



Procedure No.: PS/00390/2020

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) filed a claim on 07/10/2020

before the Spanish Agency for Data Protection. The claim is directed against B.B.B.

with NIF \*\*\*NIF.1 (hereinafter, the claimed one). The grounds on which the claim is based are:

I was training with a physical preparation group called Training Groups B.-

B.B.", "directed by" the respondent." "After contracting your services for a cost of 32 / month, I

asked for the telephone number when making the payment of the first monthly installment (always in me-thallic).

"For his part, and unilaterally, he included me in a WhatsApp group where he could access

to all the numbers of the users integrated in said group and vice versa. In no mo-

ment I was made to sign any document in which I was informed about the treatment

that they would have my personal data; and so I manifested it to the "claimed", "without receiving by part of this response any during the entire business relationship."

"After several months, I decided to dispense with the services of this Training Group,

verify to my amazement, that in the different social networks managed by Groups of en-

training B.B.B. (Facebook, Instagram, You Tube...) videos and images of me appeared

without my consent and without being informed. Detail URL of one of the social networks:

\*\*\*URL.1".

Likewise, part of my photos have been shared and published on other Facebook pages.

book different from that of B.B.B. Training Groups, and that again, also does not con-

I did not feel nor was I informed at any time.”

“I have requested on several occasions the elimination or concealment of my identity in the aforementioned photos and videos posted on their social networks like those on other pages, but

I have not received a response from the owner.

“Finally, I have denounced on Facebook each of the photos and videos in which they appear-co, but to date they have not yet been withdrawn”.

Along with the claim, provide:

-File called "WhatsApp group" containing screenshot of participants

in the group with administrator linked to “training groups B.B.B.” indicated

manually with the label "group administrator" some participants with their name and

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others with the phone number. It appears at the top “group info” “No longer forms

part of the group” with the hand added “leaving the group”. Dates are not appreciated.

-File called “photos without consent” with 15 images from different dates,

05/31/2019, 08/2/2019, 09/17/2019, indicating who is among the group of people

who practice athletics and pose for the photo. Figure the literal "training group

B.B.B." At hand is the label “publication of photos and videos without consent”.

-File called "page of XX company that contains:

- impression of three WhatsApp conversation screens, in all of them it appears “Groups

B.B.B." In the first you see a question from a person who wants not to be left without

square, answering the administrator. Then the date 10/14/2019 is seen: “good afternoon

Guys, see you this afternoon at 8:15 p.m. at the...”. The claimant handwrites “shipment

to the WhatsApp Group private conversations of other people outside the group.

The second screen, with a message, in which there is no date: "October installment payments: already you know that I don't like to send these messages there are 6 people who have not paid their October quota and they are training normally and they have not warned of the delay or They have indicated the day they are going to do it". The claimant handwrites "claim for the monthly installments through the WhatsApp group"

The third screen, with a message, in which "price of the monthly payments" and the administrator informs about the steps to follow to train, including the fee price for daily training.

-Three images with the screenshot of the FACEBOOK page "groups of B.B.B training." "05/30/2019", where the claimant states that "my photos and videos without consent". There is one of a group, sitting down and the rest of footer in which the claimant is identified. In another image with photos figure by hand annotated "Publications of my photos on other Facebook pages without my consent." I know appreciate that some of the images that appear are those that appear in "photos without my consent" listed above.

SECOND: In view of the facts denounced in the claim and the documents provided by the claimant, the claim is transferred to the claimant on 08/18/2020 with the result of "absent in delivery".

THIRD: On 10/21/2020, the admission to processing of the claim is agreed.

FOURTH: On 02/22/2021, the director of the AEPD agreed:

"INITIATE PUNISHMENT PROCEDURE against B.B.B., for alleged infractions of Articles 6.1 and 13 of the RGPD, as determined by article 83.5.a) and b) of the RGPD.

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

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FIFTH: On 03/07/2021 a letter is received from the respondent in which he states:

1) Regarding the publication of images on the social network Facebook, you have not received any message from the claimant showing his opposition or non-compliance, or actions or behaviors that may deduce your situation of disagreement with the publication of images.

Having received the initiation agreement, he contacted the claimant by telephone to communicate that all the photos in which he appeared had already been deleted two or three years ago months before the knowledge of the start agreement. He also informed him that he would return to review them.

