 File No.: EXP202103936

RESOLUTION OF SANCTIONING PROCEDURE

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

to the following

BACKGROUND

FIRST: A.A.A. (hereinafter, the claiming party) dated October 17, 2021

filed a claim with the Spanish Data Protection Agency. The

claim is directed against BANQUETES SANTA ANA, S.L. with NIF B30324107 (in

below, the claimed party). The reasons on which the claim is based are the following:

following:

The claimant states that on October 23, 2021, the

hold a wedding celebration at the claimed restaurant and that such entity has

asked the couple celebrating the event to provide personal data of the

guests, including the ID number, for security in the face of the pandemic situation

by COVID-19, without providing information about data processing.

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5

December, Protection of Personal Data and guarantee of digital rights (in

forward LOPDGDD), said claim was transferred to the claimed party for

to proceed with its analysis and inform this Agency within a month of the

actions carried out to adapt to the requirements established in the regulations of

Data Protection.

The transfer, which was carried out in accordance with the regulations established in Law 39/2015, of

October 1, of the Common Administrative Procedure of the Administrations

Public (hereinafter, LPACAP), was collected on November 17, 2021

as stated in the acknowledgment of receipt in the file.

On December 11, 2021, this Agency received a written response

indicating that the claimed entity acts in accordance with the provisions of the

Order of 1/6/21 of the Ministry of Health, the alert levels are established

health by COVID-19 in the Region of Murcia, as well as the general measures and

applicable to the different sectors of activity in attention to the level of

health alert.

It goes on to explain that article 13.3.6 of said standard establishes that: the

The organizer of each event must have a specific security protocol

against the transmission of COVID19 and appoint a COVID coordinator, who will be the

responsible for applying the protocol, guaranteeing at all times the control of the capacity, the

Respect for the safety distance, the use of masks and the rest of the measures

applicable sanitary.

Similarly, the COVID coordinator will have the obligation to collect the data

identification of all attendees and workers, indicating the table that will be

occupies. This information must be provided to the competent General Directorate

in public health matters if so requested.

The requested party provides photos of the posters placed visibly in various

entrance areas to the facilities. In addition, on the website of the entity

https://banquetessantaana.com/,

privacy

https://banquetessantaana.com/politica-de-privacidad/, this is also reported

data processing and the possible transfer of said data to the competent authority

in health matters if required.

policy

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Despite the fact that the vast majority of personal data collection is done from

physically in the premises of the person in charge, it has also been placed in the

web page, through the privacy policy, the information related to the treatment

of personal data of clients and guests, with special reference to the treatment

established by the Order of the Autonomous Community.

Likewise, the rights of access, rectification, deletion, opposition,

limitation and portability of personal data, as well as to go to the authority of

competent control in the matter (AEPD).

THIRD: On January 17, 2022, in accordance with article 65 of the

LOPDGDD, the claim presented by the claimant party was admitted for processing.

Or: On 06/07/2022, the Director of the Spanish Protection Agency

QUART

of Data agreed to initiate disciplinary proceedings against the claimed party, in accordance with

the provisions of articles 63 and 64 of the LPACAP, for the alleged violation of the

Article 5.1.c) of Regulation (EU) 2016/679 (General Regulation for the Protection of

Data, hereinafter GDPR), typified in article 83.5 of the GDPR, in which

indicated that he had a period of ten days to present allegations.

This initiation agreement, which was served on the respondent under the rules

established in LPACAP, was collected on 07/29/2022, as stated in the acknowledgment

of receipt that works in the file.

FIFTH: On 08/04/2022, a letter was received from the presumed representative of the

claimed party requesting that a copy of the file be provided.

SIXTH: On 08/10/2022, the body instructing the procedure sends a written

of rectification so that accreditation of the representation is sent in order to

Provide a copy of the file.

The aforementioned agreement is notified to the claimed party on 08/10/2022, as stated

in the acknowledgment of receipt in the file.

