



File No.: PS/00068/2021

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### BACKGROUND

FIRST: Dated 09/10/2019, A.A.A. (hereinafter, the claimant) completed a claim sheet and at the request of the Consumer Service is transferred to this AEPD, having entry on 10/23/2019. The grounds on which the claim is based are that for access the leisure area, with mats, trampolines and trampolines "URBAN PLANET", Vigo, (activity according to the park website located in different towns of Spain) a disproportionate amount of data, ID and photograph are requested.

Along with the claim, provide:

-Copy of claim sheet of 09/10/2019 in which TURIA OCIO Y COMERCIO SL (CIF B 88334222) noted as allegations that the person who enters URBAN PLANET must be previously registered with the data requested for the security of each one of the users. "We always offer the possibility that, when leaving our facilities, tions, all data provided is deleted."

-Screen printout (data platform) of the registration sheet and data collection personal in which at first glance the ownership of the person in charge is not seen, appearing two ted, to mark, one of "I have read and accept the privacy policy, read", and another of "I have read and accepted the waiver". In the collection, the fields with asterisks appear as mandatory. following: name and surname, DNI, date of birth, address, city zip code province, mobile phone, email, password and photo ("use the camera or add a photo of your face from your device"). In the upper left part, the form bears the literal

"Your data", in the one below "Finish registration".

-Service ticket, dated 09/10/2019, with data from URBAN PLANET, address c Miradoiro, in the one with the same CIF as that of TURIA OCIO Y COMERCIO SL.,  
store.urbanplanetjump.es/online.

SECOND: In view of the facts denounced in the claim and the documents provided by the claimant in accordance with the provisions of Title VII, Chapter I, Second section, of Organic Law 3/2018, of 5/12, on the Protection of Personal Data and guarantee of digital rights (hereinafter LOPDGDD), the claim is transferred to TURIA LEISURE AND COMMERCE S.L. and URBAN PLANET ENTERTAINMENT SL, in both accessed shipment content on 12/4/2019.

THIRD: Dated 01/2/2020 TURIA OCIO Y COMERCIO S.L., from the address c/ Rafael Botí 2 of Madrid, states that they have received "two letters rigged to the headquarters of URBAN PLANET ENTERTAINMENT SL and TURIA OCIO Y COMERCIO SL but both

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derive from the same in reference number and for the same facts".

In the answer that is given, it carries the literal URBAN PLANET ENTERTAINMENT SL, and below the web address www.urbanplanet.es, responds to the legal representative of URBAN PLANET ENTERTAINMENT SL, with a CIF different from that of TURIA OCIO, and registered office at Calle Rafael Boti, 2 of Madrid, "and its branch TURIA OCIO Y COMERCIO SL whose administrative headquarters va is located in the Gran Vía de Vigo shopping center, floor two, local 226, rúa Miradoiro 2 of Vigo". Indicates that URBAN PLANET ENTERTAINMENT is the data controller (hereinafter the claimed).

It provides in electronic format, together with the response hash, four more called documents.

ment 1 to 4 to which he refers in his explanations. Manifests:

1) Regarding the decision adopted regarding the claim, the main one has been updated

lyse the registration processes at its different parks to homogenize and centralize the information

training that is dispensed to the user "so that it is accessible in various ways. "

There is a "prior step" to access the company's facilities in which the user has

to register as shown in DOCUMENT 1 that it provides, registration form, which

must be completed with: name and surnames DNI address telephone email fe-

birth card and photograph. It coincides with the one provided by the claimant as a "sheet of

register", in its upper left part it appears "Your data. Are you already registered? It has to

Also check the privacy policy section. "The data contained in the question-

nario are described in the privacy policy, being a necessary condition to know and have

read the privacy policy."

2) About the causes that have motivated the incidence that originates the claim, they state

"We do not consider the amount of data excessive", since the purpose is to identify with

accuracy to whoever accesses the leisure centers. Identity verification is to prevent

possible cases of impersonation, being the collection of the ideal image to achieve the

target and identify them, and it is not very onerous.

