, of May 8).

Similarly, he should also have avoided mentioning his first name, because this piece of information, insufficient by itself to constitute illegitimate interference, became relevant when pronounced on the screen simultaneously with the image of the plaintiff and add the mention of his place of residence, data all unnecessary for the essence of the content of the information, as show the news about the same trial published the next day in other media.

7th) The identification of the plaintiff by means of her image and the data indicated personal data and its direct link to an episode of violence against gender and other serious crimes, when the simultaneous disclosure or of data referring to how the victim and her aggressor met and the way in which the criminal acts occurred, supposes that the loss of the anonymity would violate both the plaintiff's right to her own image, by issuing their physical features, such as their personal and family intimacy, in the extent to which some reserved data, belonging to your private life (which went to the Internet to start a relationship or the intimate content of some of their talks), devoid of offensive entity in a situation of anonymity, they happened to have it from the moment that anyone who saw those informative programs and who resided in the victim's locality could know who they were referring to, so that the psychological damage inherent in their condition of victim of crimes was added the non-material damage consisting of the fact that details of his private life were known that he had not consented to do public". (underlining is ours).

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As we can see, a clear reference is made to the excessive treatment of personal data (some of which are not of an intimate nature) to provide the information, considering them unnecessary at all points in attention to the concurrent circumstances. Sometimes the courts refer to intimate data, but sometimes it is personal data that is not intimate, such as, for example, the image of a natural person obtained from a photograph published in a social network or name and surname.

Balance between the Fundamental Right to Freedom of Information and the Right Fundamental to the Protection of Personal Data

SAW

In the specific case examined, as indicated, the defendant published a piece of news with the headline "(...)", which deals with women over 65 who are at risk for gender violence, which was illustrated with a video in the that you could see the screen of a computer in which an Excel sheet was displayed with the names and surnames of 56 victims of gender violence as well as different classifications based on their specific circumstances (Pending O.P., active without O.P., active not traceable, new dismissed). News obtained, under a contract of assignment of contents, of MEDIASET.

The Excel sheet issued in the video with the data of the victims of violence of gender was obtained in the recording of an interview carried out by MEDIASET in the Civil Guard headquarters of \*\*\*LOCALIDAD.1, in the year 2010. In said interview, recorded for a few seconds the screen of a computer in which the sheet appeared Excel with the aforementioned personal data of the victims of gender violence.

It is not a question, as in other cases examined by jurisprudence, of endowing prevalence to a fundamental right over another, having to choose which one has more weight in a specific case. If not, rather, to find a balance between the two to achieve the achievement of the purpose of the first without undermining the second. The reconciliation of both rights is nothing new, since the European legislator mandates such conciliation in article 85 of the GDPR.

As we have seen previously, the Fundamental Right to Freedom of Information is not unlimited, since the jurisprudential interpretation when confronting it with other rights and freedoms does not allow the same in any case and with all breadth, but, nevertheless, the prevalence that the courts usually endow it can be seen limited by other fundamental rights that must also be respected. Thus observes its limitation when the personal data provided was unnecessary for the essence of the information content.

We must consider the special circumstances present in the supposed examined. These are personal data of 56 women victims of gender violence. gender and remember that Law 4/2015, of April 27, on the Statute of the victim of crime, provides special protection for victims of violent crimes. might even the circumstance that they are also victims of crimes against the sexual freedom or sexual indemnity, for which a special need for protection both in Organic Law 10/2022, of September 6, of integral guarantee of sexual freedom as in the aforementioned Statute of the victim of the crime

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Precisely because the obvious informative public interest in the news is not denied, Given the general interest in cases of gender violence, in this specific case it is not it is a matter of diminishing the Fundamental Right to Freedom of Information by the prevalence of the Fundamental Right to the Protection of Personal Data, but to make them fully compatible so that both are absolutely guaranteed. That is, the freedom of information of the media is not questioned. of communication but the weighting with the right to data protection based on to the proportionality and need to publish personal data, in this case, of 56 victims of gender violence, as such a situation could have been easily resolved with the use of usual technical procedures to prevent such dissemination, such as the pixelation of the image where the computer screen appears with the personal data of the victims.

