

□ Procedure No.: PS/00238/2022

RESOLUTION OF THE SANCTION PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection and based on
to the following:

BACKGROUND:

FIRST: On 02/17/21, a document submitted by

D. A.A.A., (hereinafter, "the complaining party"), for the alleged violation of the

data protection regulations: Regulation (EU) 2016/679, of the Parliament

European Union and of the Council, of 04/27/16, regarding the Protection of Physical Persons

regarding the Processing of Personal Data and the Free Movement of

these Data (GDPR) and Organic Law 3/2018, of December 5, Protection of

Personal Data and Guarantee of Digital Rights (LOPDGDD).

The claim document was based on the following facts:

"1.- In 09/2017 we enrolled my son, a minor, in the Sport Center Gym

in the Kickboxing activity whose trainer was B.B.B.. There he was

training until July 2019, date on which we changed the gym.

Years later we learned that our son had been registered without our

consent at the ARCO SPORTS CENTER in Verín dated

09/21/17 to 12/31/18 and in the EE DD CUALEDRO of Cualedro dated

06/05/19 to 12/31/19.

2.- The federation registration had been processed by the Cipri Gomes Foundation

corresponding to the receipt of the payment made as a monthly payment and

federation file, so that he could compete and have health insurance for the

Federation.

3.- At no time will the Cipri Gomes Foundation, nor the Sport Center gym

He has told us about his relationship with the Arco de Verin or de Verin sports schools.

Cuedro, they had not even given us the federative card of the

minor. Likewise, we have never authorized the transfer of data from the

less than any club. (...)

Date on which the claimed events took place was between 02/01/19 and 12/31/19

The following documentation is attached to the claim document:

- Copy of a receipt signed and stamped by the CIPRI GÓMES FOUNDATION

where it states "I received" the amount of €72 for "Kick license + month of January". with

date 01/03/19.

- Copy of the information document on Data Protection dated to

02/07/19 with the logo of the GALICIAN SPORTS FEDERATION OF

KICKBOXING and where a signature appears in the space reserved for the "Signature of the

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legal representative and where it appears in "affiliate's name and surname", the

name and surname of the claimant's child.

- Copy of dated certificate from the Galician Sports Federation of Kickboxing

and signed on November 14, 2019, where it is stated that the claimant's son

belongs to the club ESCOLAS DEPORTIVAS CUEDRO and has competed

in certain championships in the 2019 season.

SECOND: On 04/05/21 and 04/16/21, this Agency transferred

of the claim to the CUALEDRO SPORTS SCHOOLS so that they could give

response to it, in accordance with the provisions of article 65.4 of the Law

LOPDGDD. Notification attempts resulted in the following:

- According to the certificate of the Electronic Notifications and Address Service

Electronic, the shipment made to the claimed entity, on 04/05/21, and 04/16/21 through the electronic notification service "NOTIFIC@", it was rejected at destination on 04/16/21 and 04/27/21, respectively.

THIRD: On 04/05/21, this Agency transferred from the

claim to the GALICIAN KICKBOXING FEDERATION to give

response to it, in accordance with the provisions of article 65.4 of the Law

LOPDGDD. Notification attempts resulted in the following:

- According to the certificate of the Electronic Notifications and Address Service

Electronic, the shipment made to the claimed entity, on 04/05/21, through of the electronic notification service "NOTIFIC@", was received in destination on 04/05/21.

FOURTH: On 04/05/21 and 04/16/21, this Agency transferred from

the claim to the CIPRI GÓMES FOUNDATION, so that they respond to the

itself, in accordance with the provisions of article 65.4 of the LOPDGDD Law. The

Notification attempts resulted in the following:

- According to the certificate of the Electronic Notifications and Address Service

Electronic, the shipment made to the claimed entity, on 04/05/21, and 04/16/21 through the electronic notification service "NOTIFIC@", it was rejected at destination on 04/16/21 and 04/27/21, respectively.

FIFTH: On 05/05/21, this Agency received a letter from the FEDERATION

GALLEGA DE KICKBOXING, in response to the request for information made, in which, among others, states:

“(…) The origin of the claim is based on the fact that the Cipri Foundation

Gomes has processed the federation registration of the claimant's son without his

authorization, transferring the minor's data to Escuelas Deportivas de Cualedro.

