

□ Procedure No.: PS/00525/2021

RESOLUTION SANCTION PROCEDURE.

Of the actions carried out by the Spanish Data Protection Agency before the entity AKER PREVENCIÓN DE RIESGOS, S.L. with CIF.: B82977836, (in hereinafter, "the claimed party"), by virtue of the claim presented by the MINISTRY OF SCIENCE AND INNOVATION (hereinafter, "the claimant party"), by alleged infringement of Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/16, regarding the Protection of Natural Persons in what regarding the Processing of Personal Data and the Free Circulation of these Data (RGPD) and Organic Law 3/2018, of December 5, on Data Protection Personal and guarantee of digital rights, (LOPDGDD), and based on the following:

BACKGROUND

FIRST: On 10/30/20, you entered this Agency, a brief presented by the complaining party, in which it indicated, among others, the following: "The Data Protection Unit of the Ministry of Science and Innovation has knowledge that the company awarded the surveillance services of health for public employees of the aforementioned Ministry, normative citation repealed in the informative clause that appears when downloading the results doctors. Likewise, they mention that "along with each form for collecting personal data, in the services that the user can request (Aker Prevention of Occupational Risks SL, will inform the user of the existence and acceptance of the particular conditions of the treatment of your data in each case, informing you of the responsibility of the file created, the address of the person in charge, the possibility of exercising their rights of access, rectification,

cancellation or opposition, the purpose of the treatment and the communications of data to third parties where appropriate". The full clause included is attached.

It is unequivocally verified, on site and after visiting its website, that the company:

- It does not identify the interested parties through the request for the DNI when accessing the doctor's office where the different tests that consist of the contracted risk prevention service.

- Does not inform the interested parties in writing about the personal data that collect, their rights as interested parties. or the characteristics of the treatment that they make of the data related to health to provide the contracted service.

- Does not ask for the consent of the interested parties before proceeding to treat their health data They do not have public information on their website that allows to know the aforementioned aspects, limiting itself exclusively to inform of the rights of the interested party.

- Citation on the website as a clause of legitimacy of data processing of health a "contractual relationship to which you are a party and which you have entered into expressly", which is certainly doubtful. Attached below is the

full paragraph copied from your website: - Legitimation for the treatment of your data: The legal basis for the treatment of your data is the execution of the

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contractual relationship, of which you are a party and whose content you know and have expressly signed in the corresponding contract for the provision of services, which is annually renewable.

- They do not have a Record of Treatment Activities accessible on their page

web, being mandatory as it is a company that deals with categories

special data (art30.5 RGPD) They do not have a Data Delegate

Data Protection accessible on the company's website nor does it appear

any appointment in the register that for this purpose provides the public with

Spanish Data Protection Agency. On the website there is still

references to LO 15199 and other regulations that are no longer in force.

For its part, the Subdirector General for Personnel and Inspection of Services receives

an email sent by the National Museum of Science in which it is reported that the

winning company has sent the certificates issued after recognition

doctor by mistake to the Museum email, although these do not contain data

healthcare expressly. They do, however, contain identifying data.

SECOND: On 11/30/20, this Agency transferred the claim

to the entity party to respond to it in accordance with the

stipulated in article 65.4 of Organic Law 3/2018, of December 5, of

protection of personal data and guarantee of digital rights, ("LOPDGDD").

THIRD: On 12/28/20, the respondent party sends this Agency a letter of

answer, in which, among others, it indicates the following:

"Upon becoming aware of this claim, we have proceeded to review the

all the informative clauses on the protection of personal data

included in the document management of the Health Surveillance Area. They have

carried out extraordinary checks, in the data servers that issue the

information addressed to users of this area. In addition, a

new edition of the internal procedure "LOPD VS" that is attached as doc.

1.

On 10/27/2020, an email was received from the deputy director general of

personnel and service inspection, in which he indicated that, on the screen briefing prior to downloading the medical examination by the interested, the previous Organic Law 15/1999 on data protection was cited of a personal nature.

This end was checked immediately and it was observed that a template from our software provider had been left outdated, this being the reason for the appearance of this standard no longer valid.

We proceeded to the immediate correction of this template and it was reported by email dated 10/28/20 that it was a template

outdated, which had already been corrected, and which had never been

There has been no security breach in relation to the data processed.

Likewise, on 10/30/20, another email was sent to the DPD of the Ministry.

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In the rest of the documentation, the information has always been up-to-date.

However, once this out-of-date is detected, Aker Prevention

promptly contacted your software provider for the

immediate correction of that situation, which was done the same day

10/28/2020. The cause of this issue was that the update did not occur

automatic content of the template in particular, which was

immediately corrected by the software provider once contacted by

this part.

In addition, an extraordinary review of all other documents and personal data protection templates, with the result that in all of them the normative citations were correct.

