

Responsabilidad por daños derivados del tratamiento indebido de datos personales en los ficheros de insolvencia*

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Sumario: I. La responsabilidad por daños derivados del tratamiento indebido de datos sobre insolvencia patrimonial en el RGPD: 1. Antecedentes; 2. El art. 82 RGPD; 3. La infracción de las normas sobre protección de datos como fundamento de la responsabilidad por daños; 4. Compatibilidad con el derecho a ser indemnizado con base en otras normas. En particular, la protección civil del honor; 5. Otros regímenes de responsabilidad; 6. El posible efecto preclusivo del art. 400 LEC. II. Competencia y procedimiento: 1. Competencia de los tribunales; 2. Jurisdicción civil y jurisdicción contencioso-administrativa; 3. Competencia territorial; 4. Procedimiento. III. Legitimación activa: 1. Personas físicas y personas jurídicas; 2. Personas fallecidas. IV. Legitimación pasiva: Sujetos responsables: 1. Los sujetos responsables en el RGPD: responsables y encargados del tratamiento; 2. Pluralidad de sujetos responsables. Solidaridad y repetición; 3. La determinación de los sujetos responsables en el caso de los sistemas de información crediticia. V. Causas de exención de responsabilidad; VI. Daños indemnizables; VII. Plazos; VIII. Bibliografía.

* El presente trabajo, que constituye mi homenaje personal al Profesor Roca Guillamón, forma parte de un estudio más amplio, que, por razones editoriales, habrá de ser publicado en dos partes diferenciadas: en esta se analiza en particular el régimen de responsabilidad por los daños derivados del tratamiento indebido de datos por parte de los sistemas de información crediticia, mientras que en otro trabajo se examinan especialmente los requisitos establecidos por el art. 20 LOPDGD para el funcionamiento de tales sistemas. Su elaboración se enmarca en el Proyecto de Investigación «El Derecho de contratos en el entorno digital» (PGC2018-098206-B-I00) financiado por el Ministerio de Ciencia, Innovación y Universidades, del que son I+D+I las Profesoras Isabel V. GONZÁLEZ PACANOWSKA y M.^a Carmen PLANA ARNALDOS. Publicado originalmente en COBACHO GÓMEZ, J.A., y ATAZ LÓPEZ, J. (coords.), *Cuestiones clásicas y actuales del Derecho de daños (Estudios en Homenaje al Prof. Dr. Roca Guillamón)*, ed. Thomson-Reuters Aranzadi, Cizur Menor (Navarra), 2021, t. II, pp. 175 a 233.

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