

□ File No.: PS/00015/2022

IMI Reference: A61VMA 298021- Case Register 79805

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 complaining party) dated May 19, 2019

filed a claim with the French data protection authority. The

The claim is directed against VACACIONES EDREAMS S.L., with NIF B61965778 (in
forward, EDREAMS). The reasons on which the claim is based are the following:

The complaining party denounces that EDREAMS charged his card for a
Prime service that he had requested months before, but of which he had not been
informed that it was renewed automatically. The data of the card used were,
in addition, those that had been entered for a reserve acquired in the past, thereby
which accuses the entity of withholding personal information without your authorization. After
contact the person in charge to request a refund of the amount, your
Private area is no longer accessible and your travel information is deleted. HE
contacted Customer Service by e-mail (at customerservice-
fr@contact.edreams.com) to exercise your rights of access, deletion and
opposition to receive commercial communications, but they referred him to the telephone;
in it they urged him to send a letter by post to the address indicated
on the web portal, and when he did this, the letter was returned by unknown.

The claimant's account was charged on January 14, 2019. The
request for access to data, deletion and opposition to receive communications
commercials was carried out on January 23, 2019.

Along with the claim, provide:

- Copy of a receipt on a card in the name of the claiming party in which the

Note a charge made on January 14, 2019 by EDREAMS with a

amount of €54.99.

- Screenshot of an account linked to ***EMAIL.1 (the claimant party

indicates that it is the account you are referring to in your claim; hereinafter, the email of

the complaining party) in which it is observed that there are no cards associated with the

account. This screen displays an error message stating that your session

it has been interrupted and you have to restart it. The date of

screenshot of this screen.

- Copy of an email sent from the email of the complaining party to

customerservice-fr@contact.edreams.com, dated January 23, 2019, in which

requests a copy of your data and indicates that you cannot access it through your

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2/36

account in EDREAMS since he complained to customer service. In this email,

It also requests that your data be deleted and not used for commercial purposes.

customerservice-

- Copy of an email sent from

fr@contact.edreams.com to the email of the complaining party, dated January 23

of 2019, in response to the previous email in which he was told to contact

by phone for everything related to your premium account, and the number is provided

phone number to call.

- Screenshot of the "edreams.fr" website showing that, in the footer of

the web page shows the following two postal addresses:

- EDREAMS address: C/ Conde de Peñalver, 5, 1 Ext. Izq. - MADRID.

- ATOUT FRANCE address: Sis 79/81 rue Clichy - PARIS.

- Copy of letter addressed to EDREAMS, but addressed to the address of ATOUT FRANCE

by the complaining party dated February 1, 2019. Attached to this letter is a

certified letter receipt with notice of receipt in which it can be seen that the

address to which it was sent is that of ATOUT FRANCE and which was returned to the addressee

for the reason of "unknown receiver at address".

SECOND: Through the "Internal Market Information System" (hereinafter

IMI), regulated by Regulation (EU) No. 1024/2012, of the European Parliament and of the

Council, of October 25, 2012 (IMI Regulation), whose objective is to promote the

cross-border administrative cooperation, mutual assistance between States

members and the exchange of information, as of May 21, 2021, had entry

in this Spanish Data Protection Agency (AEPD) the aforementioned claim. He

transfer of this claim to the AEPD is carried out in accordance with the provisions

in article 56 of Regulation (EU) 2016/679, of the European Parliament and of the

Council, of 04/27/2016, regarding the Protection of Physical Persons in what

regarding the Processing of Personal Data and the Free Circulation of these Data

(hereinafter, GDPR), taking into account its cross-border nature and that this

Agency is competent to act as main control authority, given that

EDREAMS has its registered office and sole establishment in Spain.

According to the information incorporated into the IMI System, in accordance with the

established in article 60 of the GDPR, acts as a "control authority

concerned" the French data protection authority.

THIRD: On June 1, 2021, in accordance with article 64.3 of the

Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (LOPDGDD), the claim was admitted for processing submitted by the complaining party.

FOURTH: The General Subdirectorate of Data Inspection proceeded to carry out of previous investigative actions to clarify the facts in matter, by virtue of the functions assigned to the control authorities in the article 57.1 and of the powers granted in article 58.1 of the GDPR, and of in accordance with the provisions of Title VII, Chapter I, Second Section, of the LOPDGDD, having knowledge of the following extremes:

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28001 – Madrid

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3/36

Response to the request for information presented on behalf of EDREAMS with entry registration O00007128e2100036023, with entry in the AEPD on August 27, 2021, which provides, among other things, the following information Regarding the use of the payment data of the complaining party:

1. Declaration that the credit card data was collected during the reservation of a flight on January 14, 2018, in which the complaining party also subscribed to the Prime service for one year with automatic renewal, This renewal will be carried out automatically on January 14, 2019.
2. Explanation of the steps that the user of the EDREAMS website has to follow accompanied by screenshots of the French website itself. It is appreciated that, during the contracting of a trip, you can choose the option of contracting the Prime service.

3. Copy of several extracts of the terms and conditions in French (together with the Spanish translation) of the EDREAMS website as of January 14, 2018

(which is the date on which they indicate that the contracting of the service occurred prime). These extracts indicate, among other things, the following:

3.1. That the contracting of the Prime service is made when completing the reservation of a flight that is eligible for Prime service on the EDREAMS website.

3.2. That "YOU UNDERSTAND THAT YOUR SUBSCRIPTION WILL BE RENEWED AUTOMATICALLY AND AUTHORIZED US (WITHOUT PRIOR NOTICE, UNLESS REQUIRED BY APPLICABLE LAW) TO CHARGE THE FEE ANNUAL SUBSCRIPTION TO EDREAMS PRIME USING THE CARD OF PAYMENT REGISTERED IN YOUR ACCOUNT."

3.3. The following is specified regarding payment data: "Preservation of your bank details: We will use the payment details you entered when registering in eDreams Prime, or in the case of a free trial registration, when you made your last purchase on our site in the last 12 months, unless that we agree otherwise between you and Us. You also agree that by By signing up for eDreams Prime, you agree that your bank details will also be use to pay for the renewal of your eDreams Prime subscription. If the bank details you had at the time of signing up for eDreams Prime have expired, we will ask you to update them or, where appropriate, we will perform the payment of the renewal of your subscription using the bank details that we you provided when you placed an order on the Site and that you agreed to keep."

4. Indication that the legality of the processing of the credit card data of the complaining party is based on article 6.1.b of the GDPR, as data is necessary for the execution of the contract since "it was essential for the provision of the Prime service to collect payment data to execute the payment obligation and

benefit from said contracted subscription service". In this sense, EDREAMS alleges the application of the Recommendations of the European Committee of Data Protection No. 02/2021 on the legal basis for the storage of credit card details for the sole purpose of facilitating new transactions in line, adopted on May 19, 2021, which in footnote 2 of the page 2 establishes: "It should be noted that it does not include payment entities that operate in online stores, nor public authorities. Neither the storage of credit card data for any other purpose, for example

C / Jorge Juan, 6

28001 – Madrid

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4/36

for compliance with a legal obligation, or to establish a recurring payment in cases of a contract for continuous provision or subscription to a service of long-term (for example, a contract for the supply of a determined either each month, or a subscription to a music streaming service or movies)."

In the same response to the request for information presented in

EDREAMS representation

with entry record O00007128e2100036023,

with entry into the AEPD on August 27, 2021, the following is provided, among other things:

information regarding the limitation of access of the complaining party to your account around January 23, 2019:

5. Confirmation that the complaining party had registered in eDreams Prime a account associated with the email of the complaining party.

6. Indication that the limitation of access to the account of the complaining party is could be due to an error on the part of the claimant when accessing the account or a specific incident of the website, and it is indicated that they have analyzed the incidents computers for the period between January 14 and 24, 2019, and it has been identified that an incident occurred on January 23, 2019 that lasted 6 hours that may have prevented the complaining party from accessing your data at that time. They indicate that, since more than two and a half years have elapsed, it has not been possible to confirm whether such incident specifically limited access to the party's account claimant.

7. Indication that, in the general conditions it is indicated that the subscription You can also cancel by phone at the free customer service customer. And a copy of the general user conditions in French is provided which contains, among others, the following information: "...A MOINS QUE YOU NE NOTIFY EDREAMS HOLIDAYS, AVANT LE RENOUVELLEMENT, QUE VOUS NE SOUHAITEZ ANNULER OU QUE VOUS NE SOUHAITEZ PAS AUTOMATICALLY RENEW YOUR ABONMENT TO EDREAMS PRIME VEUILLEZ CONTACTER LE SERVICE CLIENT PRIME PAR TÉLÉPHONE" (translated: "UNLESS YOU NOTIFY EDREAMS HOLIDAYS, BEFORE RENEWAL, WHICH YOU WANT TO CANCEL OR DO NOT WISH TO RENEW AUTOMATICALLY YOUR SUBSCRIPTION TO EDREAMS PRIME (PLEASE, CONTACT CUSTOMER SERVICE PRIME BY PHONE))). Regarding this customer service telephone number client, the following is indicated in the general conditions: "Service client exclusif: Priority telephone number (your number will be sent via email from confirmation of your registration to eDreams Prime)" (translated: "Service of dedicated customer service: priority telephone number (the number that is

will be sent via the eDreams registration confirmation email

prime)"))).

