

□ Procedure No.: PS/00296/2019

938-051119

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00296/2019, instructed by the Spanish Agency for Data Protection, to the entity UNION DEPORTIVA TRES CANTOS, with CIF G82340480, (hereinafter, "the entity claimed"), for alleged violation of the Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/2016, regarding the Protection of Natural Persons with regard to Data Processing Personal and the Free Circulation of these Data (RGPD), and based on the following,

BACKGROUND

FIRST: dated 05/21/19, D. A.A.A., (hereinafter, "the claimant"), presented this written before the Spanish Agency for Data Protection, in which, among others, denounced ciaba:

"I inform you that a few months ago there were elections for this club for the presidency.

dence. I was surprised that the membership list was on a table in a meeting room.

trainers and where anyone could see it. Also, we have never been

given to sign the new data protection law and there is only the Organic Law

CA 15/1999, of December 13, on the protection of personal data.

In addition to the fact that they have not given it to us, they continue to publish the old law and

the new one. I have the documentation from previous years and the new registrations.

nes that can also be seen on their website".

SECOND: In view of the facts set forth in the claim and the documents

provided by the claimant, the General Subdirectorate for Data Inspection proceeded

to carry out actions for its clarification, under the investigative powers

tion granted to the control authorities in article 57.1 of the Regulation (EU)

2016/679 (General Data Protection Regulation, hereinafter RGPD). So with

Dated 07/03/19, an information request is addressed to the claimed entity.

THIRD: According to a certificate from the Postal Service, the request sent to the claimed entity, to the address Avda. De la Vega s/n, 28760 Tres Cantos (Madrid), has been returned to origin for “surplus”, (not withdrawn in the “list” service, from the post Office).

FOURTH: Of the registration forms for the club, for the 18/19 and 19/20 seasons, contribute submitted by the claimant together with the complaint, it can be seen that in the same there is the following acceptance legend:

“Expressly AUTHORIZES the Tres Cantos Sports Union to do the following: DA-

PERSONAL DATA: I expressly authorize and consent to the Unión Deportiva Tres Cantos may process my personal data and that of my child, for the

proper functioning of the organization in favor of good service, for the

statistical processing for research and dissemination purposes. For its part, the

Unión Deportiva Tres Cantos, undertakes to take care of the confidentiality and

secrecy of the data, not to transfer or sell them or allow access by

of third parties, except in the cases contemplated by Organic Law 15/1999, of 13

December, on the protection of personal data. Also, it is in-

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form of your right of access, rectification, cancellation and opposition to/from your data. (...)

In accordance with the provisions of Organic Law 15/1999 on the protection of

personal data, we inform you that the personal data collected

in the contract are incorporated into an automated file, whose responsibility is the

UNION DEPORTIVA TRES CANTOS, for internal management and assigned to the Fe-

promotion of Futbol de Madrid, to the Public Administrations and other Organizations

institutions required by law (Insurance Companies, Bank Entities...).

The owner of the data undertakes to communicate in writing any modification

cation that occurs in the data provided. Likewise, it expressly authorizes

mind to the treatment of the image data obtained from the interested party in the de-

development of the activities, understanding that their consent has been given as

do not communicate the revocation in writing. You have the right, in any-

any time, to access, rectify or cancel the data and images referring to

to your person, sending your request to the Head of Security, at the address

Location: Avenida de la Vega, s/nº, Campo Foresta "B", 28760 Tres Cantos.

FIFTH: On 11/20/19, the Director of the Spanish Agency for the Protection of

Data agreed to initiate sanctioning proceedings against the claimed entity, by virtue of

of the powers established in art. 58.2 of the RGPD and in articles 47, 64.2 and 68.1 of the

Organic Law 3/2018, of December 5, on the Protection of Personal Data and

Guarantee of Digital Rights (LOPDGDD), for alleged infringement of article

13 of the RGPD and considered very serious in 72.1.h) of the LOPDGDD for the purposes of

prescription, setting an initial sanction of "Warning", without prejudice to what is

will result in the course of the instruction of the procedure, and requiring the entity

that: "Take the appropriate measures, contemplated in article 13 of the RGPD, facilitate

ing the users of the entity, at the moment in which personal data is collected.

them through the registration forms in the club, the information

required in the aforementioned precept, for which it must take into account the provisions of art.