Based on this, this Federation wants to state the following: The

Galician Sports Federation of Kickboxing, is an entity that acts as

body of representation and defense of everything that concerns the

kickboxing of the Autonomous Community of Galicia, but, in no case, is it

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responsible for the processing of personal data carried out by

the different entities referred to by the claimant in his brief.

Specifically, it refers to the Arco de Verín Sports Center, Schools

Deportivas Cualedro, Sport Center Gym, Fundación Cipri Gomes and to this

Federation. The latter processes the federative registrations, for which it needs

that the clubs provide the data of the athletes, but in no case

This Federation is responsible for registrations made in any of the

mentioned clubs, so it is not competent and therefore responsible for the

processing of personal data carried out by each of the centers

sports when processing the discharge of an athlete.

The transfer of data by the clubs to the Federation is legitimized by

be an essential requirement to be able to process the federative registration and be of

obligatory compliance for the Federation. (Art. 6.1 c) GDPR).

The claim document alludes to the fact that it has proceeded to give

Register your son at the Arco de Verín Sports Center and, later, at EE DD

Cuaderno, without your consent.

On February 7, 2019, when he processed his son's federal registration,

It is stated in the document attached to the claim (Annex 3) that the

The entity from which the athlete comes is Escuelas Deportivas Cualedro,

so at that time he was already aware of the alleged "irregularity"

committed, which was never revealed.

The claimant indicates that he requested documentation from this Federation and was not

delivered and that he sent a burofax, facts of which this party never had

record and neither who was its President at that time. It

stated by the claimant in his brief, was brought to the attention of the

Galician Sports Xustiza Committee.

During the course of the procedure we were required to provide ID

federation of the athlete and certificate of merits, documentation sent to the

claimant. The Committee dismissed said appeal on 01-30-2020. He

claimant insists that it does not recognize the documentation provided by this

Federation, specifically, the federation registration application model and the receipt

of monthly payment corresponding to the month of January 2019.

We do not know if the claimant intended to prove the forgery of his signature

that, in any case, he had more than a year to do it and at no time did he

communicated to this Federation.

It is striking that, on the one hand, the forgery of his signature and the discharge

as federated of the minor and, at the same time, the processing of the

itself through a receipt in which, in the concept thereof, you are

specifies the federation registration.

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Therefore, here and in front of this Federation, it does not accredit such impersonation of identity, acting repeatedly with the aforementioned allegation without providing any proof at any time (...)."

SIXTH: On 07/02/21, by the Director of the Spanish Agency for Protection of Data, an agreement is issued to admit the processing of the claim presented by the claimant, in accordance with article 65 of the LPDGDD Law, to the not receive any response to requests made from this Agency.

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

The request for information sent to the CIPRI GOMES FOUNDATION was reiterated by postal notification on 04/19/21 and after two attempts on 04/22/21 and 04/23/21, it is returned to origin for excess (not withdrawn in the office).

The sending of the information request to SPORTS SCHOOLS was reiterated CUEDRO by postal notification on 04/19/21 and is returned to origin by address incorrect on 04/26/21

EIGHTH: On 04/12/22, the CIPRI GOMES FOUNDATION sent this Agency the following information and representations:

1. The admission form of the minor in the CIPRI GOMES FOUNDATION is provided where it consists: a. The identification and contact details of the minor, son of the claimant; b. Photograph of the minor and c. A handwritten signature in space

Reserved for "Partner Signature".

2.- A document is provided with the title "MEMBER REGULATIONS" where

You can read, among others, the following text:

"[...]The personal data you are filling in will be processed by the

CIPRI GOMES FOUNDATION, in accordance with Organic Law 15/1999, 13

December, of Data Protection, for the exercise of its own functions

of the entity, before which the member may exercise the rights of access,

rectification, cancellation and opposition contemplated by the Law, at the address

C/ Benito Vicetto, 8-low. 32004 Ourense. Phone/Fax 988 225302. Email:

mail@fundacionciprigomes.com [...]"

3. A copy of the collaboration agreement between the CIPRI FOUNDATION is provided

GOMES and the CUALEDRO SPORTS SCHOOLS signed on 02/01/11 and

which contains, among others, the following information:

Sports Schools: The disciplines taught by the Cipri Gomes Foundation

in the sports schools they will be those of Karate and Kickboxing, carrying out the

activities in the facilities of the Cualedro Municipal Pavilion, (...)

