

Procedure No: PS/00138/2022
IMI Reference: A56ID 322069- A60DD 411333- Case Register 357086

FINAL DECISION

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

FACTS

FIRST: On 8 August 2022, the Director of the Spanish Data Protection Agency agreed to initiate penalty proceedings against EUROPYMES SERVICIOS INTEGRALES S.L. (hereinafter, EUROPYMES) in order to impose an administrative fine of 1000 euros (one thousand euros) for the alleged infringement of article 17 GDPR.

SECOND: On 17 August 2022, EUROPYMES paid the penalty. The recognition of liability has therefore not been established.

THIRD: The payment made entails the waiver of any action or remedy in administrative means against the sanction, in relation to the facts referred to in the Agreement to initiate the present proceedings.

LEGAL GROUNDS

I

Competence

In accordance with Article 58 (2) of Regulation (EU) 2016/679 of European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on free movement of these data (GDPR), and as set out in Articles 47, 48.1, 64.2, 68.1 and 68.2 of Organic Law 3/2018 of 5 December 1995 on the protection of personal data and guarantee of digital rights (hereinafter LOPDGDD) is competent to adopt this final decision the Director of the Spanish Data Protection Agency.

In addition, Article 63(2) of the LOPDGDD provides that: *“The procedures handled by the Spanish Data Protection Agency shall be governed by the provisions of Regulation (EU) 2016/679, of this organic law, by the regulatory provisions dictated in their development and, insofar as they are not contradicted, alternatively, by the general rules on administrative procedures”*.

II

Termination of the penalty proceedings by voluntary payment

Article 85 of Spanish Law 39/2015 of 1 October 2015 on the Common Administrative Procedure of Public Administrations (hereinafter LPACAP), under the heading ‘*Termination in penalty proceedings*’, provides:

“(…)

2. Where the penalty is only pecuniary in nature or it is possible to impose a pecuniary and a non-pecuniary penalty but the latter has been justified as inadmissible, the voluntary payment by the presumed offender, at any time prior to the decision, shall entail the termination of the proceedings, except as regards the replacement of the altered situation or the determination of compensation for the damages caused by the commission of the infringement.

(…).”

According to the above, the Director of the Spanish Agency for Data Protection DECIDES:

FIRST: To declare the termination of the proceedings **PS/00138/2022**, in accordance with Article 85.2 of the LPACAP.

SECOND: To notify this decision to EUROPYMES SERVICIOS INTEGRALES S.L.

In accordance with Article 50 of the Spanish LOPDGDD, this Decision shall be made public once it has been notified to the interested parties.

Against this decision, which puts an end to the administrative procedure as required by Article 114(1)(c) of the Spanish Law 39/2015 of 1 October 2015 on the Common Administrative Procedure of Public Administrations, interested parties may bring an administrative action before the Administrative Chamber of the National High Court, in accordance with the provisions of Article 25 and paragraph 5 of the fourth additional provision of Law 29/1998, of 13 July, regulating the Dispute-Administrative Court, within two months of the day following the notification of that act, as provided for in Article 46(1) of that Law.

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Mar España Martí
Director of the Spanish Data Protection Agency