Also, as a means of facilitating the defense of the user against others and against the claimed party,

as a way of accrediting the physical state in which users are within the re-

belt or in the event that someone is injured outside the facilities, go to

finally to the park to allege that the injury was produced within the facilities, it was

proceeds to a PRIOR REGISTRATION OF THE USER. Provides document 2 in which there is a

registration with "Clients-Customer Administration" that collects the name and surname data

two, in this case of the claimant, the e-mail, the date of the visit to the leisure center and the name

name or name of this center.

He adds that in practice it is an optional requirement because “in the parks” if the user manifests

Party your disagreement with the taking of the photo, the registration ends up being carried out the same with the taking the photo in another direction, or with the taking of a photo in which the user actually it is not portrayed as was the case of the claimant.

3) On the measures adopted to prevent similar incidents from occurring on dates of implementation and controls carried out to verify its effectiveness, manifest in applications tion of the principle contained in article 5 of the RGPD, in order to “rectify the data

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that are inaccurate with respect to the purposes for which they are processed”, and “taking a measure of proactive responsibility” “have modified the treatment activity to which they are going affected the data collected, which was previously called “acceptance of standards for access so to parks and use of facilities” (provides a copy of document 4) and which is now separated in several treatment activities (provides a copy of document 3).

In document 4, previous situation, it provides a document of “explicit consent for the data processing” in which there are spaces to sign and complete the sections: name- name and surnames, NIF, address, telephone. “The interested party authorizes the collection of information of personal data of the following treatment activities: registration for ac- access to parks and use of facilities and whose location can be found at [www.urbanplane-tjump.es](http://www.urbanplane-tjump.es)”. The purpose of the collection and processing of information “is the registration of data for access to the enjoyment of the parks, online sales, acceptance of rules of use and acceptance tion of video recordings for security purposes in the facilities. Communications ad- ministerial activities through WhatsApp, SMS and email

. “The typology of the data of the

interested that will be treated by the person in charge are name and surnames, NIF, DNI, NIE, telephone number, phone, address, voice image, email, password, passport number, age”.

In document 3, it provides the informative clauses that respond to different activities of treatment, being in all of them the person in charge of the treatment the claimed, and its base of consent legitimacy. Is about:

- Treatment activity of “acceptance of use of facilities whose location is located tran urbanplanetjump.es”, “the purpose of the collection and treatment of the information of the interesado is to report the correct use of the facilities and video recording for purposes security”, collecting “name and surnames, signature”.
- “Registration for access to parks” whose location can be found at “urbanplanetjump.es”, being the purpose of the collection and treatment that of "data registration for access to the fruit of the parks, photographic record for user identification, video recording to safety effects in the installations” indicating that the data collected is non-name and surname NIF, DNI, address, voice image, email, password, passport, age.
- “online sale on the website” being the purpose of the collection and treatment that of “management online ticket sales. The type of data of the interested party that will be processed are names and surnames, NIF, DNI, telephone numbers, address, email, date of birth.
- "Sending a newsletter", for the purpose of advertising and commercial prospecting, in the case of da-names and surnames, NIF, DNI, NIE, telephone numbers, address, email.

FOURTH: On 03/30/2020 the claim is admitted for processing.

FIFTH: On 03/24/2021 the director of the AEPD agreed:

“INITIATE SANCTION PROCEDURE against URBAN PLANET ENTERTAINMENT S.L., with NIF B-87223822, for the alleged infringement of article 5.1.c) of the RGPD, of in accordance with article 83.5.a) of the RGPD and 72.1.a) of the LOPDGDD.

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"For the purposes specified in the art. 64.2 b) of Law 39/2015, of 1/10, of the Procedure Common Administrative Law of the Public Administrations, the sanction that could correspond would be warning."

Once the agreement has been notified, no objections are received.

SIXTH: On 10/7/2021 an access procedure is carried out on the website of the claimed party and a me the data protection and privacy policy.