2) About the inclusion in the WhatsApp group, it is not done unilaterally "himself He was aware of the proceeding after conversation in person." "The claimant requests that prepare him for the sports practice of the mentioned activity that is a project of creation creation of a non-profit athletics club". The paperwork was being done for the creation of the Club and one of its procedures was that the people who train in the Club filled would create a registration form for it as well as give their consent in a manner voluntary for the consent of the treatment of the data with "purposes exclusively emails and photos for social networks with the sole purpose of practicing sports."

Provides:

- Copy of sports entity registration resolution of 09/16/2019 so that it can be seen that the relationship was focused on the official creation of a sports entity, which was postponed lost due to the health crisis. The resolution supposes the inscription in the register of entities

sports data.

-CIF sent by the AEAT to Club Deportivo B.B.B. \*\*\*LOCATION.1, assignment date:

10/29/2019.

-Copy of the social media consent clause, so that every athlete who enters

training in the Club grants its consent to the visualization of publications with the sole purpose

expressed from sports practice. It is a form that bears the Club logo entitled

"written consent athletic club B.B.B. \*\*\*LOCATION.1", and below is an address

email address.

In the first body of the letter it is indicated:

"The owner of the data provided in this consent form authorizes the Club to

register them in the database and that they will be treated in accordance with the provisions

established in the LOPDGDD, and you are told that you can exercise "your information" in writing at "double

postal address that appears at the beginning of this form", without showing the address

referred postcard.

The following is the declaration to be signed by the associate:

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"I reflect my consent to be included in the GROUP OF WHATSAPP CLUB ATLETIS-

MO B.B.B. \*\*\* LOCATION.1 in order to be able to know the notices and communications by

part of it, finding the group restricted in terms of administration by

of the coaches or members of the club".

"Just as I express my agreement/disagreement with the treatment of videos or photos that

can be carried out during sports practice for no other purpose

that is not the practice of sport in its different aspects or areas. And that any use improper on my part such as the improper obtaining of telephone numbers reflected in the WhatsApp group will be immediately brought to the attention of the affected party as well as The authorities".

SIXTH: On 03/15/2021, a test practice period begins in which the by reproducing the filed claim and its documentation, the documents obtained and generated by the Inspection Services.

Likewise, they are considered reproduced for evidentiary purposes, the allegations to the initial agreement PS/00390/2020 presented and the documentation that accompanies them.

In addition, it is requested:

1. To the claimant:

1.1

If you knew that procedures were being carried out for the registration of an entity official sports club as Athletics Club (completed on 9/2019) when asked for the number number of mobile phone by the claimed? .

He answers no, when he accessed their services "he only prepared people to physical condition and oppositions". "Months later, like a couple of months approximately. before leaving his services, he did say about forming an athletic club.

parallelism

and"

State if you were not informed that your mobile line would be used in WhatsApp as a me-

1.2

day or end, among others, of group information (arrange the day of training, if you could attend etc.)

He answers that "The schedules, training days and other information, he gave it to me in person before accessing their services. It is true that once inside the group

WhatsApp all that information, such as non-payment claims, images,

nes, etc., he did it through this medium among others".

Copy of writings addressed to the respondent about the use of the mobile phone as part of

1.3

of the WhatsApp group and about the deletion of the photographs, or the reason why it was not addressed

the one reliably claimed.

He answers that "I do not have written copies to proceed with the withdrawal

of said photographs; since I asked him in person, by phone and even

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I directed Facebook to proceed with the removal of such photographs without my

consent."

How many months were you practicing sports with the Club (specific or approximate dates)

1.4

madras)?

He answers that approximately 18 months.

1.5

If you did not use the aforementioned WhatsApp group for the aforementioned purposes.

Answer: "Yes, I used the mentioned WhatsApp group from time to time"

1.6 Identify the device in which the photos that appear and provided in your

claim, file called "photos without consent" and their origin.

He answers that "Part of these photos are deleted and others I still have in the

PC".

2. To claimed, you must answer about:

2.1 Months that the claimant was in the training group and if he was at

both from the creation of the Club, already constituted since 9/2019.

