

□ Procedure No.: PS/00071/2020

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### BACKGROUND

FIRST: On 10/28/2019, a letter is received from the OMBUDSMAN (DP) reporting that proceedings have been initiated for a complaint promoted by MÉDICOS DEL MUNDO DE NAVARRA, PLATFORM PAPERS AND RIGHTS DENONTZAT, and SOS RACISM NAVARRE. In it, they express their "disagreement with the arrest" of A.A.A., (A.A.A. in hereafter) to proceed with his expulsion from the national territory when he went to dependencies municipal authorities after being summoned by the RIBAFORADA CITY COUNCIL (the defendant) with the purpose of carrying out registration procedures.

The DP in "considerations" indicates that in actions, the "city council has informed of that agents of the local Immigration Brigade of the Tudela Police Station verbally requested collaboration to the consistory to investigate and clarify the crimes in which he was possibly involved the interested party involved. The council understands that it acted in good faith, in order to comply with with the duty of cooperation between public administrations in the interest of the general interest.

"In view of the information sent: The City Council has been informed of RIBAFORADA and the General Immigration and Borders Commissioner (CGEF) of the irregularity of the action taken in the present case, in which the interested party was summoned to municipal councils under the fictitious pretext of taking steps to register them, despite the fact that the intended purpose was his detention for his expulsion, given the irregular situation, as he did not have residence permit." "Likewise, it has been communicated to said governing bodies that the Organic Law 4/2000 of 11/01 regulating the rights and freedoms of foreigners in Spain and its social integration in the 5th additional provision, referring to "access to information

collaboration between public administrations and computerized management of procedures”, section

One establishes that "public administrations within their sphere of competence will collaborate

in the transfer of data related to the people who are considered interested in the

procedures regulated in this Organic Law and its implementing regulations, adding the

section two, that for the purpose of completing the actions that the organs of the

General Administration of the State competent in the procedures regulated in this Law

Organic and its implementing regulations are entrusted to the State Administration Agency

Tax Office, the General Treasury of the Social Security and the National Institute of Statistics, this

The last relative to the Municipal Register of inhabitants, will facilitate those direct access to the

files in which they hold data that must be included in said files and without it being

The consent of the interested parties is required.

A new letter is received from the DP, dated 01/10/2020, which responds to the request of the AEPD

to send the communications with the respondent and the CGEF, as well as a copy of the summons

made to the claimant by the city council "to deal with an issue of his registration, as well as

as the reports sent by the aforementioned administrations on the present case”

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-Provides a copy of the document submitted by the respondent to the proceedings of the DP, the

08/20/2019 in which it informs that "on the indicated date" without stating what it is, "a request was made

verbally to the mayor's office by the State Security Forces and Bodies, collaboration and

cooperation for the investigation and clarification of the crimes in which he was possibly involved

the right person involved" "and the city council for the principle of cooperation and loyalty

institution considered that it should comply with this duty.”

-Copy of the claimant's letter dated 05/03/2019, with destination data from A.A.A. and your address

(\*\*\*ADDRESS.1), without specifying the location, without signature, with seal of the municipality, in which "it is summons you to a meeting at the town hall offices on Monday 05/06 at 11 a.m. to discuss an issue of their registration".

-Copy of the document presented by the GENERAL DIRECTORATE OF THE POLICE before the DP

in their actions, dated 08/27/2019, which indicates that "the Local Brigade of

Immigration Department of the Tudela National Police Station learned that there was a

resolution of expulsion of the Sub-delegation of the Government of Cádiz on behalf of the interested party

dated 08/05/2015, which was notified to the interested party on 08/15. Against that expulsion, the

The interested party filed a contentious-administrative appeal, which was dismissed by the court as

Administrative dispute 4 of Cádiz on \*\*\*DATE.1." Also, "it was recorded that the

The interested party applied for the initial temporary residence card due to exceptional circumstances.

on 05/19/2017 at the Navarra Immigration Office, being denied on the date

01/25/2018, against which he filed an appeal for reconsideration which rejected the request of the

plaintiff on 03/12/2019. Faced with such facts. and since the interested party

there was a police record, a location and arrest device was carried out

by officials assigned to the Local Immigration Brigade of the Tudela Police Station

proceeding to his arrest on 05/06/2019, when he was on the public road of the municipality of

Ribaforada specifically, in front of the town hall, ensuring their rights at all times

giving the opportune fulfillment to the same ones, putting in knowledge the facts so much of his

person as his lawyer.