SEVENTH: On August 11, 2022, this agency received a copy of the

Certificate of registration of power of attorney apud-acta in the electronic file of

judicial power of attorney that accredits the capacity of representation for any

judicial action in accordance with the provisions of article 25.1 of Law 1/2000, of

Civil Prosecution.

EIGHTH: On 08/16/2022, this Agency receives, in due time and form,

brief of allegations to the initiation agreement in which, in summary, it stated that

requested the data of name, surname and ID because he understood that this was required by the

Article 13.3.6 of the Order of June 1, 2021 of the Ministry of Health.

Likewise, it explains that it applied the internal procedure that it applied in order to

minimize the data. He affirms that his intention has been at all times to respect the

current legal system, carrying out its actions with the utmost diligence

possible to finally highlight that they are not aware of any other complaint or claim

similar according to the claimed party because the attendees themselves already knew and understood

that they were going to ask for their personal data thanks to the information disclosed by the

local media regarding that the catering establishments were going to

be obliged to identify the attendees of this type of event.

NINTH: On February 6, 2023, a resolution proposal was formulated, in the

that a response was given to the allegations made and it was proposed that the

BANQUETES SANTA ANA, SL., with NIF B30324107, for a violation of article

5.1.c) of the GDPR, typified in article 83.5.a) of the GDPR, with a fine of €5,000

(five thousand euros).

TENTH: On February 15, 2023, this agency received a letter of

allegations against the proposed resolution in which, in summary, the

following allegations:

1.- He begins his allegations by stating again that the request for the data of

attendees by Banquetes Santa Ana is produced by understanding that this is the

required the Order of June 1, 2021 of the Community Health Department

Autónoma de Murcia, attaching to its pleadings a copy of both said

Order, as of the recommendations (Recommendations for the elaboration of a

contingency plan for events and mass activities in the Community

Region of Murcia) issued by the Ministry of Health of said

Autonomous community.

2.- Next, it alludes to the criteria established in the AEPD press release

to highlight that it includes that it will be the health authorities who

reasonedly assess in which places it would be mandatory to identify themselves and conclude that

This is what happened in Murcia, expressly establishing the need to

Collect name, surname, ID and telephone number.

3.- To the above, he adds that his client established an internal protocol to

minimize the data processing that was requested and the people who had access to the

same.

4.- Next, it alludes to the applicability of the principle of guilt in the field

administrative sanction, citing various judgments of the Supreme Court in which

which includes the need for fraud or fault for the application of the right

administrative sanction and that lead him to conclude that in the present file there is no

the necessary assumptions are given to consider that there is an intentional act or

culpable on the part of the administrator without, in his opinion, what was done was in compliance

of a legal obligation issued by the competent authorities in the matter.

5.- In her following allegation, the defendant refers to the tracking activity that was

carried out in the region of Murcia, contributing the Procedure Manual of the Team of

tracking of the COVID-19 disease in the region of Murcia in which the

importance of having contacts identified with name, surname and ID.

6.- Finally, the defendant argues, on the one hand, that the

aggravating circumstance of article 83.2 of the RGPD since the number of people is not accredited

affected as well as that, in his opinion, in case of being penalized it should be with

a warning as no actual damage has been found, there is no intentionality, or

recidivism, not dealing with data from special categories, not having obtained

benefit, not having the entity claimed as an activity data processing

personal and have collaborated at all times with the Agency.

In view of all the proceedings, by the Spanish Agency for Data Protection

In this proceeding, the following are considered proven facts:

PROVEN FACTS

FIRST: That on June 2, 2021 it had been published in the Official Gazette of the Community of Murcia the Order of June 1, 2021 of the Ministry of Health, establishing the health alert levels for COVID-19 in the Region of Murcia, as well as the general and sectoral measures applicable to the different sectors of activity in response to the health alert level.

SECOND: That on October 23, 2021, the claimant planned to hold in the restaurant owned by BANQUETES SANTA ANA, S.L. A celebration bridal.

THIRD: That from BANQUETES SANTA ANA, S.L. the couple has been requested that celebrated the event that provided the personal data of the guests, among them the ID number, for security in the face of the pandemic situation by COVID-19, without Provide information about data processing.