It responds that the relationship with the claimant was one of friendship and that the approximate dates

Dates may be between the end of 2018 and the end of 2019.

"He was aware of the creation of the Club, and collaborated in the creation of a logo for the

logo in jpg

Club". Accompanies printing of "

" from 09/05/2019

with the reference of the

claimant and Club logos. This impression is contained in an email from

that date, addressed to the person claimed. It is accompanied by another email from 07/31/2018 in which

the claimant sends "new advertising logo". Accompany the signature of the claimant

as recording and printing design activity.

2.2 Type of use and messages that were sent in the WhatsApp of the Group, contributing

screen print if you have, and if all the members of the training were

part of it (number of members).

The purpose of the Group was the sports organization to train in places

that were indicated, with messages encouraging the practice of sports or publications

officials of competitions, races etc.

Accompanying document: "WhatsApp group messages athletics club". In the relationship,

the respondent submits briefs from the Group dated 01/19/2020, February, or May 2020 on

places to train, prices of equipment that it puts at your disposal or careers

ras that are organized or the resumption of the opening in May 2020 of the slopes

of athletics and conditions.

"All the members are not part of the group, approximately not even 40% of



the same after study of it, since many are in the same

freely understanding for my part, that to be knowledgeable about competition

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nes, races as well as announcements publications or other information of your

sports interest.”

2.3 If the claimant sent messages on WhatsApp to the Group, providing a hard copy

prey if available.

Answer that: “No member of the group can send any message to the group.

po, being the only purpose and objective of the same” the already indicated. "It is obvious to remember

that any member of the group is free to leave the group, as is done

on a regular basis.” “That is why the claimant, as argued in his statement

of allegations and claims, he develops, that he is introduced to the group “without his

consent”, resulting ILLOGICAL that it remains in the same being free in

any time to leave it. At this point I feel compelled to

note that before the creation of the Club, no member of the WhatsApp group

App is asked for any type of personal information, this is related to personal data.

personal, address, etc.”

2.4. What do you mean by the statement that the Athletics Club is an entity?

non-profit? to the fact that it is an Association or to the fact that an al-

guna for training practice with the Group (there is a message encouraging

to the payment of unpaid installments)

Indicates that the “B.B.B. \*\*\*LOCALIDAD.1” is constituted as a

non-profit sports entity, such as an association". performance

economic has no other purpose than the acquisition of sports equipment and clothing in

In order to achieve a greater visualization of the club as well as to be able to improve the

performance of athletes. Various types of materials are purchased

details. The payment of the fees that were claimed was once the Club was constituted,

which has not been advertised with this character on social networks

considering that the profit motive was out of the objectives.

SIXTH: On 09/20/2021, a resolution proposal is issued for the literal:

"That by the Director of the Spanish Data Protection Agency, B.B.B. ,

with NIF \*\*\*NIF.1, for a violation of article 6.1 of the RGPD, and another of article 13 of the

RGPD with sanction of warning."

No objections are received against it.

SEVENTH: Of the actions carried out in this procedure and of the

documentation in the file, the following have been accredited:

#### PROVEN FACTS

FIRST: Complainant claims on 07/10/2020 that photos have been exposed in which he

figure, practicing sports in the training group that the defendant trained and at

that he belonged to, in the case of a group of athletes of more than 20 people. The pictures

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appear on the claimant's FACEBOOK page, with the name of their group of

training and the respondent objects that he did not give consent to expose those photos.

The photos are from different dates: 05/31/2019, 08/2/2019, 09/17/2019, presuming that

on those dates the claimant was still part of the class.

SECOND: The respondent registered the B.B.B. Athletics Club as a sports association.

\*\*\* LOCATION.1 non-profit, on 09/16/2019. The claimant collaborated in the design of the

Club logo as evidenced by emails from, among other dates 09/05/2019, include-

do that the claimant exercised tasks of design of recordings and impressions.

THIRD: The claimant became part of the aforementioned training group that

managed the claimed, staying, according to this, about 18 months. The date

of start of incorporation to the training group of the claimant, as declared by the claimed,

is approaching the end of December 2018.

FOURTH: The defendant used WhatsApp with the training group, having

an indeterminate number of telephone numbers of members of the group, being able only him, as

administrator send messages that used to be informational related to

training issues and sports equipment.