SECOND: On 01/22/2020, the entities promoting the complaint before the DP indicate that

In the month of May 2019, they filed a complaint with the Ombudsman in which they have

been informed of the discrepancy with the action of the city council claimed and the Brigade

Immigration Office, considering that data may have been transferred irregularly by the

of the townhall .

THIRD: On 03/19/2020, it is agreed by the director of the AEPD:

“ FIRST: START A SANCTIONING PROCEDURE of WARNING to

RIBAFORADA CITY COUNCIL, with NIF P3120800B, for the alleged violation of article

5.1.b) in relation to article 6.4 of the RGPD, in accordance with article 83.5.a) of the RGPD.

SECOND:

START SANCTIONING PROCEDURE of WARNING to

CITY COUNCIL OF RIBAFORADA, for the alleged infringement of article 5.1.a), of

in accordance with article 83.5.a) of the RGPD.”

FOURTH: On 06/29/2020, the respondent makes allegations and states that on "Friday

05/03/2019, two policemen showed up at the town hall offices and showed their badge

to identify themselves and requested collaboration “so that the

affected, indicating that a procedure had been followed against him.” “The City Council saw

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obliged to collaborate with the petition, being informed by the agents that the affected party had

records and that an express extradition order should be made effective for what they already had

airplane ticket”. “For collaborating with the police, it was not thought that the law was being violated.

data protection regulations, as it was done under the principles of cooperation and loyalty

institutional.”

“It was the agents themselves who provided the personal data of the affected party without

it was necessary to make any consultation or data processing of the register since the Forces and

Security Corps had all the information.

So the citation that was sent to the affected party was made following the instructions of the

agents on how to do it, understanding the City Council that it was acting in compliance with the duty collaboratively and in good faith.”

It indicates that article 4.1 of the Organic Law 2/1986 of 03/13, of Forces and Bodies of Security, "everyone has the duty to provide the security forces and bodies with necessary investigation and prosecution of crimes in the terms provided by law.”

It ends by indicating that the City Council did not provide them with any data, nor did they make any queries, nor did it carry out treatments of the register since the State Security Forces and Bodies They had all the information.

FIFTH: According to the provisions of article 77 of Law 39/2015, of 1/10, of the Procedure Common Administrative Law of Public Administrations (LPCAP), a period of evidence to prove the relevant facts, and when, among others, the very nature of the process requires

For this purpose, it is agreed on 09/14/2019:

Consider reproduced for evidentiary purposes, the claim and its documentation, the

1.

documents obtained and generated by the Inspection Services.

two.

Likewise, the allegations to the initial agreement are considered reproduced.

In addition, it is decided to extend the test and it is requested:

3. To the City Council of Ribaforada:

a) Reasons why you did not demand in the request for collaboration, that it be made in writing reasoned way, the visit takes place on 05/03, the summons was on 05/06.

On 11/20/2020, his response brief was received in which he states that

they thought that they were breaking no rule by collaborating with the Police, who acted good faith.

The citation was made on the same day 05/03 and was for 05/06.

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a) A copy of the address certificate of the affected party that appears in the Municipal Register or in other databases to which the city council has access, as of May 2019, or otherwise certified that in said period there was no data on the affected party.

Provides a certificate from the Municipal Register of inhabitants of the municipality in which it is that A.A.A., which he identifies with his foreigner identification number, is registered in the registration of the locality, from \*\*\*DATE.2 to 05/7/2019 in “\*\*\*ADDRESS.1”

b) About the summons for registration management:

- Date and manner in which it was summoned, date of issue of the letter, signature of receipt of the letter by affected, and how it was delivered.

It states that the document only contained the stamp without any signature, there is no record exit meter and was delivered by a municipal worker stating the signature of its reception with fecha 05/03/2019 by B.B.B., with a passport number that does not match the ID number

Foreigner status that appears in the census of inhabitants, referred to in the preceding paragraph b.

- If it was true that the affected party had initiated some procedure, that of registration or relationship, or if one was urged in the City Council, or some service was provided so that they had your data.