At older we have to mean that the victims are anonymous people and our Constitutional Court, for all the Constitutional Court Judgment 58/2018, of June 4, states that public authorities, public officials and public figures or persons engaged in activities involving public notoriety "voluntarily accept the risk that their subjective personality rights are affected by adverse criticism, opinions or disclosures and, therefore, the The right to information reaches, in relation to them, its maximum level of effectiveness legitimizing, insofar as his life and moral conduct participate in the general interest with a greater intensity than that of those private persons who, without a vocation to public projection, are circumstantially involved in matters of public importance, to which it is necessary, therefore, to recognize a scope privacy, which prevents granting general significance to facts or behaviors that would have if they were referred to public figures".

The Judgment of the Court of Justice of the European Union (Second Chamber), of 14 February 2019, in case C 345/17, Sergejs Buivids, mentions various Criteria to balance between the right to respect for privacy and the right to freedom of expression, among which are "the contribution to a debate of general interest, the notoriety of the affected person, the object of the report, the previous behavior of the data subject, the content, form and repercussions of the publication, the manner and circumstances in which information was obtained and its veracity (see, in this regard, the judgment of the ECtHR of June 27, 2017, Satakunnan Markkinapörssi Finland, CE:ECHR:2017:0627JUD000093113, section 165)".

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In such a way that for a matter to be considered of general interest, public relevance, it will be not only for the person who intervenes, but also for the matter to which it refers. Both requirements must concur, resulting, at greater abundance of what was meant in the previous section, that in the case examined the victims are not public persons; rather the contrary, it is of great interest that are recognized by third parties, so it can mean a new penalty to the one already suffered. Victims are anonymous people and must follow being so, in such a way that their fundamental rights are fully guaranteed. In the present case, (i) we are not dealing with personalities of public importance, in the sense that such relevance is sufficient to understand that it supposes, ex lege, a

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dispossession of your fundamental right to the protection of your personal data, and (ii) although we are dealing with facts "of public relevance", in the sense that they are revealed as "necessary" for the presentation of ideas or opinions of public interest, that necessity does not reach the provision of data that identifies the victims.

For this reason, and as expressed by the Supreme Court in its (civil) judgment 697/2019, of 19 December, the formation of a free public opinion does not require, nor does it justify, the affects the fundamental right to one's own image [in this case to the protection of personal data] with that seriousness and in a way that does not save the necessary connection with the identification of victims of gender violence.

It is worth mentioning the breach of point 1 of the Digital Pact for the protection of persons, signed by the entity involved, which establishes that "The signatories to the Charter will refrain from identifying in any way the victims of assaults, acts of violence or sexual content in their information or publish information from which, in general, your identity can be inferred in the case of people of no public relevance. All this without prejudice to the fact that the non-public persons may be involved in newsworthy events, in which case the informative coverage will be the necessary one to give adequate fulfillment to the right information, taking into account the peculiarities of each case".

## VII

Every person responsible for the treatment has conferred obligations in terms of data protection, in the terms prescribed in the GDPR and in the LOPDGDD, being able to highlight, in terms of what interests us, proactive responsibility, article 5.2 of the GDPR, the assessment of risks and the implementation of measures of adequate security. Obligations that are even more relevant when, as in In the case we are examining, this one is especially sensitive.

Such obligations do not decline because we are before a data controller

that it is a means of communication.

The dissemination of the name and surnames of 56 victims of gender violence makes them

in identified persons who can be recognized by third parties, which implies a

very high and very likely risk that they may suffer damage to their rights and

liberties. This has happened in other cases of dissemination of personal data of

victims of gender violence. And this when it is not a proportional treatment or

necessary in relation to the information purposes pursued.

Classification and classification of the offense

VIII

In accordance with the evidence available at the present time of

agreement to start the disciplinary procedure, and without prejudice to what results from the

instruction, it is considered that the claimed party has processed data that was excessive

as they are not necessary for the purpose for which they were processed.