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Attendees at sports schools must be in possession of the

sports license for the current year, taking advantage of the coverage benefit that

This provides for common claims in sports practice.

4. In the document presented by the Foundation, it is stated that: "On behalf of the

Foundation, when processing the affiliation in the Escolas de Cualedro club,

has provided you with the information on data protection”.

NINTH: On 05/17/22, by the Board of Directors of the Spanish Agency for Data Protection, a sanctioning procedure is initiated against the claimed entity, at assess reasonable evidence of violation of the provisions of article 13 of the GDPR, regarding the lack of information on data processing personal, offered to athletes or their parents or guardians when they enroll in the Foundation in accordance with current regulations, with an initial penalty of 2,000 euros (two thousand euros) and for violation of the provisions of article 6.1 GDPR regarding of the unlawful processing of the child's personal data by continuing to process the personal data of the minor, since July 2019, when the parents They withdrew their son from the Gym, until 12/31/19, with an initial sanction of 2,000 euros (two thousand euros).

TENTH: Notified the initiation agreement to the claimed party, the latter in writing dated 06/01/22 formulated, in summary, the following allegations:

From the moment the Cipri Gomes Foundation became aware that there was a claim regarding data protection by the father of one of the affiliates, tried to adopt the measures that were later will specify, especially regarding the initial collection of personal data of minors.

The Foundation had never before been made aware of the claim. filed by the father of the affiliated minor, since he had not exercised his rights in data protection nor has it filed in any claim against this Foundation. He was only aware when a claim was filed with the Galician Committee of Xustiza Deportiva, from which we have been notified and we have been required to provide documentation, this being the first official communication.

It is true that the information regarding data processing was outdated mentioning the regulation 15/99, however, the own data collection form was signed at the facilities of the center Sports Schools of Cualedro by the father of the minor and, in the federal license of the minor for the year 2019, which is in the possession of the affiliated, states that the Club is the Sports Schools of Cualedro, so there is full knowledge of where the minor is registered. Are circumstances, on which there is documentation in the file, must be taken into account.

2.- Measures adopted

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First of all, indicate that, since April 16, 2021, we have the Designation of DPO certified in accordance with the AEPD-DPD Scheme, communicated to the AEPD, this entity not being obliged to do so in accordance with art. 37 et seq. GDPR and art. 34 et seq. of the LOPDGDD. This has been done in order to to carry out the regulatory adaptation to the RGPD and LOPDGDD, changing for complete the way of working of this Foundation. Specifically, a Registry of Data Treatment Activity has been prepared. each of the personal data processing activities, carried out, grouping them according to category and nature of the data treaties and measures necessary for their treatment.

The preparation of new forms for the processing has been carried out registrations, in accordance with current regulations, since in the documentation Referring to the financial year 2019, the previous regulation 15/99 continued to exist.

From the Foundation we have attended an informative talk given by the Galician Federation, in order to make our staff aware of the importance to correctly treat the personal data of our affiliates to avoid make mistakes, especially when it comes to minors.

Since contracting the services of Data Protection Officer, it is have implemented implementation controls, by providing and explaining of documentation, as well as annually through face-to-face control and drawing up of minutes, regardless of whether there have been incidents, exercise of rights or any significant change.

When older, circumstances are imperatively established in which he has to contact immediately, as in the examples above, before 24 hours, before security breaches, before 5 days, before exercise of rights..., and that will motivate face-to-face controls before these changes or circumstances.

3.-Sanctioning procedure

The AEPD in accordance with art. 72.1 h of the LOPDGDD considers that the offenses committed would be classed as "Very Serious", setting the amount of separate sanctions in a total of €4,000, €2,000 each.

Regarding the alleged infringement due to lack of information on the treatment of personal data (art. 13 GDPR) it could be understood that the principle of transparency and information to those affected, since it is the father of the minor who in the facilities of the Escuelas Deportivas club de Cualedro, proceeds to cover the affiliation form and sign it, not

the authenticity of it being disputed at no time. Furthermore, in the federation license itself, it is clear that the club in which it is registered the smallest is that of Escuelas Deportivas de Cualedro, a document that is in the possession of the interested party. So there is not a absolute ignorance about which club the player was registered with

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minor. The Foundation did not have updated documents in accordance with the regulations, but there has been no opacity regarding the information provided to the interested.