He answers that he requested the registration process in 2014, according to the certificate. do of registration

4. To the General Commissioner for Immigration and Borders:

In relation to the facts for which he reported to the Ombudsman (report matter Ombudsman of the People XXXXXXXXX, reference General Secretariat Legal Service, of 08/22/2019, matter

A.A.A. detention). During the testing period, you are requested to report or provide the following:

a) Reason why they did not report to the Ribaforada City Council the collaboration in the arrest

of the affected party through a reasoned document (visit to the Town Hall on 05/03, arrest on 06), and if this is contemplated in regulations.

It states in its response that it is a task of the Security Forces and Bodies, and

"The interested party was identified and located, no collaboration was required or the

City Hall or any other police body to proceed with his arrest."

a) If they obtained any type of information from the City Council to carry out the arrest, and if they asked the

City Council to send a letter citing its headquarters for a management (The city council has

declared that it was the Police who provided the affected person's address and who suggested the idea of the citation for an action to arrest him).

It states in its response that "they had located the domicile of the interested party, and the

Surveillance to locate the person in the surroundings of the house. Given the unsuccessful result

due to the operational procedures, it was suggested to the Town Hall of the town its collaboration in the verification of whether or not the foreign citizen actually continues to reside in the municipality,

continuing, however, the police officers with the aforementioned surveillance devices

two to the object of its location"

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b) Unit that practices the management of a visit to the town hall to suggest the citation and faculties

to proceed with management. If they acted on behalf of the judicial or fiscal authority or by the super-police hierarchy.

They state the answer to point a, "acting in compliance with their obligations by complying with

compliance with the expulsion order in force confirmed in court.

SIXTH: It should be mentioned that in the management report of the Ombudsman for the year 2019, published on its website, there is a reference to this claim indicating: "4.7.3 Release

due to the impossibility of executing the resolutions of expulsion or return", which reads:

"The difficulties for the registration of people in an irregular situation is reason for

rente of actions by the Ombudsman. It is the case of a foreign citizen,

who was arrested when he attended a meeting at the Ribaforada Town Hall (Navarra), where

had been summoned to deal with issues related to his registration.

After the proceedings began, the aforementioned consistory justified its action, stating that it acted

good faith, cooperating with the State Security Forces and Bodies, in order to comply with

with the duty of cooperation between public administrations, in the interest of the general interest. For his

On the other hand, the General Immigration and Borders Police Station reported that the Local Brigade for

jería of the Police Station of Tudela was aware that the interested party had an expulsion

issued by the Government Subdelegation in Cadiz, after having denied his request for residency.

temporary stay due to exceptional circumstances. He was arrested when he was

smuggling on public roads in front of the town hall of the aforementioned town.

The Ombudsman considers that the action described is not in accordance with the Law,

since the interested party was summoned to municipal offices with the fictitious pretext of carrying out

steps for his registration, despite the fact that the intended purpose was his detention by agents

police for removal. The fifth additional provision of the Organic Law 4/2000, of 11

January, regulator of the rights and freedoms of foreigners in Spain and their social integration.

establishes that the police authorities have access to the data of the Municipal Register

for the fulfillment of its functions through the National Institute of Statistics. Therefore, not

The procedure used is considered to be regular, in which the police officers involved

accessed the data of the interested party's register, in a way not provided for by the regulation.

The proceedings remain open while waiting for the Spanish Agency for the Protection of Data



to send information about the adequacy of this action to the legislation of protection of data (XXXXXXXX).

SEVENTH: It is decided on 11/26/2020 to clarify the circumstances, from the answers given in tests, and in this sense, it is requested:

To the Ombudsman:

A)

In the proceeding against the City Council of Ribaforada, as

As a result of your outbound shipment on 10/28/2019, YYYYYYYY, your collaboration is requested and you provide the information within ten days, within the testing period, in relation to:

In the report published on the 2019 website, by the Ombudsman, it is stated that this case, in point "4.7.3 Release due to the impossibility of executing the resolutions expulsion or return

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They are asked to detail how they reach the conclusion that said access to the data of the register of the interested party took place, sending a copy if you have the documents from which it is deduced the access, the subject that gave the aforementioned access if stated, and when they refer to said access as a "mode not provided for in the standard", to which they refer.

