

□ Procedure No.: PS/00285/2020

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00285/2020, instructed by the Spanish Agency for Data Protection to the HANDBALL FEDERATION OF THE PRINCIPALITY OF ASTURIAS, with CIF: G33642083, (hereinafter, "the entity claimed"), by virtue of complaint filed by by virtue of complaint filed by D. A.A.A., (hereinafter te, "the claimant"), and based on the following:

BACKGROUND

FIRST: On 01/28/20, you have entered this Agency, filed a complaint by the claimant in which he indicated, among others, the following:

a).- I have not been able to prove through the consultations carried out in the AEPD that the Asturian Handball Federation has appointed a Delegate for the Protection of Data neither on the website of said organization nor in the available forms. The links to the website of the federation that show that they process data of minors age to justify because they are applied by article 34 section o).

b).- In none of the forms used by the FEDERATION, which appear in the website of said organization, the authorization of children is requested if they are over 14 years of age or the holder of their parental authority or guardianship for the treatment of the data nor is it accredited that reasonable efforts have been made to verify the validity of the consent nothing is indicated in this regard.

It is especially interesting in this respect that it is the first of the printed ones since in its footer indicates: "In compliance with the provisions of Organic Law 15/1999, of December 13, Protection of Personal Data, the above related are informed and expressly consent to the incorporation of their personal data, including images, to the automated files owned by the

Handball Federation of the Principality of Asturias (...)"

In relation to the dissemination of the images, I also attach them as evidence of this
dot the images of minors that they disclose on their website. I add the links to
the website of the federation that show that they process data of minors and the
Dissemination of your image publicly.

SECOND: In view of the facts set forth in the claim and the documents
provided by the claimant, the Data Inspection SG proceeded to carry out
actions for its clarification, under the investigative powers
granted in article 57.1 of Regulation (EU) 2016/679 (RGPD). Thus, with date
06/02/20 an informative request is addressed to the claimed entity.

According to a certificate from the Electronic Notifications Service and Electronic Address
Enabled, the request sent to the claimed entity on 06/02/20, through the
NOTIFIC@ service, was rejected at destination on 06/13/20.

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THIRD

: On 10/14/20, the Director of the Spanish Agency for the Protection of
Data agreed to open a sanctioning procedure and notify said agreement to the Federal
claim so that within a period of ten working days it could present the allegations
that it deems appropriate.

FOURTH: Once the initial agreement has been notified, the claimed federation, by means of a letter of
dated 10/27/20, sends to this Agency allegations, in which, among others, it indicates-

ba:

“As the claim itself describes, it is the sports club itself, which is registered in the federation, which certifies and is responsible for the parents or guardians of underage players have given their consent for the personal data the player's personal data are treated in order to develop the sports practice of ball-hand, the Federation therefore has authorization for the processing of personal data. personal and images of the players as long as their ultimate goal is related to ned with the practice of the sport of handball, not existing, therefore, in this case violation of the provisions of the RGPD.

Since November 2019, the new website of the Federation with the same address as the previous one but within the .es domain and not del .com. Said web page has the mandatory privacy policy, the user is informed interested in the terms provided in article 13 of the RGPD and complies with all the legal requirements, having adapted to the regulations in force.

For technical and operational reasons, both pages have coexisted, not being eliminated. gives the old one, due to administrative error, generated in part by the situation of force generated by the state of alarm, which affected many actions in progress in this Federation. For the same reason, the information request was not met. previously formulated by the AEPD, as the offices are without staff.

The web page of dominio.com that is the one to which the complaint refers is inactive and currently removed from the network. Attached as Document No. 1 are links to the new goes to the web and to the supporting documentation of the foregoing. As of July 16, 2020, this entity proceeded to comply with its obligation to designate a Delegate of Data Protection".

FIFTH: On 01/15/21, this Agency accessed the website official of the Federation: (**URL.1), checking, in its privacy policy (**URL.2) that provides information, among others, about the data controller

data processing; about the purpose of the treatment; on the legitimacy and assignments
nares; about data retention periods; about image processing
nes and on the rights that assist users.

For its part, in the forms that could be downloaded from the official website of the
Federation, the following message existed in them:

“HANDBALL FEDERATION OF THE PRINCIPALITY OF ASTURIAS is the Responsible
ble of the processing of personal data provided under your consent and
informs you that these data will be treated in accordance with the provisions of the
Regulation (EU) 2016/679, of April 27 (GDPR), and Organic Law 3/2018, of April 5

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December (LOPDGDD), in order to maintain a commercial relationship (for inter-
legitimate responsibility of the person in charge, art. 6.1.f GDPR) and keep them for no longer
of that necessary to maintain the end of the treatment or while there are legal prescriptions
wales who dictate their custody. The data will not be communicated to third parties, unless
legal cation. Likewise, you are informed that you can exercise your rights of access,
rectification, portability and deletion of your data and those of limitation and opposition to their
treatment by contacting the HANDBALL FEDERATION OF THE PRINCIPALITY OF
ASTURIAS in C/ ***ADDRESS.1 (Asturias). E-mail: ***EMAIL.1 and the claim email
to www.aepd.es. Contact details of the data protection officer: ***ADDRESS-
TION.1 - ***EMAIL.1”.

SIXTH: On 02/09/21, the Proposed Resolution is notified to the claimant entity.

in which, it was proposed that, by the Director of the Spanish Agency for Protection

tion of Data was warned to the claimed Federation, for infraction of the articles

13 and 37 of the RGPD, without the need for corrective measures, as these have already been
by the Federation when it became aware of the initiation of this proceeding.

penalty tooth.