In accordance with art. 74 a) of the GDPR this infringement could be considered as mild. While it is true that the Foundation has made a mistake regarding the processing of the discharge of the claimant's son and processing of his personal data, there has been no bad faith nor was the profit or benefit of any kind, it is a negligence that has affected a single interested party, to whom it has not caused any harm, in addition to having in possession of the federation license stating the club in which he was signed up.

The personal data of the minor, processed by the Foundation, have not been dissemination nor has it been used for other purposes. It's about a administrative error due to lack of diligence and ignorance regarding Data Protection.

In relation to art. 83.2 of the GDPR, administrative fines will be imposed

depending on each individual case, taking into account:

a) Nature, seriousness and duration of the offence, taking into account the purpose of the processing operation in question, as well as the number of interested parties affected and the level of damages they have suffered.

This is an administrative error, specific and in which no prosecution has been no purpose. A single interested party has been affected, who previously has not claimed directly against this Foundation. has not been caused no damage or harm, since no further treatment has been carried out

with your personal data. b) Intentional or negligent infringement: the

Foundation has been recklessly negligent. there hasn't been

bad faith or intentionality in the facts. c) Any action taken by the

Responsible for alleviating the damages suffered by the interested parties: they have taken

all appropriate measures so that the Foundation complies with the

regulations immediately, proceeding to the designation of Delegate of

Data Protection and updating the documentation and creating the necessary

like the rat. e) Any previous infraction committed by the person in charge: no

there are no prior procedures or sanctions against this Foundation, nor

is currently immersed in no other. f) Degree of cooperation with the

control authority: all the information and documentation has been provided

required by the AEPD. g) The categories of personal data

affected by the infringement: the personal data affected is only

name, surname and DNI of the interested party.k) Any other aggravating factor or

mitigation applicable to the circumstances, such as financial benefits or

Losses avoided through breach. The Foundation has not obtained

no benefit nor does it seek to obtain it, taking into account that it is a

nonprofit foundation.

In accordance with art. 76.1 and 2 of the LOPDGDD the sanctions provided for in the sections 4, 5 and 6 of art. 83 of the GDPR, in which the sanctions fit

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proposals in this procedure, may be graded according to

certain circumstances, such as:

- A) (art. 76.2 a) The continuing nature of the offence: in this sense, the

Cipri Gomes Foundation has immediately ceased its negligent conduct,

seeking the necessary corrective measures for proper compliance,

by adapting documentation and establishing protocols for

collection and destruction of personal data of the interested parties.

- C) (art. 76.2 c) The benefits obtained as a result of the commission

of

the infringement: the Cipri Gomes Foundation has not benefited in any way

as a result of having made this mistake.

- G) (art. 76.2 g) Have, when it is not mandatory, a Delegate of

Data Protection: as of 04-16-2021, a Delegate has been appointed

of Data Protection (DPD) even though it is not necessary to designate it in accordance

with the provisions of art. 37 et seq. of the GDPR and, art. 34 et seq. of the LOPDGDD.

On the other hand, the Cipri Gomes Foundation, registered in the Registry of Entities

of Voluntary Action of the Xeral Directorate of Youth and Volunteering of the

Xunta de Galicia with the number O-629, is a non-profit Foundation

which has a social volunteering program, which annually counts

with between 20 and 30 people who help the Foundation in its work.

The tasks carried out by the volunteers are of a diverse nature, developed in the various centers that the Foundation has. They all focus in aid and collaboration in the field of social inclusion of collectives disadvantaged, education and support, etc.

This party understands that the above must be taken into account effects of grading the sanctions imposed, qualifying the alleged infraction on the lack of information on the processing of personal data (art. 13 GDPR) as mild, in accordance with art. 74.b) GDPR taking into account the graduation criteria that apply to this procedure in addition to the spirit and main purpose of the Foundation, which does not pursue lucrative purposes, but quite the opposite.

For these reasons, this Foundation considers that this proposal for sanction has not taken into account the specific circumstances and exposed to through the present, so that the proposal of total sanction, taking into account all extenuating circumstances, could be reduced by 50%.