In the same response to the request for information presented in

representation of EDREAMS with entry record O00007128e2100036023, with

entry into the AEPD on August 27, 2021, the following is provided, among other things:

information regarding the request for access and deletion of the complaining party:

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28001 – Madrid

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5/36

8. Copy of the privacy policy published on the EDREAMS website in 2018.

This privacy policy indicates, among other things, the following regarding the

way to exercise data protection rights: "To exercise these

rights, please send an email to dpo@edreamsodigeo.com or

Send your request by postal mail to: Data Protection – Paseo Zona Franca,

195-205, 08038 Barcelona, Spain. In your application, you must clearly indicate

(i) your identity, indicating at least your full name and the address of

email you used when purchasing or registering with eDreams, and (ii) the

right or rights that you exercise. You can also go to the Spanish Agency

Protection of Data (www.agpd.es) to request the protection of your rights, if

you deem appropriate." This privacy policy coincides with the content

history of

the page

<https://www.edreams.es/politica-de-privacidad/>, according to the query made in the

website <https://web.archive.org>.

dated September 24, 2018

9. Indication that the request of the complaining party did not arrive through the form of privacy of the EDREAMS website but it came through the attention email to the client and was treated as an exercise of the right of deletion, as stated in their computer systems, and indicate that "the minimum personal data is blocked, for possible legal defense in the event of a consumer claim".

And a screenshot is provided, which indicates that it is the data of the part claimant appearing in the reservation system; on this screen you can see which are data referring to a reservation of the date "01/14/2018 21:10" in which the personal data are replaced by asterisks and indicated as the date of modification on "05/23/2018".

10. Indication that "the copy of the communications that would give us more information in this regard were deleted when dealing with said requirement in its moment".

11. Indication that, as a result of the knowledge of this claim, they have returned to respond to the request for rights of access and deletion of the complaining party; and a copy of the email sent to the email of the complaining party is provided in French, and a Spanish translation of this email, in which it is reported that Your data has been deleted, but exceptionally:

"1/ We keep the necessary data for the provision of all our services as in the case of subscription to our Prime account. The check Prime was renewed in 2019 and that's why the corresponding charge was made.

2/ We keep and store the necessary personal data in a manner confidential, allowing its treatment in the event of a complaint or investigation by the competent authorities, respecting the deadlines established by current legislation. For this, we inform you that the maximum period of

data storage is 5 years; After this period, the data

remaining will be duly removed.”

The content of the privacy policy of the websites www.edreams.es and

www.edreams.fr on the date of January 14, 2018 could not be verified

after making the consultations in the history that appears on the website [https://](https://web.archive.org/)

web.archive.org/. It has been verified that the privacy policy provided by

EDREAMS is the same one that appears in the history of the page

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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6/36

<https://www.edreams.es/politica-de-privacidad/> dated September 24, 2018, and

which is different from the one that appeared on the date of November 29, 2017, according to

with the query made on the site <https://web.archive.org/>.

The content of the general terms and conditions of the eDreams Prime service in

the websites www.edreams.es and www.edreams.fr on the date of January 14, 2018

it could not be verified after the consultations in the history that

appears on the website <https://web.archive.org/>. The only historical record of the page

<https://www.edreams.es/prime/condiciones-generales-de-venta/> which appears in

https://web.archive.org is dated February 28, 2021, and there are no versions

earlier in that history.

FIFTH: On January 12, 2022, the Director of the AEPD adopted a project

decision to initiate disciplinary proceedings. Following the established process

pursuant to article 60 of the GDPR, this project was transmitted through the IMI system

decision and the authorities concerned were informed that they had four weeks

from that moment to formulate pertinent and reasoned objections. Inside of the period for this purpose, the control authorities concerned did not raise any objections pertinent and motivated in this regard, for which reason it is considered that all the authorities agree with said draft decision and are bound by it, accordingly in accordance with the provisions of paragraph 6 of article 60 of the GDPR.

This draft decision was notified to EDREAMS in accordance with the established rules in Law 39/2015, of October 1, of the Common Administrative Procedure of the Public Administrations (LPACAP) on January 13, 2022, as stated in the acknowledgment of receipt in the file.

SIXTH: On July 21, 2022, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against EDREAMS in order to issue a warning, in accordance with the provisions of articles 63 and 64 of the LPACAP, for the alleged violation of Article 12 of the GDPR, typified in Article 83.5 of the GDPR, in which he was indicated that he had a period of ten days to submit claims.

This start-up agreement, which was notified to EDREAMS in accordance with the rules established in Law 39/2015, of October 1, on Administrative Procedure Common Public Administrations (LPACAP), was collected on July 22 of 2022, as stated in the acknowledgment of receipt that is in the file

SEVENTH: On July 30, 2022, it is received at this Agency, on time and form, letter from EDREAMS in which it alleges allegations to the start-up agreement in the which, in summary, stated that:

1.- EXERCISE OF RIGHTS IN EDREAMS IN ACCORDANCE WITH THE REGULATIONS

EDREAMS alleges that it centralizes the management of the exercise of rights (including the rights of access, deletion and opposition to receive commercial communications) to through its Privacy Form, linked in its Privacy Notice and

managed through a defined process and by a team trained and dedicated to such effect.

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28001 – Madrid

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7/36

Explain that, initially, the interested party exercises his right through the Privacy. And that said request is exclusively conditioned to the fact that the agents specialized in the management of these rights can confirm the information and have sufficient guarantees that the person claims to be who he is and/or that the representation of a third party is sufficiently accredited (usually the confirmation happens because the client, who receives a verification email, confirm in your personal email registered in our systems that you have requested the corresponding right).

After said confirmation, it indicates that it connects with the appropriate departments, to execute the corresponding actions based on the right exercised. Finally, a Once the necessary actions have been carried out, we proceed to respond to the interested party according to an internal guide (in this case, the guides of the rights of access, deletion and opposition to receive commercial communications).

You state that this process is carried out in accordance with your Privacy Notice and your Internal privacy policy (Annex 1 is provided - Index and applicable section of the Internal privacy policy), as well as internal procedures; specific the internal Guidelines on the exercise of the rights of access, deletion and opposition to receive commercial communications (Annex 2 is provided - Internal guidelines on the exercise of rights regarding data protection (Annex 2.1 - Internal guide

on the exercise of the right of access; Annex 2.2 - Internal guidance on the exercise

of the right of deletion; Annex 2.3 - Internal guide on the exercise of the right to

opposition to commercial communications) and with the data protection regulations.

EDREAMS also states that it is aware that customers can contact

contact with them in different ways with different purposes and that, therefore, form

their Customer Service agents and carry out awareness actions regarding the

exercise of rights. In the same way, they provide an answer guide, with the

purpose that know how to detect the exercise of rights and know how to reiterate the information already

included in your Privacy Notice, regarding the Privacy Form as a means

to exercise rights.

2.- EDREAMS MAKES EXTRA EFFORTS IN GENERIC CHANNELS OF

CUSTOMER SERVICE IN ORDER TO GIVE THE BEST SERVICE TO ITS

CUSTOMERS

First, EDREAMS alleges that, following internal investigations, it verified

that the claiming party did not exercise its rights by any of the two means

indicated in the privacy policy of 2018, in force at the time of the exercise of

rights (Annex 3 - Privacy Policy of 2018 is provided): "To exercise these

rights, please send an email to dpo@edreamsodigeo.com or send

your request by postal mail to: Data Protection – Paseo Zona Franca, 195-205,

08038 Barcelona, Spain. In your application, you must clearly indicate (i) your

identity, indicating at least your full name and email address

email you used when purchasing or registering with eDreams, and (ii) the right or

rights that you exercise".

C / Jorge Juan, 6

28001 – Madrid

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Secondly, they have analyzed the generic email inboxes of Customer Service and have verified that they received the request from the party claimant.

They have contacted the Customer Service team who have informed them that the agent mistakenly closed the ticket without having handled it properly based on its internal processes that guarantee the corresponding management of said request, referring to your Privacy Form (as indicated in the internal process of data protection rights management) or to escalate the exercise of law internally to the specialized department that is in charge of it.

In these Customer Service channels we try to answer as soon as possible but we cannot. There is no specific fixed response time, since it depends on the filtering of issues and their prioritization, which is done manually by the team Customer service and that carries risks of incorrect manual categorization to difference from what happens when they are exercised by the appropriate means and provided for the exercise of rights (the Privacy Form).

Likewise, in the exceptional case in which a client contacts by email postal, (medium that he considers obsolete today, especially in a company of electronic services), have made efforts to raise awareness and training in the postal mail collection staff in the event of any exercise of rights by this way so that it is channeled internally in the correct way (see Annex 4 - Guide on postal mail management). Even so, they affirm that the postal addresses of EDREAMS should not be understood as means of contact as they are only for the purposes tax and commercial, not as addresses available and specialized to receive

any type of exercise of rights. They understand that since their business is 100% digital and on the internet platform, your customers are familiar with the medium and centralize the vast majority of their actions and communications digitally, especially when they changed that with the corresponding transparency in their Notice of Privacy, facilitating the Privacy Form for this purpose.

And they affirm that it is precisely for this reason that a specific medium was created (through the Privacy Form), complying with the regulations for the protection of data and in order to be able to offer a mature process and the most guaranteed and transparent as possible for customers to exercise their data protection rights data.

In addition, they add that this process has been automated with a specialized privacy (**TOOL.1), to reduce risks and improve your responses, and is managed with alerts to prevent expiration of deadlines and respond to customers as soon as possible and within a maximum period of thirty days.

They allege that proof of the same is the management of the priority and immediate response to the exercise of the rights of the claiming party as quickly as possible from the moment the knowledge of it: he was assigned to a senior specialist to treat this exercise of right immediately carrying out all internal actions in their systems, the appropriate checks and the complaining party accordingly answered.

C / Jorge Juan, 6

28001 – Madrid

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9/36

Much to their regret, they state that the claimant's case was not directed

correctly to the appropriate information and to the Privacy Form. The exceptional circumstances and manual error by the agent, as well as the measures implemented (which are moved below), make the risk of reproducing this case is remote.

3.- CORRECT LEGALITY OF TREATMENT.