FOURTH: Article 13.3.3 of the Order of June 1, 2021, of the Ministry of Health of the Autonomous Community of Murcia that forced to "collect the data identification of all attendees. Article 14.3.1 of said Order defines the massive events such as "all those acts and calls that bring together more than 200 people seated inside, or 300 seated outdoors, and not fall into any other section".

FIFTH: The "Recommendations for the preparation of a contingency plan for massive events and activities in the Autonomous Community of the region of Murcia" issued by the Ministry of Health include as elements for the identification of event attendees the following information: name, surname, ID, phone and email.

FUNDAMENTALS OF LAW

Yo

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

In relation to the allegations presented in response to the proposed resolution,

make the following considerations

1.- As a PRELIMINARY QUESTION, it is stated that for the Resolution of the

this disciplinary file has answered the allegations presented by

the entity throughout the entire procedure and that, in order not to repeat itself, considers them

reproduced.

However, we proceed to influence what has already been stated in the proposed resolution

regarding the obligation to collect personal data from those attending the

wedding celebration held at the premises of the claimed party. and this for

how much it seems necessary to emphasize that it is not questioned at any time

the need to identify them to comply with the provisions of the Order of

June 1, 2021, but what is being raised in this file is the way

in which said mandate was carried out. Thus, it is recalled that the authorization made by the

ordering to carry out data processing does not imply permissiveness

absolute, but it must be adapted to the principles and other content provided for

in the RGPD and in the LOPDGDD, so the criteria already indicated continues to be applicable

relative to obtaining the least amount of data to be able to carry out a

identification of the possible subjects affected and the request being considered excessive

related to ID.

Even though the claimed party alleges an alleged applicability of the

recommendations issued by the Ministry of Health for the preparation of a plan

contingency for mass events and activities cannot be estimated

as it does not apply to celebrations after wedding ceremonies. Forks

that already in the Order of June 1, 2021 are clearly defined and differentiated

both situations, dedicating a specific article to each of them. While

that the former are defined and regulated in section 3 of article 14, with the rubric

"Mass events", the latter have their framing in article and section

different (13.3).

2.- In relation to the allegation regarding the application of the principle of guilt to the

sanctioning administrative law, this Agency understands that, indeed, it is

fully applicable. Certainly, the principle of guilt, provided for in article

28 of Law 40/2015, of October 1, provides that they can only be penalized for

acts constituting an administrative offense those responsible for them, even
by way of simple non-observance, said responsibility cannot be demanded more
that with the concurrence of fraud or negligence, even by way of simple non-compliance.
In this same sense the Supreme Court pronounces (Chamber of Contentious-
Administrative Law, Section 5) in its Judgment no. 179/2023, of February 15, 2023:
(...) we must begin by remembering that guilt constitutes, in effect, a
requirement of administrative offenses, inherent in article 25 of the
Constitution, which has had an elaborate doctrinal construction in the field of
Criminal Law of which the Sanctioning Administrative is tributary. Said requirement
entails, in a tight synthesis for the purposes of the debate raised, that the fact that
is typified in the type of offense can and should be attributable to the subject that is
sanctions, the one who is considered guilty of it, that is, responsible, according to
the terminology of the Law of Common Administrative Procedure of the
Public administrations. This accusation contains an intellectual element according to
to which the typical action is not only executed by the subject himself, but is done to
conscience and will, that is, intentionally, or through more negligence
or less intense, as soon as the diligence that would be required in the
execution of the act to avoid the pernicious effect".
However, this does not imply that it does not apply in the present case because,
as has been repeated on numerous occasions throughout the entire procedure,
the interpretation of how the obligation established in article should be carried out
13.3.6 of the Order of June 1, 2021 should have been carried out taking into account the
the whole of the legal system, in particular, the rules and provisions relating to
to the protection of personal data as these are obviously affected by it.
The need to identify the people attending various activities and centers
as a consequence of the health situation was a consolidated activity in

the time of the facts, so that the claimed party could have consulted what

personal data should be collected from those attending the events organized by it,

without being able to excuse himself in what he understands as a logical interpretation of the mandate

imposed by the norm.