Once assessed by the AEPD, this Foundation in accordance with art. 85 of the LPACAP, shows that it will recognize its responsibility by taking coupled with the 20% reduction of the sanction, as well as expresses its intention to proceed with the voluntary payment of the sanction, taking advantage of both reductions, prior assessment by the AEPD. cannot be done in at this time, because the current sanction proposal has not taken into account account the extenuating circumstances in this writing accredited, and must

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apply the same and therefore, objectively proceeds the reduction of the sanction.

For the exposed,

I REQUEST that this document be admitted, that the

present allegations and, by virtue of this, the alleged infringement is qualified on

the lack of information on the processing of personal data (art. 13 GDPR)

as light, according to art. 74.b) GDPR taking into account the criteria of

graduation that apply to this procedure and take into account all

the extenuating circumstances alleged in order to reduce the amount of the

sanction, making clear this Foundation its intention to recognize the

responsibility and their commitment to proceed to the voluntary payment of the penalty.

ELEVENTH: On 07/01/22, as a result of the request made

by the requested entity regarding its intention to proceed with the voluntary payment of the

sanction, taking advantage of the reductions contemplated in article 85 of the LPACAP,

prior assessment by the AEPD of the extenuating circumstances indicated in

the pleadings brief, he was informed that, in accordance with the provisions of the

mentioned article 85 of the LPACAP, the recognition of the

offense and take advantage of both reductions after the assessment by this

Agency of the allegations presented and was granted a period of ten business days

to count from the day following the notification of this writing so that, if so

deems appropriate, proceed to enter the reduced penalty based on the aforementioned

article, proceeding as indicated in the document opening the file

received on 05/18/22, which would mean the withdrawal or waiver of any action

or administrative appeal against the sanction.

According to the certificate of the Electronic Notifications and Electronic Address Service, the shipment made to the claimed entity, on 07/15/22 through the service of electronic notifications "NOTIFIC@", was made available to the party claimed 07/15/22, appearing in the certificate as the date of automatic rejection, the 07/26/22.

TWELFTH: On 12/29/22, the claimed entity is notified of the proposed resolution in which it was proposed that, by the Director of the Agency Spanish Data Protection Agency proceed to sanction the entity, in accordance with the provided in articles 63 and 64 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations (LPACAP), for the violation of article 13 of the GDPR, with a penalty of 2,000 euros (two thousand euros) and for the violation of article 6.1 of the GDPR, with a penalty of 2,000 euros (two thousand euro).

Along with this and in accordance with article 58.2 of the GDPR, it was proposed as corrective measures to impose on the defendant that the necessary measures be taken to adapt the information provided regarding data processing personal, to athletes who register with the Cipri Gomes Foundation or to parents or guardians of these if they are minors, in accordance with the provisions in article 13 of the GDPR.

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As certified by the Single Authorized Electronic Address Service (DEHÚ), the letter file proposal sent to the claimed party, on 12/29/22 through the

electronic notification service "NOTIFIC@", was made available to the claimed party 12/29/22, appearing in the certificate as the date of rejection automatic, on 01/09/23.

There is no record, in this agency, of any written response to the proposal of resolution by the claimed entity.

PROVEN FACTS.

Of the actions carried out in this procedure and of the information and documentation presented by the parties, the following have been accredited facts:

First: The claimant enrolled his son, a minor, in 2017 at the Club, Sport Center Gym in the Kickboxing activity whose coach was D. B.B.B. until July 2019. Years later they learned that their son had been enrolled in other clubs during that time. Specifically, in the Arco de Verín Sports Center and in Schools Deportivas de Cualedro, without anyone informing them of these facts.

The discharge had been processed by the Cipri Gomes Foundation and as indicated by this Foundation, the minor, son of the claimant, was enrolled in the Escolas Deportivas de Cualedro from 02/01/19 to 12/31/19, with which an agreement had been signed of sports collaboration since 2011, for the practice of Karate and Kick boxing.

Second: The Cipri Gomes Foundation provides as documentation the "REGULATION OF PARTNERS" where you can read, regarding the treatment of personal data of registered athletes the following text:

"[...]The personal data you are filling in will be processed by the CIPRI GOMES FOUNDATION, in accordance with Organic Law 15/1999, 13 December, Data Protection, [...]".