SEVENTH: On 10/8/2021 a test practice period begins, incorporating the of procedural actions prior to the start agreement, and the diligence of 10/7/2021 of access so to the website of the claimed party, legal notice, privacy policy and personal data.

In addition, it was decided to request the claimed:

1. Copy of the record of updated treatment activities, from May 2018, explaining-

Do if there have been variations, dates and explanation of the reasons.

On 10/28/2021, a response was received, providing document 1 with the record of activities. from treatment.

With relevance to access, the list of activities created in 2018 are:

- WEB CONTACTS

-VIDEO SURVEILLANCE

-ACCEPTANCE OF RULES FOR ACCESS TO PARKS AND USE OF FACILITIES.

The "treatment activity acceptance of standards for access to parks and use of facilities tions was a very extensive purpose and was subject to separation in the modifications of 2019. The list of activities created or modified in the year 2019-2020 are:

- ACCEPTANCE OF USE OF FACILITIES-registration 12/30/2019

- REGISTRATION FOR ACCESS TO PARKS

- SALE ON LINE ON WEB PAGE-registration 27/12/2019

2. Reason why on its website, in legal notice, data protection and privacy policy

emptiness, there is no mention of the treatment activity of: "Registration for access to par-

ques" purpose "data registration for access to the enjoyment of the parks, registration of photographs

phy for user identification, video recording for security purposes in the facilities

nes" indicating that the data collected is name and surname, NIF, DNI, address,

voice image, email, password, passport number, age.

It states that it is currently in the process of being updated and depends on the parks

carried out in one way or another, puts the examples of Alicante in which when making the purchase on

line, is when the data has to be provided. Selecting the center and the number of

tickets and time leads to another screen that indicates according to the copy provided "Complete the following

following fields to finalize your purchase" "Your data, are you already registered?: e-mail, name

and surnames, mobile phone: there is NO section referring to a photo. There is an almost

The "I have read and accepted the privacy policy" label that, if clicked, leads to the information

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of said treatment, seeing the information sheet that has to be accepted, and at the end a

box with "I accept", containing the statement: "duty to inform about the treatment, about" the

list of registration treatment activities for access to parks", figuring that "it is

records the photograph for user identification, Video recording for security purposes

in the facilities ", and also · telephone, address, email, NIF," The legal basis

ca of the treatment, the unequivocal consent.

It adds that in the Las Rozas park "the privacy policy notice refers to the legal notice gal and "the acceptance of use of norms is carried out either through the computer or in the park at through a QR code. "

3. Reason why in relation to its website, in legal notice, data protection and policies privacy, treatment activity of - "registration for access to parks and use of ins-talaciones", in their allegations they state that they will collect name and surnames, signature and on the web figure that is collected image.

The treatment of "registry for access to parks and use of facilities" is a product of the breakdown of treatment activities produced in 2019 2020. Now it is about "record for access to parks", and in the "acceptance of use of the facilities". In both shows that the image is collected. Also before being broken down, the image was collected.

4. Detail when the data collection for the processing takes place and by what means. ment of the "acceptance of use of facilities", which documents or instructions are given to inform users, and because it is necessary to treat as it appears on the web: Name and surnames; Image; Signature; connection metadata; mobile phone.

It states that "the image is currently not being collected. "Currently collecting data through the computer, if it is done from home or in centers that have codes go QR to do it through the customers' phones and that lead to a referral URL. record. For this reason, the name and surnames are included with the connection metadata, mobile phone, necessary data to know who is the person who enters the center, who reserves a birthdays, who to turn to if you need help, etc." "Previously, they requested through some tablets that were available at the reception desk" "In the centers There are also signs indicating the rules of use".

5. In which the treatment of "prior registration of clients to access installations-tions", of the treatment that appears on its website of "acceptance of use of facilities", and if



This already existed when the events take place. In his allegations to the transfer of the claim  
tion do not indicate the name of "acceptance of use of facilities".

The treatment activity "registration for access to parks" "has the purpose of registering the  
interested to know who is the person who enters the center, who reserves a birthday  
etc., and it is a prerequisite before accessing the facilities and to avoid re-  
undue claims, it is punctual, it is done every time you enter a park."