No response was received to the requested information.

b)

The claimant is asked to:

1-Detail the process or common protocol of use when citizens send writings to their

address (regarding the use of data that are recorded in the shipments, the address of the recipients)

natives, origin or attachment of these address data of the person they use, be it for general issues or issues related to the register), specifically if in the formats of the shipments the address is imported as recorded literally, and to the letter of the aforementioned register (you want to know if these data are collected or transferred from the register to the shipments that are sent to the citizens).

He answers on 12/1/2020 "yes, we have to go to the neighbors, we consult the address that appears in the registry, because it is the most up-to-date. Other times the database is used. general maintenance."

2-Indicate the support (paper with the Police logo, simple sheet, post it, etc.) that contained the data claimants who demonstrated, gave them the police to send the citation, (if you keep it) ra, send a copy), and if the City Council before said annotation or note, made a verification of the address looking at the padrón.

He replied that "the police did not deliver anything in writing, everything was verbal."

3-On the other hand, the Police have indicated in evidence that although they had located the person, as could not find it "it was suggested to the local Town Council its collaboration in verifying if the foreign citizen whether or not he actually continued to reside in the municipality" You are asked if collaboration was reached by making a query in its database or Municipal Register, contributing make a copy of it.

He answers that they did not suggest but rather urged the action of the City Council, seeing forced to cooperate.

4-Send a copy of the registration sheet with the format as it appears in the register, and it may be a photo, jpg or pdf image of the claimant's address records, and detail as to the deregistration in the census of 05/07/2019, the legal reason for that deregistration.

It states that they attach copies of the registration sheet of the Municipal Register in photo format and copy of the online communication to proceed with the deregistration.

The first image is a screen print with the data of the claimant of the application.

information technology “management of the Municipal Register of inhabitants”. The details of the claimant appear, their foreign identification number associated with the residence card and the date of registration in the padron. The address and its capitalization format, as well as the floor and door, match the one that appears in the certificate sent by the claimed person on 11/20/2020, point b).

The second image is a statement of "data list of an INE movement", of 07/16/2019, referring to the data of the claimant, “communication to the municipality”, “date variation 05/7/2019”, “Low due to change of residence due to expulsion of foreigner executed”.

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5-Finally, you are asked, if the census of inhabitants registers the consultations produced, if it were possible, provide a copy of those carried out on the person of A.A.A. in 2019.

He answered that "the accesses of the queries are not recorded, nor is there a Historical File of accesses."

EIGHTH: The instructor issued a resolution proposal on 12/22/2020 with the literal:

"That by the Director of the Spanish Agency for Data Protection is sanctioned with warning to RIBAFORADA CITY COUNCIL, for an infraction of article 5.1.a) of the RGPD, in accordance with article 83.5.a) of the RGPD."

There are no allegations of claimed.

#### PROVEN FACTS

1) This procedure originates from the transfer of actions of the Ombudsman for the AEPD to analyze whether personal data have been used and processed for the detention of the claimant by the Police on public roads, near the Town Hall claimed, the morning of 05/06/2019.

As documentation sent by the DP, there is the written summons to the claimant, made with a computer by the claimed party, and sent to the claimant, dated 05/03/2019. In the literal figure:" you are hereby summoned to a meeting at the town hall offices on Monday 6 May at 11:00 in the morning to deal with an issue of their registration.", with the seal of the City Hall, without having, according to the statement of the respondent, because he was not given, exit number,

2) According to the defendant's statement, the summons was delivered by a municipal worker at the address of the letter, on the same day 05/03/2019, signed by another person, not the claimant. There is no evidence that the claimant had a request related to some registration issue.

3) As stated by the respondent in his allegations to the initial agreement, the personal data affected were provided by the police officers who attended the City Hall on 05/03/2019 requesting that the summons be made, since the claimant had a extradition order. The City Council does not deny the collaboration stating that "without it being does not need to make any query on your part", "nor data processing of the register", because "the Police, "had all the information." The Police in evidence stated that the claimant "was was identified and located", "his address", "being watched", "with results unsuccessful", and the Police "suggests the City Council its collaboration in verifying whether the foreign citizen continues to actually reside in the municipality or not, continuing not However, the police officers with the surveillance devices referred to above for the purpose of its location".

4) There is no evidence that the request for collaboration from the Police to the requested party is documented by written, declaring the claimed that it was verbally by the agents who visited the City hall.