Regarding the additional statements of the complainant, referring to the fact that

The interested parties are not informed of their rights or that their rights are not consulted.

DNI, we must indicate that: - On behalf of the ministry itself, Aker was sent

Prevention informed consent in the model of the ministry itself. By not

submit the completed consent form of Aker, which was sent

also to the ministry, so that it could be sent to us by electronic means, was

It is necessary to adopt the signature measure in paper format by the interested party when accessing

to our medical center; let us indicate that this procedure had been

suspended in our facilities (for sending in electronic format)

in order to avoid the manipulation of paper and pens as a result of the

COVID-19 pandemic

This has forced, in the case of this ministry, that the workers

signed the informed consent form in our facilities,

with the consequent delays (delivery of the paper document,

disinfection of pens after each use...). A model of this is attached.

informed consent document

Regarding the verification of the identity of the interested parties, not only

confirmed your ID at reception but also your email (both

data provided in an Excel file by the ministry itself, together with

other data, such as telephone number and date of birth), in which they were going to

receive the download link of your occupational medical examination (previously

the terms of service must be accepted, including the protection clause

of data, and record an access password, since it is the user who must

to do so: no access password is delivered either in paper format or digital: it is the interested party who puts the one they want to be able to access their documentation). The record of treatment activities will be made available disposition of the control authority, in accordance with article 30.4 of the GDPR.

A monthly review program has been established for all documents regarding personal data protection information of the interested parties, in order to verify that they are displayed correctly in all the interactions with users: web download of medical results, generation of labor medical report, generation of benefit contracts annual occupational risk prevention service, generation of

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Informed consent for health surveillance. The implantation date of this procedure has been 11/15/2020.

The person in charge is the Director of Administration and Human Resources. The first review has been performed and all items have passed the review.

In addition, a new edition of the procedure has been issued internal "LOPD VS" that has been attached as document 1 with this writing.

As a summary of the present matter we can indicate that it has had its origin, exclusively, in an outdated informative template of data protection, which is generated in the download of the acknowledgments doctors, and in which the interested party is informed of their rights of access,

rectification, deletion, limitation, deletion, portability. This template has been immediately corrected.

At no time has there been a breach or loss of personal data of the interested. As a result of this incident, they have implemented document control systems to prevent future occurrences of some outdated information transferred to the interested parties.

FOURTH: On 02/15/21, by the Director of the Spanish Agency for Data Protection agreement is issued for the admission of processing of the claim presented, in accordance with article 65 of the LPDGDD Law, having appreciated possible rational indications of a violation of the rules in the field of powers of the Spanish Data Protection Agency.

FIFTH: On 07/09/21, the General Subdirectorate for Data Inspection addressed an information request to the respondent, on the "Registry of Treatment Activities", under the investigative powers granted to the control authorities in article 57.1 of the RGPD.

SIXTH: On 07/19/21, the respondent party sends this Agency a letter of answer, in which, among others, it indicates the following:

"REGISTRATION OF TREATMENT ACTIVITIES

1.- Data of the data controller: a) AKER RISK PREVENTION-GOS b) NIF: B82977836 c) Address: Calle Hermosilla 64 7º B Madrid 1.1.De-legacy Data Protection: from José Antonio Marcos Rodríguez (05267059J) dpd@akerprevencion.com

2.- Description of the treatment activity: a) Treatment activity: Use of personal data of workers to incorporate into the computer program of Technical Prevention (Prevengos), in order to prepare evaluations of occupational risks and more complementary documentation, in accordance

with the provisions of Law 31/1995 on the Prevention of Occupational Risks. Use

of personal data of workers to incorporate into the computer program

Surveillance of Occupational Health (Prevengos), in order to comply with the obligations

tions derived from acting as an External Risk Prevention Service

Labor Goes. 2 b) Purpose: Preparation of Occupational Risk Assessment

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planning of preventive activity, informative records, technical records

cos annexes. Preparation of Occupational Health Medical Reports and issue certificates

job aptitude ratings. c) Category of interested parties: Company employees

sas clients of the Occupational Risk Prevention Service d) Category of

Data: Identification data of the person (name, DNI, date of birth, co-

electronic mail), pathologies that may affect its performance. Results

of medical tests: spirometry, audiometry, vision control, blood pressure,

rial, blood and urine analysis, electrocardiogram. e) Recipient category-

rios: The data has not been and will not be communicated to third parties, except

in compliance with current legislation.

3.- Security measures of the data controller: Data encryption.

cough in daily backups of data servers. front protection

to unauthorized access through firewalls, server antivirus programs,

user passwords.

The technical specifications are (...)

4.- The data referring to technical specialties (Safety at Work,

Industrial Hygiene, Ergonomics and Psychosociology) will be kept for a period of 6 years. General period of conservation of article documents 30 of the Commercial Code. The data related to Health Surveillance is confidential. They will serve at least a period of 5 years computed from the last interaction with the patient, in accordance with current regulations. Subsequently, at the choice of the interested parties who have transmitted to Aker Prevention of Risks the data, it will be returned or destroyed, or it will be confirmed. They will be duly protected if there is no indication to that effect.