FIFTH: The claimant before claiming that he is registered in the WhatsApp group without

your consent, declares that you used the aforementioned WhatsApp group.

It does not follow that the claimant's claim against the addition of his phone to the

Group administered by the claimant had been made at the time of the occurrence of the

inclusion, or in the short term, since the claimant declares that he used the reading system

WhatsApp group messages.

SIXTH: About claims of the claimant to the claimed for the use of his mobile line in the

WhatsApp group for training, and the request for deletion of photographs in FA-

CEBOOK, were not produced in writing, with no way of verifying that they were made.

already produced, as it does not also provide any other element indicative of having been carried out.

SEVENTH: The photos on FACEBOOK provided by the claimant, as indicated by the claimant-

you, when you filed your claim, they were on your computer. Respondent states that upon receiving

the startup agreement all were removed.

## FOUNDATIONS OF LAW

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

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II

Regarding the "written consent" clause provided by the respondent in his allegations, and that is not related to the present sanctioning procedure, but indirectly, it must be indicated:

-Consent is defined in article 4 of the RGPD: "any manifestation of will free, specific, informed and unequivocal by which the interested party accepts, either through a statement or a clear affirmative action, the processing of personal data that concern;"

-The treatment of data for belonging to the Club, Association, supposes the belonging and compliance with the Statutes if it had them, but above all it supposes that there can be legitimacy for the processing of data necessary to deploy the relationship for the Club membership. This voluntary bond of belonging to the Association can be incardinated as one of the legitimizing causes of the data processing of its members for the fulfillment of the functions of belonging to the Club.

All processing of personal data must be based on one of the

Legitimizing causes provided for in article 6 of the RGPD, according to which:

"1. The treatment will only be lawful if at least one of the following is met

conditions:

a) the interested party gave their consent for the processing of their personal data

for one or more specific purposes;

b) the treatment is necessary for the execution of a contract in which the

The interested party is a party or for the application at the request of the latter of pre-contractual measures;

c) the treatment is necessary for the fulfillment of an applicable legal obligation

to the data controller;

Physical person;

d) the treatment is necessary to protect the vital interests of the interested party or another

e) the treatment is necessary for the fulfillment of a mission carried out in

public interest or in the exercise of public powers vested in the person responsible for the

treatment;

f) the treatment is necessary for the satisfaction of legitimate interests pursued

by the data controller or by a third party, provided that said interests are not

prevail the interests or the fundamental rights and freedoms of the interested party that

require the protection of personal data, in particular when the interested party is a child.

The provisions of letter f) of the first paragraph shall not apply to the processing

carried out by public authorities in the exercise of their functions."

Membership in a Club implies a bilateral relationship that implies rights and obligations

for belonging to said Sports Association in this case.

Therefore, the data necessary for this do not have as a legitimizing basis the

consent, so the treatments and purposes that if they could

have consent as a legitimate basis.

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The information offered by "The owner of the data provided in this application form

consent, authorizes the Club to record them in the database", would mean:

-An additional step for belonging to the Club, according to the writing is to be included in the

WhatsApp group, in which that legitimizing basis of consent would proceed,

but with the option that must also be offered of not being included in that application,

which is not listed here.

-Another differentiated treatment of the two indicated, would be that of photos or videos, and their

exposure, on which consent would also proceed as a legitimate basis, with

the same observation that the possibility of not taking photos or

exposed by the partners who so express it, for which the option must be enabled in the

printed.

It is advisable to obtain more information about informed consent, as well as the

essential elements of transparency and information of the treatments that have been

to adjust to articles 12 and 13 of the RGPD, about which you can find information in the

AEPD website.

III

Regarding the imputed infringement of article 6.1 of the RGPD for considering illegal the

processing of personal data consisting of the exhibition of photographs of the

claimant on the FACEBOOK page of the claimed, it is considered that the claimed should have

to comply with any of the legitimating bases that allow such treatment as

to the collection of images and exposure in the aforementioned social network. The photographs are produced and

exposed when the Club was not yet constituted, and the claimed is the one who decides

expose them in the aforementioned network.

In the absence of any cause that legitimizes the referred treatment, it is considered that it has violated the said article.