3.- Regarding the Procedure Manual of the tracking team in the region of Murcia

provided by the claimed party, suffice it to say that it is not applicable to the present

proceedings. In the aforementioned document, the instructions, guidelines and

standards of action for professionals who carry out their work as

"trackers", defining them in fact as the professionals in charge of

contact patients positive for SARS-CoV-2 in order to carry out the

epidemiological survey, determine the epidemiological link and detect the

contacts, having to locate all those people who have been in

close contact.

It is evident that there is no identity between the two subjects and that, while for

carry out the work entrusted to the professionals of the tracking teams can be

In some cases, it is necessary to obtain the DNI of the affected persons, in order to

COVID coordinator appointed for post-ceremony celebrations

nuptials does not need it, the collection of the data being sufficient

minimums that allow the identification of attendees.

4.- Lastly, the allegation regarding the non-applicability of the

aggravating the number of people affected. This is so by the very nature of the

sanctioned activity, consisting of collecting the DNIs of all

those attending the celebration after the wedding ceremony, thus being evident

that, even when the current file arises from the singular claim of one of the

affected this can not be the only one.

II

Article 5 of the GDPR establishes that personal data will be:

"a) treated in a lawful, loyal and transparent manner in relation to the interested party ("lawfulness,

loyalty and transparency»);

b) collected for specific, explicit and legitimate purposes, and will not be processed

subsequently in a manner incompatible with said purposes; according to article 89,

paragraph 1, the further processing of personal data for archiving purposes in

public interest, scientific and historical research purposes or statistical purposes shall not be

considered incompatible with the initial purposes ("purpose limitation");

c) adequate, pertinent and limited to what is necessary in relation to the purposes for which

that are processed ("data minimization");

d) accurate and, if necessary, up-to-date; all measures will be taken

Reasonable reasons for the erasure or rectification without delay of the personal data

are inaccurate with respect to the purposes for which they are processed ("accuracy");

e) maintained in such a way that the identification of the interested parties is allowed during

longer than necessary for the purposes of processing personal data; the

personal data may be retained for longer periods as long as

processed exclusively for archiving purposes in the public interest, research purposes

scientific or historical or statistical purposes, in accordance with article 89, paragraph 1,

without prejudice to the application of appropriate technical and organizational measures that

imposes this Regulation in order to protect the rights and freedoms of the

data subject ("retention period limitation");

f) processed in such a way as to guarantee adequate data security

personal data, including protection against unauthorized or unlawful processing and against

its loss, destruction or accidental damage, through the application of technical measures

or organizational ("integrity and confidentiality").

The controller will be responsible for compliance with the provisions of

paragraph 1 and able to demonstrate it ("proactive responsibility")."

In the present case, and following the argumentation collected throughout the

disciplinary procedure, it is considered that the legality of the treatment of the registry of

data of those attending wedding celebrations is based on the assumption of the

Article 6.1.c) of the GDPR: "the treatment is necessary for the fulfillment of a

legal obligation applicable to the controller", since Law 2/2021, of 29

March, of urgent measures of prevention, containment and coordination to make

In response to the health crisis caused by COVID-19, it establishes in its article 26, that

public or private entities in which the health authorities identify the

need to carry out traceability of contacts, they will have the obligation to provide the

health authorities the information they have or that is requested

regarding the identification and contact details of persons potentially

affected, without prejudice to the legal right to the protection of their data.