The treatment activity called "acceptance of use of facilities", supposes the  
acceptance of the rules of use and once completed is valid for all parks.

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"These two activities were created as a result of our written response to the allegations  
December 30, 2019 as a proactive liability measure but has always

There was a mandatory registration where the use of the facilities was accepted."

6. Regarding the document that, at the time of the events, was used for the "re-  
registration for access to parks and use of facilities, document 1 that you provided,  
in whose upper left header it states: "Your data, are you already registered?" point out  
the ways to fill it out: before going to the store, on the web or at the store, and how to obtain it.

I had the photograph that was requested, and if it is still requested.

Also, if that record is the one that refers to or coincides with the "acceptance of use of  
facilities", where did the general conditions of use of facilities appear or as  
the conditions of use of facilities were considered accepted since in no document  
ment, 1 or 2 who contributed in transfer of claim it is indicated that it is this speci-  
cificity?, referring only to the privacy policy section.

It states that “the document could be completed through the web or on the premises through see a tablet.

The photograph was taken on the premises through the tablet that was used for registration. ac-  
photography is not currently requested. In the same record, in addition to appearing the policy  
of privacy appear the rules of use. In addition, in the center there are signs where  
the rules of use are also indicated”.

7. Why is it necessary to register personal data to accept the use of facilities? Yes

Wouldn't it be enough to read and mark them at the time of completing  
registration for access? What relationship does this purpose have with the transfer to entities  
guarantors and because it appears as a transfer in both treatment activities.

“Personal data is requested to accept the use of facilities since once you accept-  
All the rules allow you to access any park.”

“Regarding activities, registration for access to parks is done every time you go to  
a park since it is necessary to know who is the person who enters the center, who  
reserve a birthday or other event who to go to in case you need their help if for  
example is a father who has registered is helpful to be able to locate him in case of  
be necessary.

As for the recipients, there are insurance entities since it is the insurance to which  
responsible for reviewing and analyzing the causes of a possible accident and determining the possible cul-  
to detect any broken material or incident in the facilities and has been included as a dis-  
recipients in the most activities”.

8. Although nothing was requested in the procedure regarding the taking of images by video surveillance,  
ence of the people captured when they access the facilities, they are requested to detail the  
purpose of collecting the images, the time the images are stored, and whether they are used  
zed for cases of accident claims. Number of cases they have had.

It states that “the video surveillance system focuses on the playground and is used to recon-

ger information about accidents. The images are saved for a period of 10 days. Their

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purpose is included in the treatment activity called "registration for access to parks" where, among other things, there is a video recording for security purposes in the facilities. nes.

They indicate that they keep track of each case, but not a total sum of cases.

9. If the request for the image, photograph, the collection of "DNI", "address" and of "electronic mail" for the treatment of document 1, since in this informative literal vo obtained on 10/7/2021 does not appear on the web in privacy policy and personal data the activity of "registration of clients for accesses.", and why is photography still required? if there is video surveillance from the moment it is accessed.?

He states that currently the photograph is not required of those interested. Initially for insurance recommendation was requested, but later it was decided not to collect that fact.

10. If when accessing the leisure center, with the tickets purchased on the web, the pre-DNI presentation upon entry.

Indicates that "the DNI number is requested to verify the previous registration made by the user once he enters the park".

11. Regarding the collection of data as user registration, document 1, which indicates which is also necessary to collect the image, photography to ensure safety of the user and the rest to guarantee that people "enter the park and start the activity full of physical capacities" "no one can argue that another entered the premises with

injuries acquired with the aim of avoiding the possible responsibilities that derive of a negligent use of the facilities against other users and against the claimed one", it is say questions of responsibility for accidents, injuries etc., however they do not report of said purpose, detailing if so, the need and the reasons.