KNOWLEDGE OF THE PRIME TERMS

TRANSPARENCY AND

EDREAMS alleges that the complainant's data was collected during a flight reservation on January 14, 2018, the same date on which the claiming party subscribed to Prime, and paid the Prime subscription fee for its first year. AND that, likewise, he was informed during the subscription, he was going to renew automatically for a second year (that is, on January 14, 2019).

It states that the complaining party was aware of this treatment and it is not of an undue, surprising and/or fraudulent charge because on its results page, the customer can choose the Prime rate, which is shown linked to a subscription with an annual fee of 54.99 euros. If not, you can continue with the standard price, if not You want to contract the Prime subscription that has more competitive prices. Explain that an active action is required on the part of the client to register as a Prime member whose annual renewal is reported again on a regular basis automatically when the client establishes his password, in addition to that before make the purchase, the rest of the General Conditions of Sale as well as the Policy of privacy, are made available to the client in the purchase process, being always available at the bottom of all the pages of your website.

He affirms that due to the contracting of the Prime service in accordance with the rules of electronic commerce by the complaining party, was essential for the provision of the Prime service to collect the payment data to execute the

obligation to pay and benefit from said contracted subscription service.

For this reason, it considers that the legality of the treatment of the data of the aforementioned credit card credit is based on article 6.1.b of the GDPR.

And that this consideration is endorsed by the Recommendations of the European Committee of Data Protection No. 02/2021 on the legal basis for the storage of credit card details for the sole purpose of facilitating new online transactions, adopted on May 19, 2021 ("EDPB Recommendations 02/2021 on the legal basis for the storage of credit card data for the sole purpose of facilitating further online transactions adopted on 19 May 2021"). This recommendation insists on the obligation to manage consent in all cases analyzed by said

Recommendation, explicitly leaving out the scope of application of said obligation in the case in which we have described: the subscription to a long-term service duration. In this way it understands that the legality is clear not for having collected consent, but because it is essential for the provision of the contracted service:

Prime subscription.

And that this is established in footnote number 2, on page 2:

C / Jorge Juan, 6

28001 – Madrid

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10/36

-In its original version-

"It should be noted that they do not cover payment institutions operating in online stores, nor public authorities. Neither the storage of credit card data for any other purpose, for instance for compliance with a legal obligation, or to establish a recurring payment in cases of contract of continuing performance or subscription for a long term

service (e.g. a contract which stipulates the supply of a certain good every month, or the subscription for a music or movie streaming service)".

-Translated to Spanish-

"It should be noted that it does not include payment entities that operate in stores in

line, nor public authorities. Neither does the storage of credit card data.

credit for any other purpose, for example for the fulfillment of an obligation

law, or to establish a recurring payment in cases of service contract

continuous or subscription to a long-term service (for example, a contract

that stipulates the supply of a certain good each month, or the subscription to a

music or movie streaming service)".

However, it alleges that if the customer is not satisfied with their Prime subscription or

If you decide to unsubscribe for any other reason, you have a quick and

simple that he can do through his account without having to exercise a

right of data deletion.

4.- CONTINUOUS IMPROVEMENT OF TRANSPARENCY REGARDING THE EXERCISE OF RIGHTS

EDREAMS takes advantage of this case (produced by not exercising, in its opinion, the

rights correctly and through the appropriate means as well as by mistake

manual of the agent who did not follow internal policies and guidelines, in a context that also

of exceptionality) as an opportunity to analyze all the causes and

circumstances of this case, referred to above in the second allegation, and that

has allowed them to take extra measures to prevent situations from occurring

Similar.

Emphasizes that it believes that its regulatory compliance program in the

The field of privacy and data protection is based on the continuous monitoring and

continuous improvement and learning in order to increase compliance levels

normative.

In this context of exercise of rights, it also affirms that it maintains the same philosophy and takes the rights of data subjects very seriously, not only as a critical compliance action, but because it is the best way to guarantee the trust of its customers.

That is why it has a dedicated and specifically trained team, as well as an internal process for the exercise of data protection rights, to guarantee the best possible response to your customers, through the Privacy Form, and the

C / Jorge Juan, 6

28001 – Madrid

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11/36

internal coordination systems to deal with such requests in accordance with the normative.

Likewise, as an extra effort to guarantee and safeguard the exercise of rights, the Customer Service agents are trained and indicated so that in case of receive any matter of protection of personal data, they must direct the client to the Privacy Form so that he can exercise his rights.

Despite understanding that this case occurs in the exceptional circumstances before mentioned, and having received several manual errors from Customer Service agents customer in generic channels of said service, have taken the opportunity to implement a Customer Service Form, which customers will access, either via the Customer Service Center help from Customer Service, either by sending an email to the mailboxes of Generic Customer Support email still available.

Explain that this form has assessed categories, among which is the

option to exercise rights that redirects to your Privacy Form (as only means that must be used for the exercise of any right of the interested parties for the purposes of personal data protection; since it is managed by a team specialized and dedicated to this purpose) (see Annex 5 - Customer Service Form client and Annex 6 - Help center and frequently asked questions). In this way, it guarantees, in his opinion, a specialized and guarantee procedure, while at the same time they also redirect their customers to contact them by other means (such as the general means of contact for Customer Service) in order to to have a system that allows anyone who wants to exercise their rights to do so without problems and mitigating the risks of manual errors by Customer Service agents customer.

Likewise, it adds that they train annually on a mandatory basis in matters of data protection and specialized in the exercise of rights, including assumptions practices such as the present case, as well as awareness-raising actions by the Customer Service team (see Annex 7 - Awareness article on the exercise of rights), for example, covering topics such as "what is an exercise of data protection rights" and "how to accompany clients so that they exercise via the Privacy Form".

On the other hand, it indicates that in recent months they have carried out a migration of the tool of the Privacy Form and management of rights, going from a generic to one specialized in privacy (such as ***TOOL.1) in which Apart from being managed by a specialized and highly qualified team and sensitized in terms of data protection, work on an automation of processes in order to be more agile and reduce risks of human errors.

EDREAMS states that it is sorry for what happened in this exceptional case. And that, at the same time understands that given the circumstances and measures described above,

EDREAMS complies with data protection regulations as well as with the guidelines of the AEPD itself (previously referred to in the first allegation) and that the closure of the sanctioning procedure against EDREAMS with a warning, entails a disproportionate interpretation of maximums of the regulation of data protection, especially when it has mitigated that the risk of it returning to

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12/36

cases similar to this one occur, with a Customer Service Form that guides customers in the event that, without having read or ignoring the Privacy Notice, want to exercise their rights, and can be guided accordingly and their rights managed, through the Privacy Form.

Reiterates the commitment of the EDREAMS team to work tirelessly regarding learning and continuous improvement of its processes, with the aim of not only to comply with the regulations, but to strengthen the trust of its customers. And in this one context, will continue to monitor and continuously improve policies, processes, actions and measures referred to here.

For all the above, it requests that the disciplinary procedure be closed without reasoned warning because it is an exceptional manual error, caused by the management of a right of access, deletion and opposition to commercial communications through a generic Customer Service channel, in addition to not contemplated in your Privacy Notice as a means for the exercise of rights, and that EDREAMS has acted and acts diligently in the respect, defense and exercise of the rights of the interested parties and always in collaboration with the AEPD and that

all this is not diminished by mismanagement derived from human error

exceptional, which, furthermore, has been mitigated with a Form of

Customer service in the terms described in the third allegation.

EIGHTH: On September 28, 2022, the investigating body of the procedure

sanctioner formulated a proposal for a resolution, in which he proposes that the Director

AEPD sends a warning to VACACIONES EDREAMS, S.L., with NIF

B61965778, for a violation of article 12 of the GDPR, typified in Article 83.5

of the GDPR.

This proposed resolution, which was notified to EDREAMS in accordance with the rules

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

Common Public Administrations (LPACAP), was collected on the 30th of

September 2022, as stated in the acknowledgment of receipt in the file.

NINTH: On October 11, 2022, it is received at this Agency, on time and

form, writing from EDREAMS in which it alleges allegations to the proposed resolution

in which, in summary, he stated that:

PREVIOUS.- REITERATION OF THE ALLEGATIONS PREVIOUSLY PRESENTED

EDREAMS reiterates its previous allegations and understands that it complies with the

regulations in the terms described below, without prejudice to influencing the

present writing in those that it considers most relevant and add those that it considers

pertinent, in order to refute the grounds on which it is intended

warn EDREAMS by the AEPD.

1.- ACCUSATIONS AGAINST EDREAMS SATISFACTORIOUSLY RESOLVED

Preliminarily, EDREAMS wishes to emphasize that the claim filed before the

French Data Protection Authority (hereinafter the "CNIL", in accordance with its

official initials; Commission nationale de l'informatique et des libertés) dealt with

C / Jorge Juan, 6

various issues, including the alleged violation of the GDPR with respect to the precepts related to the transparency of the modalities of exercise of rights

Of the interested. Specifically, and as can be seen from the Proposal for Resolution of Sanctioning Procedure, the complaining party denounced before the CNIL the next:

1. Charging your card for a Prime service you have requested months before, but which allegedly had not been informed that it was renewed automatically.
2. The retention of personal information without the authorization of the complaining party as consequence of having used the card details of the complaining party to a previously purchased reservation.
3. The question of your request for access to data, deletion and opposition to receive commercial communications.

In his opinion, it has been demonstrated that EDREAMS acted diligently with relation to the first two points indicated in the claim, being circumscribed the alleged infringement of the restoration of the guarantees and rights of the affected. In this regard, as has been indicated by the AEPD: "it is not the object of the this proceeding if the credit card details of the complaining party are improperly collected or if the treatment in question is not lawful. Neither did is whether or not there is a specific procedure to cancel the Prime subscription without request the deletion of the client's personal data".