The obligation established in article 26 of Law 2/2021, of March 29, had its

regulatory development in the Community of Murcia through the Order of June 1,

2021 of the Ministry of Health, in which article 13, regarding the measures and

sectoral recommendations applicable depending on the health alert level
of each municipality, in its section 3.6) determined the obligation to collect the data
identification of all attendees and workers (specific for celebrations
related to wedding ceremonies and other similar celebrations).
The claimed party justifies its action in its interpretation of said precept, but
the absence of an express pronouncement regarding the categories of data
necessary to carry out the traces, does not authorize those responsible for
processing to collect personal data that they deem appropriate or that they
They understand that they are more adhering to the norm.
It is necessary to take into account that the processing of personal data in situations
health emergency, still have to be carried out in accordance with the
personal data protection regulations (RGPD and LOPDGDD), for which reason
apply all its principles, contained in article 5 of the GDPR, and among them that of
treatment of personal data with legality, loyalty and transparency, of limitation
of the purpose (in this case, to facilitate the tracing and follow-up of contacts of cases
positive or suspected of COVID-19), principle of limitation of the term of
conservation, and of course, and special emphasis must be placed on it, the principle of
data minimization. Regarding this last aspect, express reference must be made to
that the data processed must be exclusively those limited to those necessary
for the intended purpose, without being able to extend said treatment to
any other personal data not strictly necessary for said purpose.
Thus, it is essential not to confuse expediency with necessity, because the right
fundamental to data protection continues to apply normally, without prejudice
that, as has been said, the personal data protection regulations themselves
establishes that in emergency situations, for the protection of interests
essential public health and / or vital of natural persons, may treat the

health data necessary to prevent the spread of the disease that has

caused the health emergency.

As previously indicated, this Agency made its criteria public with

regarding the categories of data that should be collected to carry out

traces of possible infected by Covid-19, well before the

treatment in question.

If what you want is to be able to quickly locate a possible contact, you could

it will be enough to obtain a telephone number, together with the data of the day and time

assistance to the place. This criterion, together with the anonymization of the holders of the

device, has been assumed by the European Committee for Data Protection in the

Guidelines 04/2020 on the use of location data and tracking tools of

contacts in the context of the COVID-19 pandemic; criterion that can be extrapolated

to this situation with the pertinent adaptations.

IV.

Based on the available evidence, it is considered that the party

claimed has breached the principle of data minimization by requesting data

excessive for the purpose of treatment.

The known facts constitute an infringement, attributable to the party

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

the aforementioned Fundamentals of Law, and which is typified in article

83.5.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 sanctioned, in accordance with the

paragraph 2, with administrative fines of maximum EUR 20,000,000 or,

in the case of a company, an amount equivalent to a maximum of 4% of the

total annual global business volume of the previous financial year, opting for

the highest amount:

a) the basic principles for the treatment, including the conditions for the

consent in accordance with 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 the

Article 83 of Regulation (EU) 2016/679, as well as those that are contrary to the

present 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 infractions that

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.

In order to establish the administrative fine that should be imposed, the following

provisions contained in article 83 of the GDPR, which states:

V

"1. Each control authority will guarantee that the imposition of fines

administrative proceedings under this article for violations of this

Regulations indicated in sections 4, 5 and 6 are in each individual case

deterrents

effective,

provided

and

2. Administrative fines will be imposed, depending on the circumstances of each

individual case, in addition to or in lieu of the measures contemplated in

Article 58, paragraph 2, letters a) to h) and j). When deciding to impose a fine

administration and its amount in each individual case shall be duly taken into account:

a) the nature, seriousness and duration of the offence, taking into account the

nature, scope or purpose of the processing operation in question

such as the number of interested parties affected and the level of damages that

have suffered;

b) intentionality or negligence in the infringement;

c) any measure taken by the controller or processor to

alleviate the damages and losses suffered by the interested parties;

d) the degree of responsibility of the controller or processor,

taking into account the technical or organizational measures that they have applied under

of articles 25 and 32;

e) any previous infringement committed by the person in charge or in charge of the

treatment;

f) the degree of cooperation with the supervisory authority in order to remedy the

infringement and mitigate the possible adverse effects of the infringement;

g) the categories of personal data affected by the infringement;

h) the way in which the supervisory authority became aware of the infringement, in

particular whether the person in charge or the person in charge notified the infringement and, if so, in what

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 the

same matter, compliance with said measures;

j) adherence to codes of conduct under article 40 or to mechanisms of

certification approved in accordance with article 42, and

k) any other aggravating or mitigating factor applicable to the circumstances of the case,

such as financial benefits obtained or losses avoided, directly or

indirectly, through the infringement.”