Third: The respondent entity acknowledges that it is true that the information related to the

data processing was outdated, mentioning the regulations

15/99, however, the data collection form itself was signed in the same

facilities of the sports center Escuelas Deportivas de Cualedro by the father of the

minor and, in the federative license of the minor for the year 2019, which is in the possession of

of the affiliate, states that the Club is the Escuelas Deportivas de Cualedro, so

there is full knowledge of where the minor is registered. Are

circumstances, on which there is documentation in the file, must be

Taken into account.

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Competence

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The Director of

the Spanish Data Protection Agency, by virtue of the powers established in

Article 58.2 of the GDPR and the LOPDGDD Law.

Regarding the infringement due to the lack of information on the treatment of the data

II-

personal

As the defendant entity itself acknowledges, "(...) the information related to the

data processing was outdated, mentioning the regulations

15/99 (...)", although he later alleges that "(...) the principle of

transparency and information to those affected, since it is the father of the minor who

in the facilities of the Escuelas Deportivas de Cualedro club, proceeds to cover the affiliation form and to sign it, not being discussed at any time the authenticity of it. In addition, in the federation license itself, it is stated that the club in which the minor is enrolled is Escuelas Deportivas de Cualedro, Document in the possession of the interested party. So there is not a absolute ignorance about which club the minor was registered with. The The Foundation did not have updated documents in accordance with the regulations, but there has been no opacity regarding the information provided to the interested parties (...).

Classification and classification of the offense

II.-2

Recital 61) of the GDPR establishes the following:

"Stakeholders must be provided with information on the treatment of their personal data at the time it is obtained from them or, if obtained from another source, within a reasonable time, depending on the circumstances of the case. If the personal data can be legitimately communicated to another addressee, the interested party must be informed at the time the communicated to the recipient for the first time. The data controller who plans to process the data for a purpose other than that for which they were collected must provide the data subject, prior to such further processing, information about that other purpose and other necessary information (...).

In this sense, article 12.1 of the GDPR establishes, regarding the requirements that must be comply with the information that the data controller must make available to interested parties, the following:

"1. The person in charge of the treatment will take the appropriate measures to facilitate to the interested party all the information indicated in articles 13 and 14, as well as any communication pursuant to articles 15 to 22 and 34 relating to the

treatment, in a concise, transparent, intelligible and easily accessible form, with a clear and simple language, in particular any information directed specifically a child. The information will be provided in writing or by other means, including, if applicable, by electronic means. When requested by the interested party, the information may be provided verbally provided that demonstrate the identity of the interested party by other means (...)"

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And for its part, article 13 of the GDPR, details the information that must be provided to the interested when the data is collected directly from him, establishing that:

"1. When personal data relating to him or her is obtained from an interested party, the responsible for the treatment, at the time they are obtained, will facilitate:

a) the identity and contact details of the person in charge and, where appropriate, their representative; b) the contact details of the data protection officer,

in your case; c) the purposes of the processing for which the personal data is intended

and the legal basis of the treatment; d) when the treatment is based on the

Article 6, paragraph 1, letter f), the legitimate interests of the controller or a

third; e) the recipients or categories of recipients of the data

personal, if applicable; f) where appropriate, the intention of the person responsible for transferring

personal data to a third country or international organization and the existence or

absence of an adequacy decision from the Commission, or, in the case of

transfers indicated in Articles 46 or 47 or Article 49(1),

second paragraph, reference to the adequate or appropriate guarantees and the means to obtain a copy of these or to the fact that they have been provided (...)."

And regarding the repealed Organic Law on Data Protection, it should be noted that, Article 99 of the GDPR establishes that the entry into force and application of the new GDPR was, "twenty days after its publication in the Official Gazette of the Union European Union (05/25/16)" and would be applicable from May 25, 2018".

For its part, the sole repeal provision of the LOPDGDD indicates that:

1. Without prejudice to the provisions of the fourteenth additional provision and the fourth transitory provision, the Organic Law 15/1999, of 13 December, Protection of Personal Data.

2. Royal Decree-Law 5/2018, of July 27, on measures urgent for the adaptation of Spanish Law to the regulations of the Union European Union on data protection.