On the other hand, regarding the request to exercise rights made by the party

complainant, EDREAMS points out that an immediate response has been given to the rights exercised by the affected once the claim has been made known by EDREAMS. Therefore, EDREAMS has responded to the claimant's request, even after the established deadline.

In relation to the postal mail that the complaining party claims to have sent exercising their rights before EDREAMS, alleges that EDREAMS did not receive said exercise of rights because it was sent to an address that does not belong to EDREAMS.

According to how it is accredited in the first antecedent of fact of the proposal of disciplinary procedure resolution, the claimant provides a capture of footer screen of your www.edreams.fr website. In that footer

EDREAMS address is shared as the owner of the website ("C/ Conde de Peñalver, 5, 1 Ext. Izq. - Madrid") and provides the information that EDREAMS

is duly registered with ATOUT FRANCE providing the address of said independent body ("Sis 79/81 rue Clichy - Paris") in accordance with the regulations applicable French. In addition to being required to be registered with ATOUT FRANCE, this must be mentioned in the terms in which it is mentioned for the sale of tickets aircraft in France, and that ATOUT FRANCE address must be included for knowledge of the clients but EDREAMS affirms that it cannot be understood in no case that it is an EDREAMS address (it can be said that in a analogous happens when the postal address of the company is included for the exercise of rights.

AEPD and is not understood as a company address or as an address that redirects postal mail to the company if not as an independent body with purpose other than communication with the relevant company).

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

Well then, it alleges that the complaining party sent the letter to the address of ATOUT FRANCE and it was returned to the sender by an unknown recipient, as it could be otherwise.

Considering all of the above, EDREAMS deems excessive the opening of a disciplinary procedure, given that, in general, in other cases similar to the present, the AEPD has not considered it appropriate to depuration of administrative responsibilities in the framework of a procedure disciplinary action, opting as far as possible for alternative mechanisms to the itself, such as the one related to the procedure for the protection of rights, see, among others, the Resolution number R/00611/2021, dated August 18, 2021 (see the link TD/00160/2021):

"It is not considered opportune to purify administrative responsibilities in the framework of a disciplinary procedure, the exceptional nature of which implies that opt, whenever possible, for the prevalence of alternative mechanisms that are covered by current regulations."

Likewise, and in this line of argument, it should be noted that the AEPD has assessed positively the measures implemented by EDREAMS, to mitigate the risk of that a case like the one in the present claim could occur again.

For all these reasons, and in conjunction with the following allegation, EDREAMS requests the file of the disciplinary procedure.

2.- EXERCISE OF RIGHTS IN EDREAMS IN ACCORDANCE WITH THE REGULATIONS

EDREAMS alleges that, with regard to the adoption of measures tending to guarantee the correct management of the exercise of rights, it has a channel official, the Privacy Form (Annex 1 - Privacy Form), which is

transparently informed and made available to the interested parties in its Notice of Privacy, supposedly resulting in easy access for the interested party (Annex 2 - Privacy Notice: exercise of rights).

On the other, it states that it has processes, tools, training materials and other opportune measures already supposedly accredited in which it is contemplated that the hypothetical exercise of rights cannot be denied for the simple fact of that is exercised through other channels that are not the official channel.

In this last direction, EDREAMS affirms that it works tirelessly to improve continuation of the previously mentioned measures, and that they were accredited, in his opinion, accordingly in the third allegation of its response to the agreement to start sanctioning procedure dated September 28, 2022 (with number of registration REGAGE22s00042569349), so that in all its Customer Service channels client, clients are redirected to the official and dedicated channel for the management of themselves (the aforementioned Privacy Form), in the event that they were used for the exercise of rights.

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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15/36

EDREAMS agrees that an organization must have an official channel that collects a guarantee procedure in the terms stipulated by the regulations for the protection of data, as well as appropriate measures to guide the actions of any employee thereof to inform any interested party on how to exercise their data protection rights. However, he understands that an interpretation in the that the same degree of diligence is required that the official channel must have (as long as

when it is transparently informed in the Privacy Notice) to any other channel of the organization, would lead to an overload and dedication of resources disproportionate of the organization, without prejudice to the fact that, in addition, it interprets that would be contrary to the fact that the regulations require an official channel for the exercise of rights.

EDREAMS bases the aforementioned interpretation on the fact that the rule in question (article 12.2 LOPDGDD) clearly establishes that the responsible for the treatment can determine an official channel, as long as it is easily accessible (as supposedly it is in the case of EDREAMS).

In the opinion of EDREAMS, it seems clear that the standard has wanted to go further and therefore organizations require greater cooperation to enhance the effectiveness of the rights and, therefore, it has been stated that organizations cannot hide behind the fact that the corresponding right had been exercised through another channel of the official, to directly deny it without further ado, without having internal controls in this regard (in the aforementioned article 12.2 LOPDGDD).

But he wonders, does that mean that an organization must have at any channel a system for filtering and managing notifications that is not only extremely urgent - Due to this nature of the period of exercise of rights included in the regulations of data protection - but also that it is infallible? And, if you don't have it, do you would proceed with the opening of disciplinary proceedings against the organization despite have appropriate measures for said channels not specially dedicated to the exercise of rights, as has happened in the instant case and has been recognized by the AEPD?

EDREAMS considers disproportionate an interpretation that entails a positive response to the above questions, so please reconsider that interpretive position.

EDREAMS has (and had at its disposal at the time the events took place) an official channel, which is, in your opinion, transparently informed in the Notice of Privacy, and is easily accessible in accordance with the regulations, and with measures technical and organizational measures implemented, as well as measures to reduce the risk of a possible human error in the manual management of an agent in charge of a channel does not official. EDREAMS understands that a conclusion cannot be drawn that, in the practice, results in any communication channel of the company could be automatically an official channel for the exercise of rights.

It asserts that if the law had intended such a conclusion, requiring the same level of diligence for any channel of the organization, the wording should have included the following position: "The person responsible for the treatment will be obliged to inform the affected party about the fact that in any means of contact of the

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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16/36

organization may exercise the rights that correspond to it, as well as facilitate the list thereof."

It understands that EDREAMS's position is aligned with recital 59

GDPR, since EDREAMS has created formulas and electronic means that allow you to request the exercise of the rights of the interested parties free of charge. AND that said formulas and means have been informed to all interested parties transparent and loyal in its different forms and web privacy notices, and in the recruitment process.

Additionally, it insists that customer service channels, such as the employee

by the complaining party, are intended for consumer purposes, and therefore do not

You can have a privacy channel expectation due to its nature, and require

the same level of extreme diligence that supports a channel dedicated to the exercise of rights.

Even so, in order to try to guarantee that the interested party has the

Privacy at your disposal despite possible exceptional human error by an agent

Customer Service, EDREAMS has implemented a note at the bottom of the emails

generic customer service emails, through which customers are informed

clients, once again, of the existence of the Privacy Form for a management

easy exercise of rights and allows correct verification of identity

of the interested parties (Annex 3 - Note at the foot of the emails from Customer Service customer).

For all these reasons, EDREAMS considers that the precept in question requires a duty of

reasonable diligence, but not maximalist. And, in this logic, without prejudice to the position

previously recognized regarding the interpretation of the precept in question,

EDREAMS insists that what happened in this case is exceptional, and

reiterates the commitment to continue working tirelessly to improve

of its processes, tools, and training in all its channels of

Customer service so that, in the event that they are used for the exercise of

rights, customers are directed to the special and dedicated channel for the management of themselves (the aforementioned Privacy Form).

Additionally, EDREAMS wishes to record and demonstrate that the measures

in force at the time of the alleged infringement complied with the most rigorous

norms, guidelines, standards and recommendations to be able to face the risks

and that they were adequate and suitable taking into account the state of the art, the

application costs, and the nature, scope, context and purposes of the processing,

as well as risks of variable probability and severity for the rights and freedoms of natural persons. Likewise, EDREAMS transfers to the AEPD the acceptance of any type of proposal for improvement or recommendation by this AEPD regarding regarding compliance with regulations.

For all these reasons, it requests that a resolution be issued that indicates the file of the File number PS/00015/2022. And that the AEPD take into account in its resolution: (i) the exceptional nature of the case, due to the fact that the complaining party has not exercised its rights for the channel intended and described in our Privacy Notice (Form of Privacy), but through generic Customer Service channels, as well as

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

17/36

a wrong mailing address; (ii) that, in relation to the channels destined to consumer issues, the expectation of a response to the exercise of rights does not may be the same as that of the channels intended for the exercise of rights offered by EDREAMS; (iii) that in a timely manner, a satisfactory response has been given to the exercise of the rights presented by the complaining party; and (iv) that EDREAMS has acted and acts diligently in the respect, defense and exercise of the rights of interested parties and always in collaboration with the AEPD, and that all this is not be diminished by this exceptional case.

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: EDREAMS collected the credit card details of the complaining party

during a flight reservation on January 14, 2018, in which the complaining party

also subscribed to the Prime service for one year with automatic renewal,

This renewal will be carried out automatically on January 14, 2019.

SECOND: As of January 14, 2018, the terms and conditions in French of the

EDREAMS website indicated, among other things, the following:

- "To enroll in eDreams Prime, simply search and book an eligible flight

for eDreams Prime on our Site. Once you get to the payment page, before

After completing your purchase, you can add the eDreams Prime listing to your cart. To the

enter your information and add the eDreams Prime subscription to your basket, it will be displayed

a one-time fee that will be added to the total price before completing your purchase.

Vacaciones eDreams will validate the registration by sending you an email

confirmation (effective date). In this case, you will buy the flights booked at the

membership price, plus registration fee. The express acceptance of the commissioning

departure of eDreams Prime before the end of the withdrawal period is formalized

by reserving a Price for Members".