Article 6 of the RGPD in relation to the legality of the treatment. All this, independent

mind of its adaptation to the new regulations on the protection of personal data

staff."

SIXTH: On 12/11/19, the initiation of the file was notified to the claimant entity.

demand, who has not filed before this Agency, any brief or allegation, within the period granted for this purpose.

1.- On the Club registration forms for the 18/19 and 19/20 seasons, you can read the legend, indicated in the fourth point above.

PROVEN FACTS

FOUNDATIONS OF LAW

By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of control, and as established in art. 47 of Organic Law 3/2018, of December 5, of 2018, Protection of Personal Data and guarantee of digital rights (in the su-

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III

cessive LOPDGDD), the Director of the Spanish Data Protection Agency is competent to resolve this procedure.

Sections 1) and 2), of article 58 of the RGPD, list, respectively, the

investigative and corrective powers that the supervisory authority may provide to the

effect, mentioning in point 1.d), that of: "notifying the person in charge or in charge of the

treatment of alleged infringements of these Regulations" and in 2.i), that of:

"impose an administrative fine under article 83, in addition to or instead of the measures mentioned in this section, according to the circumstances of each case.".

In the present case, it has been found that the entity claimed has not yet adapted its operation in the management of personal data, both of players as partners and / or subscribers, to the new regulations on data protection of personal nature (RGPD).

All of the above could imply an infraction for violation of article 13) of the RGPD, considered in article 72.1.h), of the LOPDGDD as "very serious" for prescription cough.

This infraction can be sanctioned with a maximum fine of €20,000,000 or, alternatively, being from a company, of an amount equivalent to a maximum of 4% of the volume of total annual global business of the previous financial year, opting for the greater amount, in accordance with article 83.5.a) of the RGPD.

The sanction to be imposed must be graded according to the criteria established article 83.2 of the RGPD, and with recital 148 of the RGPD itself, which provides for the possibility of punishing with a warning in certain circumstances.

In view of the aforementioned precepts and others of general application, the Director of the Agency Spanish Data Protection.

RESOLVE

NOTICE: to the entity UNION DEPORTIVA TRES CANTOS, with CIF G82340480, for violation of article 13 of the RGPD, typified in Article 83.5 of the RGPD.

REQUEST: to the entity UNION DEPORTIVA TRES CANTOS, so that, within the term one month from this act of notification, proceed to take the appropriate measures to adapt its privacy policy to current regulations, (requirements contemplated-given in article 13 of the RGPD), and must provide players, parents, partners and/or

subscribers, at the time you collect their personal data, through
of the forms, the information required in the aforementioned precept, for which you must have
take into account the provisions of article 6 of the RGPD in relation to the legality of the processing.

I lie.

NOTIFY this resolution to the entity UNION DEPORTIVA TRES CANTOS.

In accordance with the provisions of article 50 of the LOPDPGDD, this Re-

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

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Against this resolution, which puts an end to the administrative procedure in accordance with art. 48.6 of the
LOPDPGDD, 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 Spanish Agency for Data Protection within a month from the date of
the day following the notification of this resolution or directly contentious appeal
before the Contentious-Administrative Chamber of the National High Court,
in accordance with the provisions of article 25 and section 5 of the additional provision
Final fourth of Law 29/1998, of July 13, regulating the Contentious Jurisdiction-
administrative, within a period of two months from the day following the notification
tion of this act, as provided for in article 46.1 of the aforementioned Law.

Sea Spain Marti

Director of the Spanish Agency for Data Protection.

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