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5) According to the test carried out, in the claimed Town Hall the details of the claimant, as certified "in the Municipal Population Register", and its computer application, with registration date, \*\*\*DATE.2, with address "\*\*\*\*ADDRESS.1" (literal order and capital letters like this ready). The letter that is sent to the claimed person so that he can go through the process of registration, has the same address, although in a different order and format, "\*\*\*\*ADDRESS.1", and According to the defendant, these are data that were provided by the Police when requesting their collaboration. The City Council associates a procedure with these received data so that it can go to complete it and quote the claimant by sending the letter, exercising their decision on how to use that received data.

6) In evidence, the respondent stated that "if we have to address the neighbors, we consult the address that appears in the register, because it is the most up-to-date one. Other times it uses the general maintenance database." Apart from that of the register, it is not proven that another address appears for the claimant at the headquarters of the claimant.

7) According to the Police, the claimant was being investigated before his arrest on 05/06/2019, by an administrative resolution of expulsion of 08/05/2015, confirmed by the Court on \*\*\*DATE.1, and having a police record, they tried to locate and arrest him.

## FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of the RGPD recognizes to each control authority, and as established in arts. 47 and 48.1 of the LOPDGDD, the Director of the Spanish Agency of Data Protection is competent to resolve this procedure.

II

The content of the fundamental right to data protection consists of a power of disposition

position and control over personal data that empowers the person to decide which of those data to provide to a third party, be it the State or an individual, or which data may be collected by that third party, and that also allows the individual to know who owns that personal data and for what, being able to object to such possession or use. These powers of disposal and control over personal data which constitute part of the content of the fundamental right to data protection is constitutionally believed in the power to consent to the collection, obtaining and access to data personal data, their subsequent storage and treatment, as well as their possible use or uses, by a third party, be it the State or an individual.

The purpose for which the City Council has the data of the interested party in the Municipal Register

It is generally the one provided for in the regulations. Additionally, the data obtained provided by the police, even if they were the same, are used to write a document, deciding to use that same data for a purpose, the claimant's subpoena, that actually did not exist, in order to facilitate the detention of the claimant.

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The following articles of the GDPR are mentioned:

Article 1.2 "This Regulation protects the fundamental rights and freedoms of natural persons and, in particular, their right to the protection of personal data."

Article 2. Material scope of application

"This Regulation applies to the totally or partially automated processing of data personal, as well as the non-automated treatment of personal data contained or intended to be included in a file.

article 4. Definitions

For the purposes of this Regulation, the following shall be understood as:

- 1) "personal data": any information about an identified or identifiable natural person ("the interested"); an identifiable natural person shall be considered any person whose identity can be determined, directly or indirectly, in particular by means of an identifier, such as a name, an identification number, location data, an online identifier, or one or various elements of physical, physiological, genetic, psychic, economic, cultural identity or social of said person;
- 2) "processing": any operation or set of operations performed on data personal data or sets of personal data, whether by automated procedures or not, such as the collection, registration, organization, structuring, conservation, adaptation or modification, extraction, consultation, use, communication by transmission, diffusion or any other form of Authorization of access, collation or interconnection, limitation, suppression or destruction;
- 6) «file»: any structured set of personal data, accessible according to criteria determined, whether centralized, decentralized or distributed functionally or geographically;
- 7) "controller" or "controller": the natural or legal person, public authority, service or other body that, alone or jointly with others, determines the purposes and means of the treatment; if the law of the Union or of the Member States determines the purposes and means of the treatment, the data controller or the specific criteria for their appointment may established by the Law of the Union or of the Member States;"

In the present case, the participation by the respondent in sending the summons letter made to the claimant, nor that possibly the arrest of the claimant, but if personal data have been used for said citation ownership of the claimant.

In the first place, according to the version of the claimant, that the data is provided by the police, the respondent sends a letter to the claimant, facilitating the summons of the claimant. For this, uses the same data, apparently they are not those of the Municipal Register, since they are the

same, but in another format, but the address is the same, and for practical purposes, it is intended that

With these data, he decides to send a summons letter, exercising his powers.

This is done without writing that motivates the aforementioned collaboration, then without a legal reason that support the legality of the collaboration, by way of fact.

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On the other hand, said statement that the data was given to him by the police is not discredited by the action of the police, which states that they had been monitoring the claimant for some time watching, without success. In fact, in the summons letter, it is not delivered at the address to the claimant, but to another person who was there. On the other hand, of the eventual queries, use or access to the Municipal Register of inhabitants there are no reviews or indications.