- "At the end of each registration year or at the expiration of the free trial period,

will automatically renew for a period of one year, unless you notify

edreams vacations, before renewal, that you want to cancel or do not want to renew

your edreams prime subscription automatically (please contact

customer service prime by phone).

You understand that your subscription will automatically renew and you authorize us (without

prior notice, unless required by applicable law) to charge the annual fee for

subscription to edreams prime using the payment card registered in your account. The

Annual fee will be paid in advance and/or at the beginning of the term.

- Keeping your bank details: we will use the payment details you entered

when registering with edreams prime, or in the case of a free trial registration, when

you made your last purchase on our site in the last 12 months, unless

Let's agree something else between you and us. You also agree that by signing up for

C / Jorge Juan, 6

28001 – Madrid

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18/36

edreams prime you accept that your bank details are also used to pay the

renewal of your edreams prime subscription. If the bank details you had in the

time to register for eDreams Prime have expired, we will ask you to

update or, where appropriate, we will make the payment for the renewal of your subscription

using the bank details you gave us when you placed an order on the

Site and that you agreed to keep. You will not be able to benefit from eDreams Prime until

You have not paid the annual fee. You can cancel your eDreams Prime subscription at

any time during your eDreams Prime subscription. You are informed that the

eDreams Prime subscription fee will not be refunded (except for the exercise of

your right of withdrawal in accordance with article 4 of the CGC)".

Regarding this customer service telephone number, the following was indicated in

the general conditions: "Exclusive customer service: phone number

priority phone (the number that will be sent via email from

eDreams Prime registration confirmation)))).

THIRD: In the bank account of the complaining party there is a charge of

EDREAMS for €54.99, dated January 14, 2019.

FOURTH: After the complaining party called the customer service department

client to express his dissatisfaction and request a refund, he was unable to access his

account, displaying the following message "An error has occurred. It seems that your session

has been interrupted. Please restart your search. Do the same search again. Try other dates."

FIFTH: On January 23, 2019 at 07:40 a.m., the claimant sent an email from the address ***EMAIL.1 to the address customerservice-fr@contact.edreams.com with the following text:

"Dear Sir / Madam

I am writing as a follow-up to my phone call made on January 21, 2019.

I was unpleasantly surprised to find that I had been debited from my American Express card €54.99 on January 14, 2019 for a renewal of the premium subscription, which I never wanted or requested. When I called to arrange a friendly solution, protected itself behind the general terms and conditions of sale, telling me that he would have emailed me 30 days before the renewal date and that if no response is obtained, it would be renewed automatic, and that his position was irrevocable.

However, I can't find any trace of receiving this email.

on any of my computers (not in spam or deleted folders).

Likewise, and what is more serious, it has debited my AMEX card when I did not had registered on their site (as shown in the screenshot dated 21 December January 2019 when my card was debited.

Also, since I called you on January 21, 2019, access to my account appears strangely greyed out (see new screenshot from today) and my order history it has disappeared...

C / Jorge Juan, 6

28001 – Madrid

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You will understand that these business practices are unacceptable, and that therefore I request the cancellation of my premium subscription and that the debit of the sum of €54.99.

Please can:

- Tell me if there is data about me included in your computer or manual files. Yeah even so, I would like to receive a copy, in plain language, of all that data (including comments and notes), in accordance with article 15 of the GDPR.
- As the holder of the ***EMAIL.2 account on the www.edreams.fr site. (...), I would like to close my account and ask you, in accordance with article 17.1 of the GDPR, to delete all my associated personal data, including full name, address, telephone, date birth date, credit card numbers, purchase history.
- I would also like to ask you to note that I oppose my contact details, content in their files, are used for direct marketing purposes, in accordance with Article 21.2 of the GDPR. Also, please delete my data from the files of prospectuses (article 17.1 of the GDPR) and notify this request for deletion to the recipients to whom I have sent my data (article 19 of the GDPR).

Please inform me of the measures taken in response to my request as soon as possible. possible and a maximum of one month after receiving it (article 12.3 of the GDPR).

I would also appreciate a mailing address for your Department of customer service in France (which does not appear to be published on their website), if would like to receive this letter by certified mail with return receipt requested.

If you do not respond, I will inform the CNIL and the DGCCRF about your unacceptable practices commercial.

Yours sincerely

A.A.A.”

SIXTH: On January 23, 2019 at 09:45 a.m. an email was sent from customerservice-

fr@contact.edreams.com to ***EMAIL.1 with the text:

"Hello, A.A.A.,

Thank you for your email. For all requests about the completion of your

Prime membership, please contact the Service Renewal Desk at

phone to:

From France: 0805 98 26 32

From abroad*: +33 1 85 14 97 01 *(Cost of an international call)

Department open from Monday to Friday from 9:00 am to 6:00 pm (time zone of

France).

Greetings,

eDreams Customer Service"

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

20/36

SEVENTH: The complaining party called the customer service department and

told to send a postal letter to EDREAMS at the address on the page

Web.

EIGHTH: In 2018, the privacy policy published on the EDREAMS website

in Spanish indicated, among other things, the following regarding the manner of exercising

data protection rights: "To exercise these rights, please send a

email to dpo@edreamsodigeo.com or send your request by postal mail to:

Data Protection – Paseo Zona Franca, 195-205, 08038 Barcelona, Spain. In you

request, you must clearly indicate (i) your identity, indicating, at least,

your full name and the email address you used when purchasing or register in eDreams, and (ii) the right or rights that you exercise. You can too

Go to the Spanish Data Protection Agency (www.agpd.es) to request the protection of your rights, if you consider it appropriate." This privacy policy agrees with the historical content of the page dated September 24, 2018

<https://www.edreams.es/politica-de-privacidad/>, according to the query made on the site web <https://web.archive.org>.

NINTH: At the bottom of the EDREAMS website in French there were two addresses:

- EDREAMS address: C/ Conde de Peñalver, 5, 1 Ext. Izq. - MADRID.

- ATOUT FRANCE address: Sis 79/81 rue Clichy - PARIS.

TENTH: On February 1, 2019, the claimant sent a postal mail to the address E-DREAMS 79-81 rue de Clichy 75009 PARIS, with the same text as the email sent on January 23, 2019.

ELEVENTH: Mail number 1A 154 346 0865 4 with destination EDREAMS, 79-81 rue de Clichy 75009 PARIS, has been returned to the claimant by "receiver address unknown.

TWELFTH: In the EDREAMS reservation system, they appear as data from the complaining party a reservation of the date "01/14/2018 21:10" in which the data personal data are replaced by asterisks and indicated as modification date on "05/23/2018".

THIRTEENTH: The EDREAMS agent who processed the party's request claimant closed the ticket without having handled it properly.

FOURTEENTH: Following the knowledge of this claim, EDREAMS has responded to the request for rights of access and deletion of the complaining party with the following text:

"1/ We keep the necessary data for the provision of all our services

as in the case of the subscription to our Prime account. Prime account has been renewed in 2019 and that is why the corresponding charge was made.

2/ We keep and store the necessary personal data in a manner confidential, allowing its treatment in the event of a complaint or investigation by of the competent authorities, respecting the deadlines established by the legislation current. For this, we inform you that the maximum storage period of data is 5 years old; After this period, the remaining data will be duly eliminated.”

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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21/36

FUNDAMENTALS OF LAW

Competition and applicable regulations

Yo

In accordance with the provisions of articles 58.2 and 60 of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and the free circulation of these data (GDPR), and as established in articles 47, 48.1, 64.2 and 68.1 and 68.2 of Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD) is competent to initiate and resolve this procedure the Director of the Agency Spanish Data Protection.

Likewise, article 63.2 of the LOPDGDD determines that: "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

previous questions

In the present case, in accordance with the provisions of article 4.1 of the GDPR, there is

the processing of personal data, since EDREAMS performs

the collection and conservation of, among others, the following personal data of

natural persons: name and surname, email and bank card among others

treatments.

EDREAMS carries out this activity in its capacity as data controller, given

who is the one who determines the purposes and means of such activity, by virtue of article 4.7 of the

GDPR. In addition, it is a cross-border treatment, since EDREAMS is

established in Spain, although it provides services to other countries of the European Union.

The GDPR provides, in its article 56.1, for cases of cross-border processing,

provided for in its article 4.23), in relation to the competence of the authority of

main control, that, without prejudice to the provisions of article 55, the authority of

control of the main establishment or of the only establishment of the person in charge or of the

The person in charge of the treatment will be competent to act as control authority

for the cross-border processing carried out by said controller or

commissioned in accordance with the procedure established in article 60. In the case

examined, as has been exposed, EDREAMS has its only establishment in

Spain, so the Spanish Agency for Data Protection is competent to

act as the main supervisory authority.

For its part, the right to delete personal data is regulated in article

17 of the RGPD and the modalities of exercise of the rights of the interested parties are

detailed in article 12 of the GDPR.

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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22/36

II

Allegations adduced

In relation to the allegations adduced to the agreement to initiate this disciplinary procedure, we proceed to respond to them according to the order exposed by EDREAMS:

1. EXERCISE OF RIGHTS IN EDREAMS IN ACCORDANCE WITH THE REGULATIONS

EDREAMS alleges that it centralizes the management of the exercise of rights through a Privacy Form and that the requests received through of this form in compliance with data protection regulations.

It also states that it is aware that customers may contact with the company through other channels and, therefore, train their agents Customer service and carry out awareness actions regarding the exercise of rights. And they provide a response guide to these agents so that they know how to detect the exercise of rights and know how to reiterate the information regarding the Form of Privacy as a means to exercise rights.