After receiving the transfer of the claim, in their allegations they specified that the activity of treatment then called "acceptance of standards for access to parks and use of facilities" was broken down into four other treatment activities. In the new "registration access to parks", it was included "as a purpose among others: "registration of photography for user identification. In the activity called "acceptance of use of facilities tions", the purpose is stated: "Inform about the correct use of the facilities and the vi-derecording for security purposes".

"It is reported through the document on the use of mandatory standards for all clients, of mandatory signature when you enter a center for the first time and where it indicates the exoneration of responsibility in case of non-compliance with the rules.

12. How are those affected informed about matters related to accidents?

or injuries produced in the development of the activity, exemptions from responsibility, exemption sas etc.

"It is reported through the document on the use of mandatory standards for all clients, of mandatory signature when you enter a center for the first time and where it indicates the exoneration of responsibility in case of breaching the rule.

EIGHTH: On 11/11/2021, a resolution proposal is issued, of the literal:

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“That the Director of the Spanish Data Protection Agency sanction URBAN

PLANET ENTERTAINMENT S.L., with NIF B87223822, for an infringement of article 5.1.c)

of the RGPD, with a warning.”

Faced with the same allegations.

Of the actions carried out in this procedure and of the existing documentation

In the file, the following have been accredited:

#### PROVEN FACTS

1) The defendant is dedicated to offering activities in leisure parks throughout Spain with mats, trampolines and trampolines, with various venues. At the time

If the events occurred, 09/10/2019, the defendant had implemented a treatment activity procedure called "registry for access to parks and use of facilities, whose purpose is consisted as:

“Data registration for access to the enjoyment of the parks, online sales, acceptance of regulations.

More about the use and acceptance of video recordings for the purposes of security of the facilities.

Administrative communications through whatsapp, sms and email”.

In document 1 for the collection of this type of data provided by the claimant, it appeared in the

upper left header: “Your data, are you already registered?” that could be completed

by the user "through the web or locally through a Tablet". it was essential

fill in the registration before accessing the activity, the facilities. The data that was

to complete as mandatory, marked with an asterisk were those of: name and surname

two DNI address telephone, email, date of birth and photograph. The photograph

was taken on the premises through the tablet that was used for registration. In the same re-

registration, in addition, the privacy policy and the rules of use appeared. In the center it is exhibited

ben posters where the rules of use are also indicated.

However, the records of treatment activity, stated the respondent in the transfer

of the claim, that the purpose of collecting the photo of the user was his identification

unequivocal when accessing, in order to avoid impersonations, in case of injuries in the activity (correlation name and data taken, plus the photo, contributes to the accuracy in case of incident tooth or injury) as well as "safety in the facilities".

The claimant adds that, in practice, the photo requirement was optional and that when the user expressed his disagreement was not implemented, "as was the case of the claimante", who "decided to put his hand in front of the camera in the process", and was not prevented the access. There is no image of it in their files.

2) After the transfer of the claim, on 01/02/2020, the respondent specifies that the activity of treatment called until then: "acceptance of norms for access to parks and use of facilities" is differentiated and broken down, in terms of data necessary to access to carry out the activity, in:

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- "Record for access to parks", they are collected each time a park is accessed to do an activity. The indicated data is collected are: Nif / DNI. / Nie; Telephone; Address; Image, photography / voice; Email; Password; Passport number; Age.

The photograph for "identification of the user", purpose "for access to the enjoyment of the parques, "photograph record for user identification". In some parks like Alicante, the data is completed when tickets are purchased on the web, although it has the option that asks if you are already registered. The data to be filled in is contained, among which photography is not mentioned. In the same purchase it leads to "I have read the privacy policy", that by clicking the information on this treatment activity is read where it is indicated again that "the photograph is registered to identify the user".

The respondent indicated after the initial agreement that the photo is no longer required.

Given the statement of the respondent that "Regarding the activities, registration to access so to parks is done every time you go to a park since it is necessary to know who is the person who enters the center, who reserves a birthday or other event to who to go to in case of needing their help if, for example, it is a parent who has registered, it is helpful to be able to locate him if necessary.", it is observed, however, that in the purchase of tickets on the web, with reservation of day and time, data to be complied with mention that at no time is it deduced that it is the person or subject that is going to participate in the activity, or he has to be the one to participate in it. If you buy multiple tickets

The identification of the subject that is going to use the inputs is also not clear.