It would be convenient, therefore, to define where the data for sending comes from, or to conclude rationally where these data do not come from or come from.

It is clearly seen in terms of the shipping address associated with the name and surname of the claimant, that the formats and literals of the Municipal Register and of the citation letter are discrepant. The padrón managed by the claimed, the data of the summons letter with an address (Personal data of the claimant, although in format, very different from those that appear in the register).

One refers to a fully capitalized format, in the entire street name, and the data of the register are, as a general rule, the data used by the claimed party for sending written documents to the citizens. In this case, the exact data of the register is not the one contained in the file.

summons form, but the address and floor and door are the same, although the respondent uses the form death given by the Police, not the one on the register. In addition, the claimant did not know of another address in City Hall.



Notwithstanding the indication that the respondent has collaborated in the agreement to facilitate limit the appointment, an issue that is not the responsibility of this AEPD, the truth is that at the evidentiary level, burden of proof, which corresponds to the administration that accuses proving the facts, is not co-disputed for not unquestionably proving that the registry database had been used. called for the sending of the aforementioned letter. However, if it is proven that other data is used, same address, different format, which according to the person claimed, are the ones used, deciding, through the powers conferred by the city council, use these data, to process a summons, therefore this treatment consisting of sending this letter with these data is the treatment of the data carried out by the claimed party.

In this case, the personal data have been processed for a purpose for which there was no more legitimacy than the verbal one, without accrediting the legal motivation that served for the legitimate treatment of that data and that citation.

This constitutes the infringement of article 5.1.a) of the RGD

1. The personal data will be:

a) processed in a lawful, loyal and transparent manner in relation to the interested party ("lawfulness, loyalty and transparency");

For the processing of personal data to be legal, you must identify specific reasons for processing. This is called a "lawful basis" for treatment, and there are six options (article 6.1) that depend on their purpose and their relationship with the individual. cannot be collected in this case that there was a legal obligation to cooperate when there is no document that motivates or induce such cooperation. If the exercise of competences were exercised because one thinks what must be done or feels pressured, there would be no real reason for the action. The disloyalty in the treatment must be seen as an aspect of the treatment of the data, in this case, collaborate in a subpoena for which there was no ongoing procedure, proving the exercise in the treatment of data for a purpose that is not the one that foresees the treatment of the data. data according to the competences established for the city council. The previous LOPD was

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referred to this type of treatment in its article 4.2, which indicated: “Personal data object of treatment may not be used for purposes incompatible with those for which data would have been collected. The RGPD identifies it in its article 5.1.b) “Data will be: collected for specific, explicit and legitimate purposes, and will not be processed subsequently in a manner incompatible with those purposes.”

The purpose of the treatment must be specific, legitimate and express, in this case defined by law in matters of register management, and not stating that there was a procedure to completed by the person claimed in that area, it is estimated that the citation with their data personal, even if they were provided by the agents, is a treatment of data not lawful in which there is also a lack of loyalty. Loyalty means you should only handle the personal data in a way that people can expect its reasonable use, some common expectations, and not to use them in a way or deviate, or that have adverse effects unjust about them. The person in charge must stop and think not only about how he can use personal data, but also whether to do so. It is proven that the aforementioned is violated article 5.1.a) of the RGPD

Regarding the manifestations of the eventual transfer of data from the Municipal Register to the police, that leads to the arrest, such assignment or its necessity for the arrest of the claimant.

Regarding the exercise of powers by the respondent, it will not enter into the merits of the alleged collaboration and loyal cooperation with the Security Forces and Corps of the State, since they do not fall within the competences of this AEPD, pointing to what the or-

sentence refers to the exercise of the same.

This AEPD cannot enter into an assessment of the exercise of powers of the person claimed in the sense

tion of the summons to the municipal agency when it is not proven that there was any matter

related to the Municipal Register by the City Council, indicating that it collaborated

with the police, and that citation could be an instrument or a means to achieve an end, although

It is true that there has not been any document that motivated said collaboration

between administrations. Thus, you cannot qualify that exercise of the competence attributed to you

the claimant, who without any documentation decides to collaborate in the arrest of a person.