In this regard, this Agency values the efforts made by EDREAMS to train its agents in the exercise of rights that could be requested through other means other than the Privacy Form. But it is not the subject of this proceeding if the procedure provided for dealing with the exercise of rights requested through of the Privacy Form complies or not with the requirements of the regulations of

Data Protection.

For all the foregoing, this claim is dismissed.

2. EDREAMS MAKES EXTRA EFFORTS IN GENERIC SUPPORT CHANNELS

TION TO THE CUSTOMER IN ORDER TO GIVE THE BEST SERVICE TO ITS CUSTOMERS

EDREAMS alleges in the first place that the complaining party did not exercise its rights by none of the means indicated in the privacy policy of 2018, in force in the time of exercise of rights.

Second, it alleges that the claimant's request was made through the generic Customer Service email inboxes. And that the team

Customer Service has reported that the ticket was manually closed by the agent without have it properly managed based on EDREAMS internal processes (ha-referring to the Privacy Form or escalating the exercise of inter-directly to the specialized department that is in charge of it).

It is also alleged that the Customer Service channels try to answer the above possible, but there is no specific fixed response time and that the filtering and Topic prioritization is done manually by the Customer Service team. customer and carries risks of incorrect manual categorization.

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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23/36

EDREAMS indicates that in the event that a client contacts them by email postal service, has carried out efforts to raise awareness and train collection personnel of postal mail, in case any exercise of rights arrives by that means so that it is channeled internally in the correct way. But that the postal addresses of

EDREAMS should not be understood as contact channels, since they are only for fiscal purposes.

times and mercantile And that they understand that being a 100% digital business and on the internet, their clients are familiar with the environment and centralize the vast majority of their actions.

tions and communications by digital means.

EDREAMS alleges that once it was aware of the exercise of rights of the party

claimant was assigned to a senior specialist to treat this exercise

right immediately performing all internal actions in their systems,

the

timely checks and the claimant was answered accordingly.

Finally, it affirms that the exceptional circumstances and the manual error of the agent,

as well as the measures implemented, make the risk of reproducing this case

be remote.

In this regard, this Agency wishes to point out that the fact that the party had not addressed

claimant to the channels provided by EDREAMS to request the exercise of their duties.

rights, does not imply that the company was not obliged to meet such request. Maxi-

me when the request was made through customer service, a channel

which can reasonably be expected to be in a position to give due course.

accordingly to the application in question.

This Agency values the efforts made to train Customer Service personnel

customer and postal mail collection staff, but this does not mean that, in the pre-

In this case, the company mistakenly closed the ticket of the request in question without having

properly managed, as stated by EDREAMS in its allegations.

For all the foregoing, this claim is dismissed.

3. CORRECT LEGALITY OF TREATMENT. TRANSPARENCY AND KNOWLEDGE

TO THE PRIME CONDITIONS

EDREAMS alleges that the complaining party's card details were collected during

for a flight reservation dated January 14, 2018, the date on which it was subscribed to Prime and paid the Prime subscription fee for your first year. That same day informed you during the subscription that it was going to be renewed automatically for a second second year on January 14, 2019.

It affirms that the complaining party was aware of this treatment and it is not a question of an undue charge, since active customer action is required to opt out sign up as a Prime member. And that the legality of the treatment of the data of the aforementioned credit card is based on article 6.1.b of the GDPR.

However, EDREAMS states that if the customer is not satisfied with their subscription to Prime or decide to disenroll for any other reason, you have a fast track procedure

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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24/36

and simple that he can do through his account without the need to exercise have a right to data deletion.

In this regard, this Agency wishes to point out that it is not the subject of this procedure if the complaining party's credit card details were collected independently or if the treatment in question is not lawful. Nor is it whether or not there is a procedure specific procedure to cancel the Prime subscription without requesting the deletion of the personal data of the client.

Therefore, for all the foregoing, this claim is dismissed.

4. CONTINUOUS IMPROVEMENT OF TRANSPARENCY REGARDING THE EXERCISE OF DE-RIGHTS

EDREAMS alleges that it has a dedicated and specifically trained team, as well as

as an internal process of exercising data protection rights, to guarantee

provide the best possible response to your customers, through the Privacy Form.

Likewise, Customer Service agents are trained and instructed so that in the event of

receive any matter of protection of personal data, direct the client to the Formu-

Privacy Policy to exercise your rights.

Having received several manual errors from Customer Service agents in channels

generic data of said service, EDREAMS has taken the opportunity to implement a For-

Customer Service form, which customers will access either via the Help Center

Customer Service, either by sending an email to the mailboxes

Generic Customer Care email still available. This formula-

The river has appraised categories, among which is the option to exercise rights.

chos, which redirects to the Privacy Form.

Likewise, EDREAMS trains annually on a mandatory basis in data protection and

in exercise of rights, including practical cases such as this, as well as

awareness actions on the exercise of rights by the team of

Customer Support.

On the other hand, EDREAMS has carried out in recent months a migration of the tool

of the Privacy and Rights Management Form, moving from a generic

to a company specializing in privacy in which, apart from being managed by a team

specialized and highly qualified and aware of data protection

cough, work is being done to automate processes in order to be more agile and reduce

risks of human errors.

EDREAMS understands that given the circumstances and measures described above, it complies

ple with the data protection regulations as well as with the guidelines of the company itself

AEPD and that the closure of the disciplinary procedure against EDREAMS with a warning

development, entails a disproportionate interpretation of maximums of the regulations

of data protection, especially when it has mitigated that the risk of it pro-
cases similar to this one can be produced, with a Customer Service Form that guides
clients in the event that, without having read or ignoring the Privacy Notice, they want to

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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25/36

exercise their rights, and can be guided accordingly and their rights managed

two, through the Privacy Form.

In this regard, this Agency positively values the measures implemented to mitigate
risk that a case such as the one in this claim could recur.

deduce But, in the present case, it is no less true that the complaining party had

requested the exercise of a right that has not been duly addressed by

EDREAMS. The fact that it has adopted the measures tending to make a situation

tion such as the one in this proceeding does not occur again is, precisely, a

of the circumstances that are taken into account to replace the possibility of imposing

a fine for the option to direct a warning.

For all the foregoing, this claim is dismissed.

In relation to the allegations made in the proposed resolution of this

disciplinary procedure, we proceed to respond to them according to the order

exposed by EDREAMS:

PREVIOUS.- REITERATION OF THE ALLEGATIONS PREVIOUSLY PRESENTED

EDREAMS reiterates its previous allegations and understands that it complies with the

regulations in the terms described below, without prejudice to influencing the

present writing in those that it considers most relevant and add those that it considers

pertinent, in order to refute the grounds on which it is intended

warn EDREAMS by the AEPD.

In this regard, this Agency reiterates in its response to the allegations presented to the agreement to initiate this disciplinary procedure.

1.- ACCUSATIONS AGAINST EDREAMS SATISFACTORIOUSLY RESOLVED

EDREAMS alleges that it has been demonstrated that it acted diligently with respect to the first two points of the claim in question:

1. Charging your card for a Prime service you have requested

months before, but which allegedly had not been informed that it was renewed automatically.

2. The retention of personal information without the authorization of the complaining party as consequence of having used the card details of the complaining party to a previously purchased reservation.

In this regard, this Agency wishes to point out that it has not been demonstrated in the present proceeding absolutely nothing as to these two issues, all time that, as EDREAMS points out in its own allegation, this Agency has indicated that it is not the subject of this proceeding.

On the other hand, EDREAMS alleges that, regarding the request to exercise rights made by the complaining party, an immediate response has been given to the rights exercised, even after the established term.

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

26/36

In this regard, this Agency only wishes to highlight that the same person is responsible for the

which acknowledges that the claimant party's exercise of rights has been addressed

Out of time.

In relation to the postal mail that the complaining party claims to have sent

exercising its rights before EDREAMS, EDREAMS alleges that it did not receive said

exercise of rights because it was sent to an address that does not belong to you.

Indicates that the complaining party provides a screenshot of the footer of the

www.edreams.fr website, on which the address of EDREAMS is shared as

owner of the website ("C/ Conde de Peñalver, 5, 1 Ext. Izq. - Madrid") and provides the

information that EDREAMS is compliantly registered with ATOUT FRANCE

providing the address of said independent body ("Sis 79/81 rue Clichy -

Paris") in accordance with applicable French regulations, but cannot be understood in

In no case is it an EDREAMS address.

Well then, the complaining party sent the letter to the address of ATOUT FRANCE and the

It was returned to the sender by an unknown recipient, as it could not be otherwise

shape.

In this regard, this Agency acknowledges that the claimant has sent the request

correspondent by postal mail to an address that was not that of EDREAMS. No

However, this was due to a misunderstanding, since in said call

EDREAMS did not accept the exercise of the right in question nor was it indicated to the

complaining party the postal address to which the said request should be sent, but rather

you were referred to the information published on the website without further detail. Since in

the web page the two addresses were published (one of which was

in France) and no further indications were given by the company, the party

claimant sent the request to the address of his country.

EDREAMS deems the opening of a disciplinary procedure excessive, given that,

In general, in other cases similar to the present, it has not been considered

opportune by the AEPD the purge of administrative responsibilities in within the framework of a disciplinary procedure, opting as far as possible for alternative mechanisms to it, such as the one related to the guardianship of rights, see, among others, Resolution number R/00611/2021, dated December 18, August 2021 (see link TD/00160/2021):

"It is not considered opportune to purify administrative responsibilities in the framework of a disciplinary procedure, the exceptional nature of which implies that opt, whenever possible, for the prevalence of alternative mechanisms that are covered by current regulations."

In this regard, this Agency wishes to point out that Resolution number R/00611/2021 was This is a completely different case, since it is a case of national scope and not cross-border, like the present.