The known facts could constitute an infringement, attributable to the party

claimed, of article 5.1.c) of the GDPR, with the scope expressed in the

Previous legal grounds, which, if confirmed, could mean the

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commission of the offense typified in article 83.5, section a) of the GDPR, which under

the heading "General conditions for the imposition of administrative fines"

provides that:

Violations of the following provisions will be penalized, according to

with paragraph 2, with administrative fines of EUR 20,000,000 as maximum or, in the case of a company, an amount equivalent to 4% maximum of the overall annual total turnover of the financial year above, opting for the one with the highest amount:

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

In this regard, the LOPDGDD, in its article 71 establishes that "They constitute offenses the acts and behaviors referred to in sections 4, 5 and 6 of article 83 of Regulation (EU) 2016/679, as well as those that result contrary to this organic law".

For the purposes of the limitation period, article 72 of the LOPDGDD indicates:

Article 72. Offenses considered very serious.

"1. Based on what is established in article 83.5 of Regulation (EU) 2016/679 are considered very serious and will prescribe after three years the offenses involving a substantial violation of the articles mentioned therein and, in particular, the following:

a) The processing of personal data in violation of the principles and guarantees established in article 5 of Regulation (EU) 2016/679."

## IX

### Sanction of the infraction

In order to determine the administrative fine to be imposed, the provisions of articles 83.1 and 83.2 of the GDPR, precepts that state:

"Each control authority will guarantee that the imposition of fines administrative procedures under this article for violations of the this Regulation indicated in sections 4, 5 and 6 are in each case individual effective, proportionate and dissuasive."

"Administrative fines will be imposed, depending on the circumstances of each individual case, in addition to or in lieu of the measures referred to in article 58, paragraph 2, letters a) to h) and j). when deciding the imposition of an administrative fine and its amount in each individual case shall take due account of: a) the nature, seriousness and duration of the infringement, taking into account the nature, scope or purpose of the operation treatment in question as well as the number of interested parties affected and the level of damages they have suffered; b) the intention or negligence in the offence; c) any measure taken by the controller or

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in charge of the treatment to alleviate the damages and losses suffered by the interested; d) the degree of responsibility of the controller or the person in charge of the processing, taking into account the technical or organizational measures that have applied under articles 25 and 32; e) any previous infringement committed by the person in charge or in charge of the treatment; f) the degree of cooperation with the control authority in order to remedy the infringement and mitigate the possible adverse effects of the violation; g) the categories of data personal character affected by the infringement; h) the way in which the authority of control became aware of the infringement, in particular if the person responsible or the person in charge reported the infringement and, if so, to what extent; i) when the measures indicated in article 58, paragraph 2, have been ordered previously against the person in charge or the person in charge in relation to

with the same matter, compliance with said measures; j) adherence to codes of conduct under article 40 or certification mechanisms approved in accordance with article 42, and k) any other aggravating factor or mitigation applicable to the circumstances of the case, such as the benefits financial gains or losses avoided, directly or indirectly, through of the offence.”

Regarding section k) of article 83.2 of the GDPR, the LOPDGDD, article 76, "Sanctions and corrective measures", provides:

"2. In accordance with the provisions of article 83.2.k) of the Regulation (EU)

2016/679 may also be taken into account: a) The continuous nature of the

infraction.b) Linking the activity of the infringer with the performance of

processing of personal data. c) The benefits obtained as

consequence of the commission of the offence. d) The possibility that the

conduct of the affected party could have led to the commission of the offence. and)

The existence of a merger by absorption process subsequent to the commission of the infraction, which cannot be attributed to the absorbing entity. f) The affectation

to the rights of minors. g) Have, when it is not mandatory, a

data protection officer. h) Submission by the controller

or entrusted, on a voluntary basis, to alternative resolution mechanisms

of conflicts, in those cases in which there are controversies between

those and anyone interested.”

In the present case, the following circumstances of

graduation:

- As aggravating circumstances:

- The scope or purpose of the data processing operation, as well as the

affected interested parties (article 83.2.a) of the GDPR): It is considered that nature

The nature of the infringement is very serious since it entails a loss of dispositions  
tion and control over the personal data of the name and surname of persons  
who have been victims of gender violence and who by disseminating said data per-  
there is a certain risk that such persons may be recognized  
by third parties, with the serious damages that this would cause them. So-  
same, the number of people affected that amounts to  
to 56.