Assess the regulated elements for the exercise of said power, such as the documentary motivation

collaboration requested, is a contentious issue that this AEPD cannot assess, if

It may well, without going into the substance of the matter, estimate that it has acted in fact by not

prove that the data processing will have the principles of legality and loyalty

There is no doubt that for the exercise of that power of ordinary management of

matters the law attributes to the claimed the processing of the claimant's data, provided that it is

certifies that these data have been used for that purpose, logically. If the data were em-

used in the deployment of a deception to the affected party, are used for another purpose, which is not that of the

data processing, article 5. 1.a) of the RGPD is being violated

Establishes article 5.1.b) of the RGPD

"1. The personal data will be:

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

manner incompatible with those purposes; according to article 89, paragraph 1, the treatment

further processing of personal data for archiving purposes in the public interest, research purposes scientific and historical or statistical purposes shall not be considered incompatible with the initial purposes ("purpose limitation");

The infringement of this article imputed in the initial agreement lapses, as it is considered more adjusting the facts to the infringement of article 5.1.a) of the RGPD

III

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

Article 83.7 of the RGPD indicates:

"Without prejudice to the corrective powers of the control authorities under article 58, paragraph 2, each Member State may establish rules on whether it is possible, and to what extent da, impose administrative fines on authorities and public bodies established in said State. member"

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

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

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

The Spanish legal system has chosen not to fine entities public, as indicated in article 77.1. c) and 2. 4. 5. and 6. of the LOPDDGG: "1. regimen

established in this article will be applicable to the treatments for which they are responsible or managers:

c) The General State Administration, the Administrations of the autonomous communities and the entities that make up the Local Administration.

2. When those responsible or in charge listed in section 1 commit any of the the infractions referred to in articles 72 to 74 of this organic law, the authority of protection of data that is competent will issue a resolution sanctioning them with warning. The resolution will also establish the measures to be adopted so that stop the behavior or correct the effects of the infraction that had been committed.

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The resolution will be notified to the person in charge or in charge of the treatment, to the body of which depends hierarchically, where appropriate, and to those affected who had the status of interested party, in your case.

4. The data protection authority must be informed of the resolutions that fall under in relation to the measures and actions referred to in the preceding sections.

5. They will be communicated to the Ombudsman or, where appropriate, to the analogous institutions of the autonomous communities the actions carried out and the resolutions issued under this Article.

6. When the competent authority is the Spanish Agency for Data Protection, this will publish on its website with due separation the resolutions referring to the entities of section 1 of this article, with express indication of the identity of the person in charge or in charge of the treatment that had committed the infraction.”

Therefore, in accordance with the applicable legislation,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE RIBAFORADA CITY COUNCIL, with NIF P3120800B, by an infringement of article 5.1.a) of the RGPD, in accordance with article 83.5 a) of the RGPD, a sanction of warning.

SECOND: NOTIFY this resolution to the RIBAFORADA CITY COUNCIL.

THIRD

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

: COMMUNICATE this resolution to the OMBUDSMAN, of

FOURTH: In accordance with the provisions of article 50 of the LOPDGDD, the

This Resolution will be made public once it has been notified to the interested parties.

Against this resolution, which puts an end to the administrative procedure in accordance with art. 48.6 of the

LOPDGDD, and in accordance with the provisions of article 123 of the LPACAP, the

Interested parties may optionally file an appeal for reconsideration before the Director of the Spanish Agency for Data Protection within a period of one month from the day following the notification of this resolution or directly contentious appeal

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

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

fourth of Law 29/1998, of July 13, regulating the Contentious Jurisdiction-

administrative, within a period of two months from the day following the notification

of this act, as provided for in article 46.1 of the aforementioned Law.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP,

may provisionally suspend the firm resolution in administrative proceedings if the interested party states its intention to file a contentious-administrative appeal. If this is the

In this case, the interested party must formally communicate this fact in writing addressed

to the Spanish Agency for Data Protection, presenting it through the Registry

Electronic Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or through

any of the other records provided for in art. 16.4 of the aforementioned Law 39/2015, of 1

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October. You must also transfer to the Agency the documentation that accredits the effective filing of the contentious-administrative appeal. If the Agency did not have knowledge of the filing of the contentious-administrative appeal within the period of two months from the day following the notification of this resolution, I would

The precautionary suspension has ended.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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