In this sense, article 60 "Cooperation between the main control authority and the other interested control authorities" of the GDPR provides:

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

27/36

"1. The main supervisory authority shall cooperate with the other supervisory authorities concerned in accordance with this article, endeavoring to reach an agreement consensus. The main control authority and the control authorities concerned They will exchange all relevant information.

(...)

3. The main supervisory authority shall notify the other authorities without delay control authorities interested in the relevant information in this regard. will transmit without

delay a draft decision to the other control authorities concerned to obtain their opinion on the matter and will take due account of their views.

(...)"

And article 64 "Form of initiation of the procedure and duration" of the LOPDGDD establishes:

"(...)

2. When the rules established in article 60 of the Regulation (EU) 2016/679, the procedure will begin by adopting the draft agreement to initiate disciplinary proceedings, of which the formal knowledge to the interested party for the purposes provided in article 75 of this law organic".

Therefore, the procedure to follow in each case is different, since for the claims of a cross-border nature must follow the channel provided for in the referred to article 60 of the GDPR.

Finally, EDREAMS points out that the AEPD has positively assessed the measures implemented by EDREAMS, to mitigate the risk that a case like that of the This claim could occur again.

In this regard, this Agency wishes to point out once again that the fact that measures tending to mitigate the risk that a situation such as that of the this procedure occurs again is, precisely, one of the circumstances differences that are taken into account to replace the possibility of imposing a fine for the option to direct a warning.

For all the foregoing, everything indicated in this claim is rejected.

2.- EXERCISE OF RIGHTS IN EDREAMS IN ACCORDANCE WITH THE REGULATIONS

EDREAMS alleges that, with regard to the adoption of measures tending to guarantee the correct management of the exercise of rights, it has a channel

official, the Privacy Form, which it considers is transparently informed and made available to interested parties in its Privacy Notice, resulting supposedly easily accessible to the interested party.

On the other hand, it states that it has processes, tools, training materials and other opportune measures already supposedly accredited in which it is contemplated that the hypothetical exercise of rights cannot be denied for the simple fact of that is exercised through other channels that are not the official channel.

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

28/36

In this last direction, EDREAMS affirms that it works tirelessly to improve continuation of the measures referred to above, and that it considers were accredited accordingly in the third allegation of its response to the agreement to start sanctioning procedure dated September 28, 2022 (with number of registration REGAGE22s00042569349), so that in all its Customer Service channels client, clients are redirected to the official and dedicated channel for the management of themselves (the aforementioned Privacy Form), in the event that they were used for the exercise of rights.

In this regard, this Agency reiterates that it is not the object of this procedure if the procedure provided for dealing with the exercise of rights requested through of the Privacy Form complies or not with the requirements of the regulations of Data Protection.

EDREAMS alleges that it agrees that an organization should have an official channel that includes a guarantee procedure in the terms stipulated by the regulations of

data protection, as well as appropriate measures to guide the actions of any employee thereof to inform any interested party on how to exercise your data protection rights. However, you understand that an interpretation in which requires the same degree of diligence that the official channel must have (as long as when it is transparently informed in the Privacy Notice) to any other channel of the organization, would lead to an overload and dedication of resources disproportionate of the organization, without prejudice to the fact that, in addition, it interprets that would be contrary to the fact that the regulations require an official channel for the exercise of rights and cites for this article 12.2 LOPDGDD.

He also wonders if that means that an organization must have at any channel a system for filtering and managing notifications that is not only extremely urgent - Due to this nature of the period of exercise of rights included in the regulations of data protection -, but also that it is infallible. And if, in case you don't have it, proceed with the opening of disciplinary proceedings against the organization despite to have appropriate measures for said channels not specially dedicated to the exercise of rights, as has happened in the instant case and has been recognized by the AEPD.

EDREAMS considers disproportionate an interpretation that entails a positive response to the above questions, so please reconsider that interpretive position.

And it insists that it has an official channel that is transparently informed in the Notice of Privacy and easily accessible in accordance with the regulations, and with measures technical and organizational measures implemented, as well as measures to reduce the risk of a possible human error in the manual management of an agent in charge of a channel does not official. EDREAMS understands that a conclusion cannot be drawn that, in the practice, results in any communication channel of the company could be

automatically an official channel for the exercise of rights and appointment for this to the recital 59 of the GDPR.

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

29/36

Additionally, it insists that customer service channels, such as the employee

by the complaining party, are intended for consumer purposes, and therefore do not

You can have a privacy channel expectation due to its nature, and require

the same level of extreme diligence that supports a channel dedicated to the exercise of rights.

Even so, in order to try to guarantee that the interested party has the

Privacy at your disposal despite possible exceptional human error by an agent

Customer Service, EDREAMS has implemented a note at the bottom of the emails

generic customer service emails, through which customers are informed

clients, once again, of the existence of the Privacy Form for a management

easy exercise of rights and allows correct verification of identity

of those interested.

For all these reasons, EDREAMS considers that the precept in question requires a duty of reasonable diligence, but not maximalist.

Additionally, EDREAMS wishes to record and demonstrate that the measures

in force at the time of the alleged infringement complied with the most rigorous

norms, guidelines, standards and recommendations to be able to face the risks

and that they were adequate and suitable taking into account the state of the art, the

application costs, and the nature, scope, context and purposes of the processing,

as well as risks of variable probability and severity for the rights and freedoms of natural persons. Likewise, EDREAMS transfers to the AEPD the acceptance of any type of proposal for improvement or recommendation by this AEPD regarding regarding compliance with regulations.

In this regard, this Agency wishes to point out that the aforementioned recital (59) of the GDPR establishes that: "Formulas must be arbitrated to facilitate the interested party the exercise of his rights under this Regulation, including mechanisms for requesting and, where appropriate, obtain free of charge, in particular, access to the data personal information and its rectification or deletion, as well as the exercise of the right to opposition. The data controller must also provide means for applications are submitted by electronic means, in particular when the data Personal information is processed by electronic means. The data controller must be obliged to respond to the requests of the interested party without undue delay and to no later than within a month, and to explain his reasons in case he was not going to serve them".

These mechanisms are not mandatory and it cannot be understood that they will only be those requests for the exercise of rights that are made only to through the channels established by the data controllers in their policies Of privacy. On the contrary, each data controller has the power to organize itself as it deems best, provided that a response is provided satisfactory to the exercise of the rights requested by the interested parties, within the term legally provided. But the organization that this person in charge of treatment cannot be an obstacle to the satisfaction of a right that recognizes the interested parties the GDPR.

C / Jorge Juan, 6

28001 – Madrid

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sedeagpd.gob.es

30/36

In the present case, EDREAMS has decided to centralize all requests for

exercises of rights related to the email address

dpo@edreamsodigeo.com and in an electronic form, in addition to providing a

mailing address in Spain. However, the fact that a specific application is

direct through another channel, does not imply that EDREAMS should not give you a proper response, in

as well as data controller.

Obviously, it is not intended (according to EDREAMS) "that an organization must

have a filtering and notification management system on any channel that, not

only be extremely urgent -due to said nature of the period of exercise of rights

included in the data protection regulations-, but also that it is infallible. And if,

In case of not having it, a disciplinary file would be opened against

The organization, despite having appropriate measures for said channels, does not

specially dedicated to the exercise of rights". But in this case, you can't

refuse that by sending an email to the customer service address

customerservice-fr@contact.edreams.com,

the complaining party could wait

reasonably that your request was attended by EDREAMS.

In this sense, in section 53 of the aforementioned Directives 01/2022 on the

rights of data subjects- Right of access, the EDPB "...encourages data subjects to

data controllers to provide the most appropriate communication channels

suitable and easy to use, in accordance with article 12(2) and the

Article 25, to allow the interested party to make an effective request. Nevertheless,

if the interested party makes a request through a communication channel

provided by the controller that is different from that indicated as

preferable, the request will generally be considered effective and the person responsible for the processing shall process such request accordingly (see examples below).

continuation). Data controllers must make every effort

reasonable to ensure that the exercise of the rights of the user is facilitated.

interested (for example, in the event that the interested party sends the data of the request to a

employee who is on leave, an automatic message informing the interested party

about an alternative communication channel for your request could be an effort

reasonable)."

In this sense, this Agency insists that the email address of

customer service is a perfectly valid address to request the exercise of

the rights recognized in the GDPR by the interested parties, since it is the

preferred email address for customers to communicate with

with the company for any matter (regardless of whether a notice is provided

at the footer of the emails that are sent, an issue that is not the subject of

of the procedure, as indicated above). It is also considered to be

EDREAMS obligation to arbitrate the necessary internal mechanisms so that this

request for rights was redirected internally to the team that the company

determined as the most suitable to give due response.

In this sense, this Agency wishes to refer to the first example of the section

56 of the aforementioned Guidelines in which "a data controller X provides,

on its website and in its privacy policy, two emails – the email

general email address of the data controller: contacto@X.com and email

email address of the data protection contact point of the data controller

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

31/36

treatment: requests@X.com. Additionally, the data controller X

indicates on its website that to send any query or request regarding the

processing of personal data, you should contact the contact point of

data protection to the indicated email. However, the interested party sends

a request to the general email of the data controller:

contact@X.com. In this case, the data controller must carry out all

reasonable efforts to make your services aware of the request, which was

made through general email, so that it can be redirected to the point

data protection contact information and is answered within the period established by

the GDPR. Moreover, the data controller cannot extend the period for

respond to the request, solely because the interested party has sent a request to the

general email of the data controller and not to the contact point of

Data Protection."