"Acceptance of use of facilities", is collected as a purpose: "Inform of the correct use installations and video recording for security purposes". assumes acceptance of the rules of use and once carried out it is valid for all the parks. After the agreement at the beginning, the respondent stated that for this treatment the image is not being collected.

The rules of use of facilities were contained in the privacy policy, and it could be produced at the same moment in which the facility was accessed, together with the collection of the "record metro for access to parks"

3) In addition, the defendant has a video surveillance system inside its facilities.

lance that focuses on the playground and is used to collect information on accidents.

The images are saved for a period of 10 days. Its purpose is included in the activity processing entity called "registry for access to parks" which includes, among other things, "Video recording for security purposes in the facilities."

They indicate that "they keep track of each case of claim for accidents in case from which responsibility arises in the development of the activity."

4) The respondent indicated after the initial agreement that the photo that was required before on each occasion

sion that a park was accessed, part of the treatment "registration for access to parks"

is no longer required. Initially, it was collected by insurance recommendation.

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5) Asked the respondent if when accessing the leisure center, with the tickets purchased in the web, the presentation of the DNI was requested, indicated in tests that "the number of the DNI to verify the previous registration made by the user once he enters the park".

6) The respondent informs clients about issues related to accidents or injuries.

tions produced in the development of the activity, exemptions from responsibility, causes of exemption etc through the document of rules of use, "mandatory for all clients", mandatory signature when accessing a center "for the first time and where it indicates the exoneration of responsibility in case of breaching the norm" "In the centers, there are also signs indicating the rules of use. Information on mandatory use rules that occurs in the posters may be related to the treatment activity called "acceptance of use of facilities", which implies acceptance of the rules of use and a carried out is valid for all the parks, although data was collected for it, among they the image.

FOUNDATIONS OF LAW

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

II



The claimed party is charged with violating article 5.1.c) of the RGPD, which provides:

“Personal data will be:

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

The "Practical Guide to risk analysis in the processing of personal data subject to the RGPD" published by the AEPD in its epigraph 3, "Data Protection from the design and the risk management what should be the path to follow? Section: "definition and design of activities from treatment", reproduces, on the treatment activity:

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“The definition of a treatment activity is a fundamental step that requires having clear what the purposes of personal data processing are. Corresponds to each organization, according to the principle of proactive responsibility (accountability), decide the level of aggregation or segregation to prepare the record of treatment activities and must assess to what extent that aggregation or segregation corresponds to purposes, different legal bases and groups of individuals. Likewise, it is necessary to weigh, as did previously when defining files, the optimization of the management of the data protection within your organization so that it is useful, agile, effective and allows to achieve the objectives that the legislation seeks: that the individuals whose data is object of treatment may have, where appropriate, effective knowledge of the treatments that the organization performs on them.

Once incorporated into the entity's processing register, all those activities that correspond to the work or functions that it performs on the personal data

staff of the groups of people you manage, you should pay attention to the new obligations that the RGPD describes about the person in charge of the treatment and the person in charge of treatment. Do these new obligations imply the generation of new activities of treatment that must be described and incorporated into the register of activities? GDPR establishes in article 5 the following principles regarding data processing personalities that need to be considered

Data minimization: Data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

Additionally, article 5 of the RGPD establishes that the data controller must guarantee compliance with the principles relating to treatment, as well as the figure responsible for proving it. Therefore, it is essential to properly define the treatment activities and document the analyzes carried out, as well as leave traceability of the same and of the conclusions that support them in order to guarantee the proactive responsibility.”