3. Likewise, any provisions of equal or lower rank are repealed contradict, oppose, or are incompatible with the provisions of the Regulation (EU) 2016/679 and in this organic law.

And sixteenth final provision of the aforementioned regulation LOPDGDD:

This organic law will enter into force the day after its publication.
in the Official State Gazette.

As the publication date of the LOPDGDD was 12/06/18, as of 12/07/18 Organic Law 15/1999, of December 13, on Data Protection is repealed of a Personal Nature (LOPD).

The lack of information in accordance with current regulations, on the treatment of personal data when obtained from athletes or their parents or guardians if these are minors, at the time of registering with the Foundation by making

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Reference to a LOPD is not adapted to art. 13 GDPR, by not providing all the information required in said article. It does not report, for example, the database legitimization for the treatment, or the data conservation periods personal.

II.-3

Sanction

This infraction can be penalized as established in article 83.5.b) of the GDPR, where it is established that: "Violations of the following provisions shall be sanctioned, in accordance with section 2, with administrative fines of 20,000,000 EUR maximum or, in the case of a company, an amount equal to 4% maximum of the overall annual total turnover of the financial year above, opting for the one with the highest amount: a) the rights of the interested parties in accordance with of articles 12 to 22".

In this sense, article 72.1.h) of the LOPDGDD, considers it very serious, for the purposes of prescription: "the omission of the duty to inform the affected party about the treatment of your personal data in accordance with the provisions of articles 13 and 14 of the GDPR"

The balance of the circumstances contemplated, with respect to the infraction committed, by violating the provisions of article 13 of the GDPR, it allows setting a penalty of 2,000 euros (two thousand euros).

II.- 4

Measures

Article 58.2. of the GDPR, establishes, on the corrective powers that each supervisory authority may require the offender, among which is, in his section d): "order the person in charge or person in charge of treatment that the operations treatment comply with the provisions of this Regulation, when appropriate, in a specified manner and within a specified timeframe".

Therefore, in accordance with article 58.2 of the GDPR, the corrective measure to impose on the owner of the website is to take the necessary measures to take the necessary measures to adapt the information provided regarding the processing of personal data, to athletes who register in the Capri Gomes Foundation or their parents or guardians if they are minors age, in accordance with the provisions of article 13 of the GDPR.

It is noted that not meeting the requirements of this body may be considered as an administrative offense in accordance with the provisions of the GDPR, classified as an infraction in its article 83.5 and 83.6, being able to motivate such conduct the opening of a subsequent administrative sanctioning procedure.

On the lack of legitimacy for the treatment of the personal data of the minor after the parents unsubscribed him from the Gym

III.-

According to the claimant, in 2017 they enrolled their son in the Club Sport Center Gym whose trainer was B.B.B. and there he was training until July 2019 when he they were discharged and they changed clubs. However, years later they learned that their

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son, had been registered without his consent at the ARCO SPORTS CENTER in

Verín dated 09/21/17 to 12/31/18 and in the US. Cualedro of Cualedro

from 06/05/19 to 12/31/19.

For its part, the Cipri Foundation confirms to this Agency that the minor, son of the

complainant, was enrolled in the Escuelas Deportivas de Cualedro since 02/01/19

until 12/31/19 and that the registration had been processed by the Foundation itself.

Classification and classification of the offense

III.-2

Article 6.1 GDPR establishes the following:

"The processing of personal data will be lawful if it complies with one of the

following conditions:

a) the interested party gave his consent for the processing of his data

personal for one or more specific purposes;

b) the processing is necessary for the performance of a contract in which the

interested party or for the application at the request of this of measures

pre-contractual;

c) the processing is necessary for compliance with a legal obligation

applicable to the data controller;

d) the processing is necessary to protect vital interests of the data subject or

of another physical person;

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

public interest or in the exercise of public powers conferred on the person responsible

of the treatment; (...)

With the available evidence, the claimed entity did not have legitimacy

for the treatment of data of the minor consisting of the transfer of their data to the

Cualedro Sports School; nor did he have legitimacy to maintain the

said data from June 2019 to December 31, 2019, date

in which the claimed entity admits having had them. In July 2019, the parents of the minor changed the Sports Center to their son, making it necessary, therefore, for the consent of the minor's parents for subsequent data processing.

