

□ File No.: PS/00529/2021

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: On February 26, 2021, it had entry in this Spanish Agency
of Data Protection a writing by means of which a claim is formulated against
AGROXARXA, S.L. with NIF B25269358 (hereinafter, the claimed party).

SECOND: In view of the foregoing, there are indications of a possible
breach of the provisions of Regulation (EU) 2016/679 (General Regulation
of Data Protection, hereinafter RGPD), which has motivated the opening of the
action E/04125/2021. In accordance with the provisions of article 65 of the Law
Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of
digital rights (LOPDGDD hereinafter), the claim was transferred to
responsible or to the Delegate of Data Protection that in his case he has designated,
requiring you to send to this Agency the information and documentation that is
requested. This request for information was not answered within the time limit,
The claim was admitted for processing on June 29, 2021.

THIRD: The General Subdirectorate for 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 57.1 of the RGPD, and in accordance with the provisions of the Title
VII, Chapter I, Second Section, of the aforementioned LOPDGDD.

Within the framework of investigation actions E/07883/2021, part of the
claimed a request for information, relating to the claim outlined in the

first paragraph, so that within ten working days it could present before this

Agency the information and documentation indicated therein.

FOURTH: The request for information, which was carried out in accordance with the regulations

established in Law 39/2015, of October 1, on Administrative Procedure

Common of Public Administrations (hereinafter, LPACAP), was collected by the

responsible on July 29, 2021, as stated in the Notific@ certificate

what works in the file.

FIFTH: Regarding the required information, the respondent party has sent

response to this Spanish Agency for Data Protection on December 21,

2021.

SIXTH: On January 10, 2022, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the claimed party,

for the alleged infringement of Article 58.1 of the RGPD, typified in Article 83.5 of the

GDPR.

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SEVENTH: On January 27, 2022, allegations are received to the initial agreement

in which the respondent requests that the file of this procedure be agreed

sanctioning party, by not concurring the presupposition of fact set forth in the agreement of

beginning. It alleges that prior to notification of the initiation agreement there had already been

proceeded to respond to the request made by this Agency and that the procedure

was not carried out within the stipulated period due to a material error, not existing in any

moment willingness not to respond to the request.

In view of everything that has been done, by the Spanish Data Protection Agency

In this procedure, the following are considered proven

FACTS

FIRST: The information requirements indicated in the second background

to fourth were notified electronically through Notific@ al claimed, with

in accordance with the provisions of article 43 of the LPACAP, not being answered in the

deadlines granted for it.

SECOND: The respondent answered the requirements made on the 21st of

December 2021.

THIRD: The agreement to initiate the sanctioning procedure was signed on the 10th of

January 2022, the respondent presenting allegations against it on the date

January 27, 2022.

FOUNDATIONS OF LAW

Yo

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

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

control authority and as established in articles 47 and 48.1 of the Law

Organic 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 Data Protection Agency.

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

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

in 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."

Although the respondent had not provided the required information within the time limits granted for this, answered the request made by this Agency before that the agreement to initiate the sanctioning procedure be issued.

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III

Article 89 of Law 39/2015, of October 1, on Administrative Procedure

Common Public Administrations, in its first section provides the following:

“The investigating body will resolve the completion of the procedure, with a file of the actions, without it being necessary to formulate the resolution proposal, when in the procedure instruction it becomes clear that there is any of the following circumstances:

- a) The non-existence of the facts that could constitute the infraction.
- b) When the facts are not proven.
- c) When the proven facts do not constitute, in a manifest way, an infringement administrative.
- d) When it does not exist or it has not been possible to identify the person or persons liable or appear exempt from liability.
- e) When it is concluded, at any time, that the infraction has prescribed.

In the present case, in accordance with the available evidence,

considers that the respondent has sought the Spanish Agency for the Protection of

Data the information required, so the non-existence of the fact is deduced

which involved the infringement. Consequently, it is appropriate to agree on the file of the

process.

Therefore, in accordance with the above, the Director of the Spanish Agency for

Data Protection RESOLVES:

FIRST: FILE procedure PS/00529/2021.

SECOND: NOTIFY this resolution to AGROXARXA, S.L. with NIF

B25269358.

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.

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