In this regard, this Agency understands that this first example would be the assumption that

gave in the present case. The complaining party has sent its request to exercise

rights to a customer service email address provided by the

company you are targeting. Therefore, the data controller (EDREAMS)

should have made all "reasonable efforts to make your services aware of the

request, which was made through general email, so that

can be redirected to the data protection contact point and is answered within

of the term established by the RGPD", as indicated in the aforementioned Guidelines, of

in such a way that it was redirected to the data protection contact point that

correspond, in order to be able to attend to it within the period established by the GDPR. By

Therefore, this Agency considers that the complaining party could "expect reasonably" that your request was met by sending it to the address customerservice-fr@contact.edreams.com.

Furthermore, this Agency wishes to point out that section 56 of the aforementioned Guidelines provide that "However, CEPD recommends, as a good practice, that data controllers introduce, where possible, mechanisms to improve internal communication between employees about the requests received by those who are not competent to deal with those requests. To facilitate the exercise of rights of the interested parties".

In this sense, it is not unreasonable (neither impractical nor an effort disproportionate) that the data controller must implement the necessary internal mechanisms so that, at least as regards the customer service email addresses, where you expect to receive requests of all kinds (including, for the exercise of rights that the GDPR recognizes to the interested parties), said requests are redirected internally as soon as possible to the team intended for this purpose, so that they are answered within the period established by the GDPR (and which the Guidelines themselves indicate cannot be extended for the mere fact sent to a generic email address). As for the measures for which EDREAMS asks for it, it would suffice in this case, for example, by forwarding the email requesting the right to email address of the team provided by EDREAMS for this purpose.

The fact that in the present case all requests for GDPR rights should go to a specific point of contact, it is a matter outside the

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

concerned, which is solely the responsibility of the organization that EDREAMS deemed convenient and these interested parties cannot be forced to know the organization of EDREAMS or impose a certain contact point on them to exercise their rights, although this Agency (and the aforementioned Guidelines) recognize the possibility of that data controllers provide an email address preferred for the exercise of these rights.

In any case, this Agency considers that the email address customerservice-fr@contact.edreams.com cannot be understood as an address "random or incorrect, not provided directly by the data controller", nor "any communication channel that is clearly not intended to receive requests related to the rights of the interested party", in the terms outlined in Directives 01/2022 of the European Committee for Data Protection, without prejudice to that EDREAMS had foreseen a different email address preferential.

In the present case, this Agency considers that by sending an email to the address customerservice-fr@contact.edreams.com the complaining party could wait reasonably that your request was granted. And that, in any case, it was an obligation to EDREAMS will forward said request internally to the team designated for this purpose. Therefore, for all the above, this Agency rejects everything indicated in the present allegation.

IV.

Right of erasure

Article 17 "Right to erasure ("the right to be forgotten")" of the GDPR establishes:

"1. The interested party shall have the right to obtain without undue delay from the person responsible for the

treatment the deletion of personal data that concerns you, which will be

obliged to delete without undue delay the personal data when any

of the following circumstances:

a) the personal data is no longer necessary in relation to the purposes for which

those that were collected or otherwise treated;

b) the interested party withdraws the consent on which the treatment of

in accordance with Article 6(1)(a) or Article 9(2),

letter a), and this is not based on another legal basis;

c) the data subject opposes the processing in accordance with article 21, paragraph 1,

and no other legitimate reasons for the treatment prevail, or the interested party

object to the processing pursuant to Article 21(2);

d) the personal data have been unlawfully processed;

e) the personal data must be deleted for the fulfillment of a

legal obligation established in the Law of the Union or of the States

members that applies to the data controller;

f) the personal data have been obtained in connection with the offer of services

of the information society mentioned in article 8, paragraph 1.

(...)

3. Sections 1 and 2 will not apply when the treatment is necessary:

a) to exercise the right to freedom of expression and information;

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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33/36

b) for compliance with a legal obligation that requires data processing

imposed by the law of the Union or of the Member States that applies to the responsible for the treatment, or for the fulfillment of a mission carried out in the interest public or in the exercise of public powers conferred on the person responsible;

c) for reasons of public interest in the field of public health in accordance with Article 9, paragraph 2, letters h) and i), and paragraph 3;

d) for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, in accordance with Article 89(1), to the extent that the right indicated in paragraph 1 could make it impossible or hinder seriously impair the achievement of the objectives of such treatment, or

e) for the formulation, exercise or defense of claims.”

In the present case, it is clear that the complaining party had requested EDREAMS the deletion of your personal data on January 23, 2019.

Exercise of the rights of the interested party

V

Article 12 "Transparency of information, communication and modalities of exercise of the rights of the interested party" of the GDPR establishes:

"1. The person in charge of the treatment will take the appropriate measures to facilitate the interested all information indicated in articles 13 and 14, as well as any communication pursuant to articles 15 to 22 and 34 relating to processing, in the form concise, transparent, intelligible and easily accessible, with clear and simple language, in particular any information directed specifically to a child. Information shall be provided in writing or by other means, including, if applicable, by electronics. When requested by the interested party, the information may be provided verbally as long as the identity of the interested party is proven by other means.

2. The person responsible for the treatment will facilitate the exercise of their rights by the interested party. under articles 15 to 22. In the cases referred to in article 11, paragraph

2, the person in charge will not refuse to act at the request of the interested party in order to exercise your rights under articles 15 to 22, unless you can show that you do not is in a position to identify the interested party.

3. The person responsible for the treatment will provide the interested party with information regarding their proceedings on the basis of a request under articles 15 to 22, without undue delay and, in any case, within one month of receipt of the request. This period may be extended by another two months if necessary, taking into account the complexity and number of requests. The responsible will inform the interested party of any of said extensions within a period of one month from from receipt of the request, indicating the reasons for the delay. when the interested party submits the application by electronic means, the information will be provided by electronic means when possible, unless the interested party requests that it be facilitate otherwise.

4. If the person responsible for the treatment does not process the request of the interested party, he will will inform without delay, and no later than one month after receipt of the application, the reasons for not acting and the possibility of presenting a claim before a control authority and take legal action. (...)”

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

34/36

In the present case, it is clear that the complaining party requested the deletion of their data on January 23, 2019. At a minimum, as of May 19, 2019 there were no received a response from EDREAMS. And it is not accredited in the file that the complaining party had received a response before receiving the

request for information from this Agency, together with the claim correspondent.

Therefore, according to the evidence available at this time resolution of the disciplinary procedure, it is considered that the known facts constitute an infringement, attributable to EDREAMS, for violation of the Article 12 of the GDPR, in conjunction with Article 17 of the GDPR.

Classification of the infringement of article 12 of the GDPR

SAW

The aforementioned infringement of article 12 of the GDPR supposes the commission of the infringements typified in article 83.5 of the GDPR that under the heading "General conditions for the imposition of administrative fines" provides:

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:

(...)

b) the rights of the interested parties in accordance with articles 12 to 22; (...)"

In this regard, the LOPDGDD, in its article 71 "Infracciones" establishes that:

"The acts and behaviors referred to in sections 4, 5 and 6 of article 83 of Regulation (EU) 2016/679, as well as those that result contrary to this organic law".

For the purposes of the limitation period, article 74 "Infringements considered minor" of the LOPDGDD indicates:

"The remaining infractions of a legal nature are considered minor and will prescribe after a year.

merely formal of the articles mentioned in sections 4 and 5 of article 83

of Regulation (EU) 2016/679 and, in particular, the following:

(...)

c) Failure to respond to requests to exercise the rights established in the

Articles 15 to 22 of Regulation (EU) 2016/679, unless it results from

application of the provisions of article 72.1.k) of this organic law”.

Penalty for violation of article 12 of the GDPR

VII

Without prejudice to the provisions of article 83 of the GDPR, the aforementioned Regulation provides

in section 2.b) of article 58 "Powers" the following:

C / Jorge Juan, 6

28001 – Madrid

www.aepd.es

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35/36

"Each control authority will have all the following corrective powers

indicated below:

(...)

b) send a warning to any person in charge or person in charge of the treatment

when the processing operations have infringed the provisions of the

this Regulation; (...)"

For its part, recital 148 of the GDPR indicates:

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

constitutes a disproportionate burden on a natural person, rather than

penalty by means of a fine, a warning may be imposed. should however

special attention should be paid to the nature, seriousness and duration of the infringement, to its

intentional nature, to the measures taken to alleviate the damages suffered,

to the degree of responsibility or any relevant prior infringement, to the manner in which that the supervisory authority has become aware of the infringement, to compliance of measures ordered against the person in charge or in charge, to adherence to codes of conduct and any other aggravating or mitigating circumstances.”

According to the evidence available at the present time of disciplinary procedure resolution, it is considered that the offense in question is slight for the purposes of article 83.2 of the GDPR given that in the present case, taking into account that there is no record in this Agency that procedures had been resolved for similar infringements by EDREAMS in the year prior to the events, to which the party claimant sent the request to the customer service email address instead of the one indicated in the privacy policy and to a postal address other than that of EDREAMS in Spain and that the deletion of the data of the complaining party would have been attended to prior to receiving the information request of this Agency, all of which allows considering a reduction of guilt in the facts, it is considered in accordance with the Law, not to impose a sanction consisting of a fine administration and replace it by directing a warning to EDREAMS.

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: ADDRESS VACACIONES EDREAMS, S.L., with NIF B61965778, for a infringement of Article 12 of the GDPR, typified in Article 83.5 of the GDPR, a warning.

SECOND: NOTIFY this resolution to VACACIONES EDREAMS, S.L.

In accordance with the provisions of article 50 of the LOPDGDD, this Resolution will be made public once the interested parties have been notified.

In accordance with the provisions of article 60.7 of the GDPR, this information will be

resolution, once it is final, to the control authorities concerned and to the Committee

European Data Protection.

C / Jorge Juan, 6

28001 – Madrid

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36/36

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-](https://sedeagpd.gob.es/sede-electronica-web/)

[web/](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.

Mar Spain Marti

Director of the Spanish Data Protection Agency

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