Regarding this last 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 Regulation (EU) 2016/679

may also be taken into account:

a) The continuing nature of the offence.

b) The link between the activity of the offender and the performance of data processing.

personal information.

c) The benefits obtained as a consequence of the commission of the infraction.

d) The possibility that the conduct of the affected party could have led to the commission

of the offence.

e) The existence of a merger by absorption process subsequent to the commission of the

violation, which cannot be attributed to the absorbing entity.

f) The affectation of the rights of minors.

g) Have, when it is not mandatory, a data protection delegate.

h) Submission by the person responsible or in charge, on a voluntary basis, to

alternative conflict resolution mechanisms, in those cases in which

there are controversies between those and any interested party."

In accordance with the transcribed precepts, and without prejudice to what results from the

instruction of the procedure, in order to set the amount of the fine to

impose on the claimed entity as responsible for a violation of the provisions

in article 5.1.c) of the GDPR, typified in article 83.5.a) of the GDPR, in a

initial assessment, the following factors are considered concurrent in this case:

Under the circumstances of article 83.2 of the GDPR, the following is applied as an aggravating circumstance:

- The number of people affected (section a) because, even if it is a single

claimant, it is evident that at least all the persons

who attended the wedding as it was standard practice for everyone to request

the controversial data regarding all those attending the events held in

your place.

The balance of the circumstances contemplated in article 83.2 of the GDPR, with

regarding the offense committed by violating the provisions of article 5.1.c) of the

GDPR, allows you to propose a penalty of €5,000 (five thousand euros).

The text of the resolution establishes which have been the infractions committed and the facts that have given rise to the violation of the regulations for the protection of data, from which it is clearly inferred what are the measures to adopt, without prejudice that the type of procedures, mechanisms or concrete instruments for implement them corresponds to the sanctioned party, since it is responsible for the treatment who fully knows its organization and has to decide, based on the proactive responsibility and risk approach, how to comply with the GDPR and the LOPDGDD.

Therefore, in accordance with the applicable legislation and assessed the criteria of graduation of sanctions whose existence has been accredited, the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE BANQUETES SANTA ANA, SL., with NIF B30324107, for a infringement of article 5.1.c) of the GDPR, typified in article 83.5 of the GDPR, a fine of 5,000.00 euros (FIVE THOUSAND EUROS).

SECOND: NOTIFY this resolution to BANQUETES SANTA ANA, SL.

THIRD: Warn the penalized person that they must make the imposed sanction effective Once this resolution is enforceable, in accordance with the provisions of Article art. 98.1.b) of LPACAP, within the voluntary payment period established in art. 68 of the General Collection Regulations, approved by Royal Decree 939/2005, of 29 July, in relation to art. 62 of Law 58/2003, of December 17, through its income, indicating the NIF of the sanctioned and the number of the procedure that appears in the heading of this document, in the restricted account IBAN number: ES00-0000-0000-0000-0000-0000 (BIC/SWIFT Code: CAIXESBBXXX), opened in the name of the

Spanish Agency for Data Protection at the bank CAIXABANK, S.A..

Otherwise, it will proceed to its collection in the executive period.

Once the notification has been received and once executed, if the execution date is

between the 1st and 15th of each month, both inclusive, the term to make the payment

voluntary will be until the 20th day of the following or immediately following business month, and if

between the 16th and the last day of each month, both inclusive, the payment term

It will be until the 5th of the second following or immediately following business month.

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 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 reversal before the

Director of the Spanish Agency for Data Protection within a period of one month from

count 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 for in article 46.1 of the

referred Law.

Finally, it is noted 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 through

writing addressed to the Spanish Data Protection Agency, presenting it through

of the Electronic Registry of the Agency [https://sedeagpd.gob.es/sede-electronica-

web/], or through any of the other registries 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 proceedings within a period of two months from the day following the

Notification of this resolution would terminate the precautionary suspension.

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