Regarding the principle of the need to process personal data, it can be said that any data processing implies per se and from the start, the restriction of the right fundamental, when the collection and disposal of the same by the responsible that will operate with them. According to the jurisprudence, due to the affectation that the processing of personal data supposes for a series of fundamental rights, the limitation of the fundamental right to the protection of personal data should be the strictly necessary. This implies that if the achievement of the intended goals can be carried out without processing personal data, this route will be preferable and will mean that it is not necessary to carry out any treatment of data, which will mean that such right, with the limitations that it entails, it would not be in contention, as there are no data. the pickup, storage and use constitutes per se a limitation of the right to data protection which must comply with the regulations. This therefore requires, first of all, to analyze and ensure

that the collection of data is necessary for the established or intended purpose and that it is proportional.

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This need must be justified in the compliance documentation that the responsible must dispose in accordance with article 5.2. of the GDPR. The need must deal with whether personal data is processed on the basis of objective evidence, according to the purposes must determine, if these personal data are inescapably required or if the purpose can be fulfilled without processing that personal data. Also that it should not be repeated request for data that is already available.

The achievement of the legitimate objective pursued does not offer more advantages if data is used personal that if they are not used, and the treatment of data implies risks with the themselves, and ultimately an unjustified intrusion compared to the other option. The proof of necessity of the treatment for any limitation of the exercise of rights to the protection of personal data must be strict, and they must be treated only in the strictly necessary cases, since in principle, any treatment operation of data (such as the collection, storage, use, disclosure of data) established by the legislation limits the right to the protection of personal data, regardless of that limitation may be justified.

On the one hand, the record of treatment activity expressly records the collection of the image, photography, for two different treatment operations, although connected. A, materializes each time you go to each leisure park, trying to verify with the photo and the data that is given, your identity, to avoid requests for damages by

people who impersonate them, (although it does not explain the degree of importance or provide proof of the supposed incidence that motivates this type of collection to be fundamental). Of In fact, this detail that explains the claimant does not appear in the purpose of the treatment. Other taking or collecting of the photo would be or would be assumed to be provided only on one occasion and Its purpose is to know the rules of use of the facilities. both connected because it is intended to identify the person who accesses. When the ticket or tickets are purchased on the web you have to fill in "I have read the privacy policy", which by clicking. you read the information of that treatment activity where it is indicated that "the photograph is registered for user identification", without adding that it would be when accessing when requested, and must correspond the information that is given with the moment and act in which it is going to be developed, and the subject affected, also considering that the person who acquires the tickets can not be the end user of the activity, and that no reference to personal data is contemplated. fathers.

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On the other hand, since the transfer of the claim, it is recognized that although the taking of photography, in fact in many cases it is not collected.

Finally, after the initial agreement, it was decided not to use the photo.

All of this, in addition, having the taking of images that is done with the camera of indoor video surveillance, intended, during the recording period, for the playground, the possible events related to incidents that may imply responsibility in the use of the facility.

The collection of the image of the people who accessed the parks on each occasion,

through photography, which was also stored, was done mainly by the subject of claims for damages and insurance, only then does the idea of avoiding impersonations or identify who really intends to access, for assurance of possible accidents in order to avoid possible impersonations, as can be deduced.

This seems relevant, in terms of the relationship with the intended purpose, and that it is not specifically made explicit in the register of activities, since the control of the identity of the person would be accredited with the data that is given and, where appropriate, the display of the DNI, not the mere repetition of the number, and the taking of the photo is not appropriate, also including the internal recording of images.

When the same end can be achieved with other means or with those that are already available, it does not seem necessary to accumulate more data. Limited to what is necessary, it does not seem necessary taking the photo for insurance reasons or proof of what happened, since it has been previously identified the bearer of the identity that accesses or can be identified, and there are and sufficient data that are considered adequate and are already relevant to identify the person who accesses

The adequacy, relevance and limitation of the data is related as indicated, with the purpose that according to the RGPD article 5.1.b) indicates, that they must be “collected for specific, explicit and legitimate purposes”.

Thus, for example, the treatment of acceptance of use of facilities: "for the purpose of report the correct use of the facilities and video recording for security purposes.