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The intent or negligence of the infringement of the claimed party (Article  
83.2.b) of the GDPR): Although the Agency considers that there was no intentionality  
by the media outlet, the Agency concludes that it was negligent  
by not ensuring a procedure that guarantees the protection of data  
personal in such sensitive circumstances, especially in the case of a  
entity whose activity involves continuous processing of personal data  
end users.

It is considered especially important to remember at this point, the Judgment of  
the National Court of October 17, 2007 (rec. 63/2006), where it is indicated  
that: "...the Supreme Court has understood that there is imprudence  
whenever a legal duty of care is neglected, that is, when the  
offender does not behave with the required diligence. And in the evaluation of the degree  
of diligence, the professionalism or not of the



subject, and there is no doubt that, in the case now examined, when the

The appellant's activity is constant and abundant handling of data from personal character must be insisted on the rigor and exquisite care for comply with the legal provisions in this regard".

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Categories of personal data affected by the infringement (article 83.2.g) of the GDPR): The dissemination of the news implies the certain possibility of notify 56 victims of gender violence, which represents serious harm for those affected, since said personal circumstance is linked to their health. To a greater extent, as already indicated, in the victims of rape gender violence occurs both in the circumstance of being victims of violent crimes slow, which are endowed with special protection both in the aforementioned Law 4/2015, of April 27, of the Statute of the victim of crime. I could even with- the circumstance that they are also victims of crimes against the sexual freedom or sexual indemnity, for which there is also a special essential need for protection both in Organic Law 10/2022, of September 6, man, of integral guarantee of sexual freedom as in the aforementioned Statute of the crime victim.

It is also considered that it is appropriate to graduate the sanction to be imposed in accordance with the following circumstance regulated in article 76.2 of the LOPDGDD as an aggravating circumstance:

-

The linking of the activity of the offender with the performance of treatment of personal data, (section b), considering that in the activity that is developed rrolla personal data is involved.

Considering the exposed factors, the valuation that the fine would reach for the violation of article 5.1.c) of the GDPR, without prejudice to what results from the instruction

of the procedure, is 150,000 euros (one hundred and fifty thousand euros).

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adoption of measures

If the infringement is confirmed, it could be agreed to impose on the person responsible the adoption of adequate measures to adjust its performance to the regulations mentioned in this

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act, in accordance with the provisions of the aforementioned article 58.2.d) of the GDPR, according to the which each control authority may "order the person responsible or in charge of the processing that the processing operations comply with the provisions of the this Regulation, where appropriate, in a certain way and within a certain specified term...". The imposition of this measure is compatible with the sanction consisting of an administrative fine, according to the provisions of art. 83.2 of the GDPR.

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

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

Spanish Data Protection,

HE REMEMBERS:

FIRST: INITIATE SANCTION PROCEDURE against the CORPORATION OF MEDIOS DE EXTREMADURA, S.A., with CIF A78865441, for the alleged infringement of article 5.1.c) of the GDPR, typified in article 83.5.a) of the GDPR.

SECOND: TO APPOINT D.A.A.A. as Instructor, and Mrs. B.B.B. as Secretary, indicating that any of them may be challenged, if applicable, in accordance with the established in articles 23 and 24 of Law 40/2015, of October 1, on the Legal Regime of the Public Sector (hereinafter, LRJSP).

THIRD: INCORPORATE into the disciplinary file, for evidentiary purposes, the claim filed by the claimant and its documentation and documents obtained and generated by the General Sub-directorate of Data Inspection during the investigation phase, all of them part of this administrative file.

FOURTH: That for the purposes provided for in art. 64.2 b) of Law 39/2015, of 1 October, of the Common Administrative Procedure of Public Administrations (in forward, LPACAP), the sanction that could correspond would be 150,000 euros (one hundred fifty thousand euros), without prejudice to what results from the instruction of the this sanctioning procedure.

FIFTH: NOTIFY this agreement to start the sanctioning file to CORPORACION DE MEDIOS DE EXTREMADURA, S.A., granting it a period of audience of ten business days to formulate the allegations and present the tests you deem appropriate.

If, within the stipulated period, he does not make allegations to this initial agreement, the same may be considered a resolution proposal, as established in article 64.2.f) of the LPACAP.