The infringement is contained in article 83.5) of the RGPD, which indicates:

“The infractions of the following dispositions will be sanctioned, in accordance with the section 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, of an amount equivalent to a maximum of 4% of the total turnover annual global of the previous financial year, opting for the highest amount:

a) the basic principles for the treatment, including the conditions for the consent under articles 5, 6, 7 and 9;”

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

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

b) The processing of personal data without the concurrence of any of the conditions of legality of the treatment established in article 6 of Regulation (EU) 2016/679.”

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IV

Regarding the use of your mobile line telephone number used for messages in WhatsApp, it happened after being provided by the claimant and having arranged with the claimed membership in the training group. It follows from the evidence, and of the nature of the group created in WhatsApp, that its use is related to the internal unilateral communication of the same, among other matters, it is verified that it is used

to summon the group to the activity to start the training activities, or as a means of communication and notices of its members, which according to the photos reach more than twenty people. The claimant asserts that he spent about 18 months belonging to the Club, and the claimed indicates that he began his membership in the Club approximately at the end of 2018 until end of approximately 2019. The claim is filed in July 2020.

Given that the claimant has been a member of the same while carrying out the activity, and that then he stopped coming, it can be presumed and the claimed party acknowledges it, and the claimant, that eventually used the usefulness of the group's notices, considering that they did not specifically complains against the inclusion of his line in the training group.

That the use agreed by the claimed party be imposed or accepted to communicate with the group through WhatsApp, considered to inform, is an activity of the group. For

In order for the messaging application to work, the telephone lines of your members. In the present case, the second infringement charged is that it collects data from the members of the group, images and photos that were exposed, and also telephone numbers for WhatsApp, without any evidence of its legitimizing base or the rest of the elements that make up article 13 of the RGPD, purpose, etc., so it is estimated that violated article 13 of the RGPD, which states:

"1. When personal data relating to him is obtained from an interested party, the person in charge of the treatment, at the time these are obtained, will provide you with all the information below:

- a) the identity and contact details of the person in charge and, where appropriate, of his representative;
  - b) the contact details of the data protection delegate, if applicable;
  - c) the purposes of the treatment to which the personal data is destined and the legal basis of the treatment.
- treatment;
- d) when the treatment is based on article 6, paragraph 1, letter f), the legitimate interests of the person in charge or of a third party;



e) the recipients or categories of recipients of the personal data, if applicable;

f) where appropriate, the intention of the controller to transfer personal data to a third country or international organization and the existence or absence of a decision on the adequacy of the Commission, or, in the case of transfers indicated in articles 46 or 47 or article 49, section 1, second paragraph, reference to the adequate or appropriate guarantees and the means to obtain a copy of them or to the fact that they have been loaned.

2. In addition to the information mentioned in section 1, the data controller will provide the interested party, at the time the personal data is obtained, the following information necessary to guarantee fair and transparent data processing:

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a) the period during which the personal data will be kept or, when this is not possible, the criteria used to determine this term;

b) the existence of the right to request access to the data from the data controller personal information relating to the interested party, and its rectification or deletion, or the limitation of its processing. tion, or to oppose the treatment, as well as the right to data portability;

c) when the treatment is based on article 6, paragraph 1, letter a), or article 9, section 2, letter a), the existence of the right to withdraw consent at any time. moment, without affecting the legality of the treatment based on the consent prior to its withdrawal;

d) the right to file a claim with a supervisory authority;

e) if the communication of personal data is a legal or contractual requirement, or a requirement necessary to sign a contract, and if the interested party is obliged to provide the personal data

data and is informed of the possible consequences of not providing such data;

f) the existence of automated decisions, including profiling, referred to in

re Article 22, paragraphs 1 and 4, and, at least in such cases, significant information about

the applied logic, as well as the importance and foreseen consequences of said treatment.

to the interested party.

3. When the data controller plans the further processing of personal data-

them for a purpose other than that for which they were collected, will provide the interested party, with

prior to such further processing, information about that other purpose and any information

relevant additional information pursuant to paragraph 2.

4. The provisions of sections 1, 2 and 3 shall not apply when and to the extent

that the interested party already has the information.”