Therefore, the fact that the minor's personal data has continued to be processed, since July 2019, when the parents withdrew their son from the Gym, until 12/31/19, constitute a violation of article 6.1 of the GDPR.

III.-3

Sanction

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This infraction can be sanctioned with a fine of a maximum of €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 of greater amount, in accordance with article 83.5.b) of the GDPR.

In this sense, article 72.1.b) of the LOPDGDD, considers it very serious, for the purposes prescription: "The processing of personal data without the concurrence of any of the conditions of legality of the treatment established in article 6 of the Regulation".

The balance of the circumstances contemplated, with respect to the infractions committed, by violating the provisions of article 6.1 of the GDPR, allows setting a penalty of 2,000 euros (two thousand euros).

Therefore, in accordance with the applicable legislation, the Director of the Agency

RESOLVES

FIRST: IMPOSE the CIPRI GÓMES FOUNDATION with CIF: G32407280, with accordance with the provisions of articles 63 and 64 of the LPACAP, for the infringement of the Article 13 of the GDPR, regarding the lack of information on the treatment of personal data, offered to athletes or their parents or guardians when register with the Foundation in accordance with current regulations, with a penalty of 2,000 euros (two thousand euros)

SECOND: IMPOSE the CIPRI GÓMES FOUNDATION with CIF: G32407280, with accordance with the provisions of articles 63 and 64 of the LPACAP, for the infringement of the Article 6.1 GDPR regarding the illegal treatment that was carried out on the data the child's personal data by continuing to process the minor's personal data, from the month of July 2019, when the parents withdrew their son from the Gym, until the 12/31/19, with a penalty of 2,000 euros (two thousand euros).

THIRD: TO ORDER the CIPRI GÓMES FOUNDATION, to implement, within the term of one month, the necessary corrective measures to adapt its action to the regulations protection of personal data, as well as to inform this Agency in the same deadline on the measures adopted, taking the necessary measures to adapt the information that is provided regarding the processing of personal data, to athletes who register with the Foundation or, where appropriate, the parents or guardians of these, in accordance with the provisions of article 13 of the GDPR.

FOURTH: NOTIFY this resolution to the CIPRI GÓMES FOUNDATION.

FIFTH: Warn the penalized party that the sanction imposed must be made effective by a Once this resolution is enforceable, in accordance with the provisions of Article Article 98.1.b) of Law 39/2015, of October 1, on Administrative Procedure Common of Public Administrations, within the voluntary payment period indicated in the

Article 68 of the General Collection Regulations, approved by Royal Decree

939/2005, of July 29, in relation to art. 62 of Law 58/2003, of 17

December, by depositing it in the restricted account No. ES00 0000 0000 0000

0000 0000, opened in the name of the Spanish Data Protection Agency in the

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banking entity CAIXABANK, S.A. or otherwise, it will proceed to its

collection in executive period.

Once the notification has been received and once executed, if the execution date is

between the 1st and 15th of each month, both inclusive, the term to make the payment

voluntary will be until the 20th day of the following or immediately following business month, and if

between the 16th and the last day of each month, both inclusive, the payment term

It will be until the 5th of the second following or immediately following business month.

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

Resolution will be made public once the interested parties have been notified.

Against this resolution, which puts an end to the administrative process (article 48.6 of the

LOPDGDD), and in accordance with the provisions of articles 112 and 123 of the Law

39/2015, of October 1, of the Common Administrative Procedure of the

Public Administrations, interested parties may optionally file

appeal for reversal by the Director of the Spanish Agency for Data Protection in

within one month from the day following the notification of this resolution

or directly contentious-administrative appeal before the Contentious-

of the National Court, in accordance with the provisions of article 25 and

in section 5 of the fourth additional provision of Law 29/1998, of July 13,
of the Contentious-Administrative Jurisdiction, within a period of two months from
count from the day following the notification of this act, as provided in the
Article 46.1 of the aforementioned legal text.

Finally, it is noted that in accordance with the provisions of art. 90.3 a) of Law 39/2015,
of October 1, of the Common Administrative Procedure of the Administrations
Public, the firm resolution may be temporarily suspended in administrative proceedings if
The interested party declares 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-
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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