Being the type of data collected: Name and surnames; Image; Signature. "Being a mere information, one might wonder if a specific treatment has to be carried out for this, differentiated or if data has to be used for it. It could be a checkbox in the same section that is contained in the access log.

On the other hand, the video recording has an information system with an informative sign in the establishment and its purpose and basis of legitimacy is not similar to that of access control

or acceptance of mandatory standards.

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Regarding the treatment of the registry for access to parks; for the purpose of registering data for access to the enjoyment of the parks, photographic record for identification of the

Username. Being the type of data collected: Name and surnames; Nif / Dni. / Nie;

Phones; Address; Image / voice; Email; Password; Passport number; Age.

The relationship of access, enjoyment of the park with the need to provide the rest of the data, being too concise and generic in terms of the explicit purpose and the purpose of the treatment, cannot be classified as a specific purpose.

Obviously the non-collection of the photo must be contained in the activity log of treatment so that it is up to date, with the assessment of the reason documented in your case leading to such a conclusion. The covert purpose behind the decision photographs for access nor is it contemplated in the purpose of the treatments, nor is it necessary or proportional.

It is credited that the implementation of the need to provide photos at access to the park, every time you go and access them, and taking photos to prove knowledge of the rules of use are not adequate, pertinent and relevant data in this assumption, proving the infraction related to the treatment of data in the cited context.

III

Article 83.5.a) of the RGPD refers to said infringement, which indicates:

“The infractions of the following dispositions will be sanctioned, in accordance with the

section 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, of an amount equivalent to a maximum of 4% of the total turnover annual global of the previous financial year, opting for the highest amount:

the basic principles for treatment, including the conditions for consent

a)

tion under articles 5, 6, 7 and 9;”

Article 58.2 b) of the RGPD provides for the possibility of sanctioning with a warning, in

In relation to what is stated in Considering 148:

“In the event of a minor offence, or if the fine likely to be imposed constituted a

disproportionate burden for a natural person, instead of sanction by fine can

impose a warning. However, special attention must be paid to the nature,

gravity and duration of the infraction, to its intentional nature, to the measures taken to

mitigate the damages suffered, the degree of responsibility or any infraction

previous pertinent, to the way in which the supervisory authority had knowledge of the

infraction, to the fulfillment of measures ordered against the person in charge or in charge, to the

adherence to codes of conduct and any other aggravating or mitigating circumstance.”

In this case, considering the context in which the data collection takes place, a

leisure activity, the absence of damages to the claimant, and that it has been decided not to

request or collect said photograph, the sanction of warning proceeds, as

agreed in the startup agreement.

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For the purposes of calculating the prescription, the LOPDGDD states in its article 72:

"1. Based on the provisions of article 83.5 of Regulation (EU) 2016/679, considered very serious and will prescribe after three years the infractions that suppose a substantial violation of the articles mentioned therein and, in particular, the following:

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

Therefore, in accordance with the applicable legislation and having assessed the graduation criteria of the sanctions whose existence has been proven,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ADDRESS URBAN PLANET ENTERTAINMENT S.L., with NIF B87223822, by an infringement of article 5.1.c) of the RGPD, in accordance with article 83.5 a) of the RGPD, and for prescription purposes, of article 72.1.a) of the LOPDGDD, a sanction of warning, in accordance with article 58.2.b) of the RGPD.

SECOND: NOTIFY this resolution to URBAN PLANET ENTERTAINMENT S.L.

THIRD: 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, with

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 two months from the day following the notification of this act,

according to the provisions of 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, it may be precautionary suspension of the firm decision in administrative proceedings if the interested party expresses its intention to file a contentious-administrative appeal. If this is the case, the

The interested party must formally communicate this fact in writing addressed to the Agency Spanish Data Protection, presenting it through the Electronic Registry of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or through one of the remaining records provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1.

You must also transfer to the Agency the documentation that proves the filing effectiveness of the contentious-administrative appeal. If the Agency were not aware of the filing of the contentious-administrative appeal within two months from the day following the notification of this resolution, it would end the suspension

precautionary

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Director of the Spanish Data Protection Agency

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