We are talking about the mobile phone, which is the communication channel through which

messages on WhatsApp, usually associated with the name and surname of the owner of

the line. In the same sense, the information to be provided is extended to the photographs taken

das and which are then exposed on the claimant's FB network, such as personal data, images

What are they.

The treatment information is part of the essential content of the right to protection

of data.

The data controller must present the information or communication in an efficient manner.

concise and succinct to avoid information fatigue. The requirement that the information be "in-

intelligible" means that it must be understood by the average recipient, linked to the requirement of

Use clear and simple language.

The information must be concrete and decisive; should not be formulated in abstract terms

or ambivalent or give rise to different interpretations. In particular, the purposes and

legal basis for the processing of personal data must be clear.

idiomatic qualifiers such as "may", "might", "some", "often" and "possible"

should also be avoided. When data controllers choose to use a language  
je indefinite, they should be able, in accordance with the principle of liability, to prove by  
why the use of such language could not be avoided and how this fact does not undermine the impartiality  
ciality of treatment.

The infringement of article 13 of the RGPD is accredited.

Said infringement refers to article 83.5) of the RGPD, which indicates:

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“The infractions of the following dispositions will be sanctioned, in accordance with the  
section 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of  
a company, of an amount equivalent to a maximum of 4% of the total turnover  
annual global of the previous financial year, opting for the highest amount:

b)

the rights of the interested parties under articles 12 to 22;”

Article 72 of the LOPDGDD points out:

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

h) The omission of the duty to inform the affected party about the processing of their data  
personal in accordance with the provisions of articles 13 and 14 of Regulation (EU) 2016/679 and  
12 of this organic law.”

Without prejudice to the provisions of article 83 of the RGPD, the aforementioned Regulation provides in its  
art. 58.2 b) the possibility of “addressing to any person in charge or in charge of the treatment a

warning when the treatment operations have violated the provisions of the

this Regulation”, in relation to what is stated in Considering 148:

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

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

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

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

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

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

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

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

In this case, the claimant is a natural person and the claimant provided his telephone number.

mobile at the beginning, which was used only by the coach to inform the group. The claimant was

more than a year training with the group, although the specific date on which he entered is unknown

and left the group, possibly all of 2019. He was close to the person processing the data,

who took the photographs on various dates and uploaded them to FACEBOOK, and the claim

it was formulated in July 2020. The respondent stated that he removed the images of the claimant.

All these circumstances allow the application of the warning, moreover, due to its non-

intentional and the nature of the infraction.

Therefore, in accordance with the applicable legislation

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ADDRESS a sanction of warning, to B.B.B., with NIF \*\*\*NIF.1, for the

GDPR violations:

-article 6.1 of the RGPD, in accordance with article 83.5.a) of the RGPD, typified for the purposes of prescription in article 72.1.b) of the LOPDGDD.

- article 13 of the RGPD in accordance with article 83.5.b) of the RGPD, typified for the purposes of prescription in article 72.1.h) of the LOPDGDD.

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SECOND: NOTIFY this resolution to B.B.B..

THIRD: In accordance with the provisions of article 50 of the LOPDGDD, this

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

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

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

may optionally file an appeal for reconsideration before the Director of the Agency

Spanish Data Protection Authority within a month from the day following the

notification of this resolution or directly contentious-administrative appeal before the Chamber

of the Contentious-administrative of the National High Court, in accordance with the provisions of the

article 25 and in section 5 of the fourth additional provision of Law 29/1998, of 13

July, regulatory of the Contentious-administrative Jurisdiction, in the term of two months to

count from the day following the notification of this act, as provided in article

46.1 of the aforementioned Law.

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

precautionary suspension of the firm decision in administrative proceedings if the interested party expresses

its intention to file a contentious-administrative appeal. If this is the case, the

The interested party must formally communicate this fact in writing addressed to the Agency

Spanish Data Protection, presenting it through the Electronic Registry of the

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

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

You must also transfer to the Agency the documentation that proves the effective filing

of the contentious-administrative appeal. If the Agency were not aware of the filing of the contentious-administrative appeal within two months from the day following the notification of this resolution, it would end the suspension precautionary

Sea Spain Marti

Director of the AEPD, P.O. the Deputy Director General of Data Inspection, Olga Pérez

Sanjuan, Resolution 4/10/2021

938-131120

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