In accordance with the provisions of article 85 of the LPACAP, in the event that the sanction to be imposed was a fine, he may acknowledge his responsibility within the term zo granted for the formulation of allegations to this initiation agreement; which will entail a reduction of 20% of the sanction that should be imposed in the

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present procedure. With the application of this reduction, the sanction would remain established at 120,000 euros (one hundred and twenty thousand euros), resolving the procedure with the imposition of this penalty.

In the same way, it may, at any time prior to the resolution of this procedure, carry out the voluntary payment of the proposed sanction, which supposes will give a reduction of 20% of its amount. With the application of this reduction, the tion would be established at €120,000 (one hundred and twenty thousand euros), and its payment will imply the termination of the procedure, without prejudice to the measures that may be imposed won.

The reduction for the voluntary payment of the penalty is cumulative to the corresponding apply for acknowledgment of responsibility, provided that this acknowledgment of the responsibility is revealed within the period granted to formulate allegations at the opening of the procedure. Voluntary payment of the referred amount in the previous paragraph may be done at any time prior to the resolution. In

In this case, if both reductions were to be applied, the amount of the penalty would remain established at 90,000 euros (ninety thousand euros).

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

If you choose to proceed to the voluntary payment of any of the amounts indicated above, you must make it effective by depositing it into account No. ES00

0000 0000 0000 0000 0000 open in the name of the Spanish Agency for the Protection of

Data in Banco CAIXABANK, S.A., indicating in the concept the reference number

of the procedure that appears in the heading of this document and the cause

of reduction of the amount to which it receives.

Likewise, you must send proof of income to the Sub-directorate General of Ins-  
expectation to continue with the procedure in accordance with the amount entered.  
gives.

The procedure will have a maximum duration of nine months from the date of  
date of the initiation agreement or, where applicable, of the draft initiation agreement. Elapsed-

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

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

Mar Spain Marti

Director of the Spanish Data Protection Agency.

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SECOND: On May 3, 2023, the claimed party has proceeded to pay  
the sanction in the amount of 90,000 euros making use of the two reductions  
provided for in the initiation Agreement transcribed above, which implies the

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recognition of responsibility.

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

the facts referred to in the Commencement Agreement.

## FUNDAMENTALS OF LAW

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### Competence

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679

(General Data Protection Regulation, hereinafter GDPR), grants each

control authority and as established in articles 47, 48.1, 64.2 and 68.1 of the

Organic Law 3/2018, of December 5, on the Protection of Personal Data and

guarantee of digital rights (hereinafter, LOPDGDD), is competent to

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

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures

processed by the Spanish Data Protection Agency will be governed by the provisions

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

regulations dictated in its development and, insofar as they do not contradict them, with character  
subsidiary, by the general rules on administrative procedures."

## II

### Termination of the procedure

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

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

"Termination in disciplinary proceedings" provides the following:

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

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

2. When the sanction has only a pecuniary nature or it is possible to impose a  
pecuniary sanction and another of a non-pecuniary nature but the

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

any moment prior to the resolution, will imply the termination of the procedure,  
except in relation to the replacement of the altered situation or the determination of the  
compensation for damages caused by the commission of the offence.

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

The competent body to resolve the procedure will apply reductions of at least  
20% of the amount of the proposed penalty, these being cumulative among themselves.  
The aforementioned reductions must be determined in the notification of initiation  
of the procedure and its effectiveness will be conditioned to the withdrawal or resignation of  
any administrative action or resource against the sanction.

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The percentage reduction provided for in this section may be increased  
according to regulations."

According to what has been stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: DECLARE the termination of procedure EXP202212875, in  
in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to MEDIA CORPORATION  
EXTREMADURA, S.A.

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

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

Against this resolution, which puts an end to the administrative process as prescribed by  
the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of Public Administrations, interested parties may file an appeal administrative litigation before the Administrative Litigation Chamber of the National Court, in accordance with the provisions of article 25 and section 5 of the fourth additional provision of Law 29/1998, of July 13, regulating the Contentious-Administrative Jurisdiction, within a period of two months from the day following the notification of this act, as provided for in article 46.1 of the referred Law.

Mar Spain Marti

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