Once the proposed resolution was notified, to date, there is no evidence that any response
has been given to the resolution proposal within the period granted for it.

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

PROVEN FACTS

1.- In the present case, the claimant indicates in his writing that the Federation of
Handball of the Principality of Asturias fails to comply with several precepts of the RGPD:

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The Federation has not yet appointed a Data Protection Officer,
noting that said organization processes personal data.

- In none of the forms used by the Federation, which appear in its
web page authorization is requested for the processing of data
personal. In addition, in the forms reference is made to the repealed LO
15/1999 (LOPD).

- There is evidence of the dissemination of images of minors without the consent
expressed by their parents or guardians.

2º.- Transferred the initiation of the sanctioning file to the Federation so that
answer what it deems convenient about the aspects indicated in it,

The latter sent the following allegations to the Agency:

- It is the sports club itself, which is registered with the Federation, which certifies and
is responsible for ensuring that the parents or guardians of minor players
of age have given their consent so that the personal data of the player

are treated in order to develop the sports practice of handball, the

Therefore, the Federation has authorization to process the data

personal and images of the players as long as their ultimate purpose

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is related to the practice of the sport of handball, not existing, for

Therefore, in this case violation of the provisions of the RGD.

- Since November 2019 the new website is operational

of the Federation with the same address as the previous one but within the domain

(.es) and not from (.com). This website has the mandatory policy of

privacy, the interested party is informed in the terms provided in article 13

of the RGD and complies with all legal requirements, having adapted to the

regulations in force. For technical and operational reasons, both pages have

coexisted, not being eliminated the old one, due to administrative error, generated in

partly due to the situation of force majeure generated by the state of alarm, which

It affected many ongoing actions in this Federation. The website of

dominio.com which is the one to which the complaint refers is inactive and eliminated

currently on the network.

- As of July 16, 2020, the Federation proceeded to comply with its

obligation to appoint a Data Protection Officer. attached as

Document No. 2, proof of communication of the appointment.

3º.- On the part of this Agency it was verified, after having received the

allegations, the following:

- In the privacy policy ([***URL.2](#)) of the official website of the Federation is informed, among others, of the following aspects: about the data of the data controller; about the purpose of the treatment of data collected through the website; about the legitimacy and recipients; about the retention periods of your data once the relationship; on the treatment of images or on the rights that attend users about the processing of their personal data.

- In the forms that can be downloaded from the official website of the Federation, it can be verified that, in them, there is information that refers to current regulations on data protection.

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of Regulation (EU) 2016/679, of the Parliament-European Act and of the Council, of 04/27/16, regarding the Protection of Natural Persons regarding the Processing of Personal Data and the Free Movement of es-Data (RGPD) recognizes each Control Authority and, as established in the art. 47, 64.2 and 68.1 of Organic Law 3/2018, of December 5, on the Protection of Personal Data and Guarantee of Digital Rights (LOPDGDD), the Director of the Spanish Agency for Data Protection is competent to initiate this procedure.

I lie.

Sections 1) and 2), of article 58 of the RGPD, list, respectively, the powers investigative and corrective measures that the supervisory authority may order for this purpose, mentioning in point 1.d), that of: “notifying the person in charge or in charge of the treatment

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to the presumed infractions of this Regulation” and in 2.i), that of: “imposing a administrative fine under article 83, in addition to or instead of the measures mentioned mentioned in this section, according to the circumstances of each case.

II

In the present case, it was claimed that the Handball Federation of the Principality of Asturias failed to comply with the provisions of current regulations on data protection of personal nature, lacking a Data Protection Delegate (DPD) and when treating data personal data of underage players, including their images, without the precept consent of the parents or guardians.

As stated in the document opening the file, regarding the use of the personal data of minor players, including the images of the themselves, without the mandatory consent of their parents or guardians, indicate that A sports federation is an organization whose main function is to regulate tion and organization of the corresponding sport and the reception of the personal data them of the players to process their federative file, it is done through the club of- corresponding sporting event, who must have obtained the prior consent of the guarantor or, where appropriate, of the parent or guardian so that said treatment is lawful.

As regards the second part of the claim, it was found, by this Agency that the forms that existed on the Federation's website made reference to the repealed LOPD, however, once the sanctioned file was initiated, dor and after receiving the appropriate allegations from the Federation it was found that, they had been conveniently modified, adapting them to current legislation.

Regarding the existence or not of the privacy policy of the website of the Federation, it was found that, on its official website, ***URL.1; exists

a link, at the bottom, <<privacy policy>> that redirects to a new page

page ***URL.2, in which information is provided in accordance with the provisions of article 13 of the RGPD.

Regarding the complaint that the Federation had not appointed a Delegate of Data Protection, indicate in this regard that, in the brief of allegations to the inco-
ordination of the file, the Federation informs this Agency that on 07/16/20
proceeded to appoint a Data Protection Delegate, attaching proof of
said designation.

In view of the foregoing, on behalf of the Board of Directors of the Data Protection Agency
cough,

RESOLVE

APERCEBIR: to the HANDBALL FEDERATION OF THE PRINCIPALITY OF
ASTURIAS, with CIF: G33642083, for the infringement of article 13) of the RGPD, respec-
to the non-adaptation of its personal data protection policy to the new norm
in force and for the infringement of article 37) of the RGPD, as there is no designation
a Data Protection Delegate, until he had knowledge of this procedure.
sanctioning sentence.

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NOTIFY: this resolution to the HANDBALL FEDERATION OF THE
PRINCIPALITY OF ASTURIAS,

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.

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 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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