SEVENTH: On 11/24/21, this Agency accesses the "Policy of Privacy" of the website of the claimed entity, <https://www.akerprevencion.com/start/protection/> , where it reports:

"AKER, as responsible for the automated file, guarantees full compliance with the Personal Data Protection regulations and thus, in accordance with Organic Law 03/2018, on Data Protection Personal and guarantee of digital rights and Regulation (EU) 2016/679 the Company is informed of the incorporation of its data for the maintenance and development of its contractual and management relationship with AKER.

Likewise, it is indicated that the data provided by the Company will be used exclusively to provide the contracted services and report any new legislation or any technical improvement in the prevention of labor risks that could affect or be of interest to the client company.

The data provided by the interested parties for the provision of the services of the Occupational Medicine Area will be used for the provision of said services and will not be transferred to any third party, except by legal obligation.

The privacy policy of AKER PREVENCION DE RIESGOS SL ensures the exercise of the rights of access, rectification, cancellation, information and

opposition, in the terms established in the legislation, being able to use it to

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the

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email

(datos@akerprevencion.com) or write to AKER PREVENCIÓN DE

RIESGOS SL, Hermosilla street, 64 7º B Madrid 28001”.

(914464968),

telephone

via

In addition, information is provided on: - the Data Controller; the

Purpose of the Treatment of your personal data: - the legitimacy for the treatment

of your data; - the term of conservation of the personal data; - communication or

transfer of data; - about those who assist users or patients; - right to

file a claim with the Data Protection Officer and the right to

file a claim with a supervisory authority.

EIGHTH: Dated 12/15/21, by the Board of Directors of the Spanish Protection Agency

of Data, a sanctioning procedure is initiated warning the claimed party, for

the alleged infringement of article 5.1.f) of the RGPD, as there is a possible lack of

confidentiality of the personal data of the officials of the Ministry of Science and

Innovation by sending an email by mistake to the National Science Museum.

NINTH: Notification of the initiation agreement to the claimed party, the latter in writing

dated 12/26/21, made, in summary, the following allegations:

1. The first point of the complaint brief states that the defendants are not identified.

patients of the Ministry of Science and Innovation at the time of access and that your consent is not requested for the processing of your data: it has been accredited that not only the DNI was checked but also the name and surnames of each of the patients who attended the performance of the medical examination (based on the lists previously sent to this part by his employer: Ministry of Science and Innovation), to which they came voluntarily and upon request to their employer.

This body to which we are addressing already indicates in its "opening" letter that Such consent is not necessary since the legal basis of the treatment is the provision of the service itself, included within the legal requirements of Prevention of occupational hazards. Knowledge of these extremes, which can easily be deduced from the applicable regulations, and even reading the informative guides that the AEPD itself publishes on its website, we understand that should be known by the official signing the written complaint, the which, as indicated in the letter itself, is the Data Protection Delegate of the Ministry of Science and Innovation.

Regarding this section we have nothing more to add, in view of what has already been exposed by the organism to which we are addressing.

2. Regarding both the alleged deficiencies in the processing of data

personal, as in the company's privacy policy, this part has already accredited in the inquisitive process to which it has been subjected for more than 12 months which is perfectly correct and in accordance with current regulations, and this The body indicates in the document itself that these present

allegations: "it is considered that the information provided to the interested party

at the time of obtaining your personal data when you access consultation in

the facilities of the entity, such as the information provided in the

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“Privacy Policy”, of the claimed web page, does not contradict what

stipulated in article 13 of the RGPD” Therefore, with respect to this point

There is nothing more to add or prove.

3. In the point referring to the alleged lack of information to users in

matter of data protection, this part has also already shown that, not

workers were only informed at the time of accessing the center

doctor, but also referred to the privacy policy of the

company published on its website (already investigated by this body) and

In addition, they received exhaustive information on all their rights in the

time of downloading your medical examination through the server

data security, and also had the information of their

rights in the very text of your medical examination. This organism like

recognizes it by saying in this writing that we allege the following: “Therefore, with

According to the evidence available at this time, it is considered that

the information that is provided to the interested party at the time of obtaining their

personal data when accessing consultation at the entity's facilities,

when you access the website to download your medical report or the

information provided in the report itself on the exercise of the

rights in terms of data protection, as well as the information that is

provided in the "Privacy Policy" of the claimed web page, it is not contradicts the provisions of article 12 of the RGPD". nothing more to say to this respect, since we understand that it is sufficiently accredited.

4. In the last point of the brief that we allege, reference is made to the breach of data confidentiality by sending 2 certificates, which DO NOT contain any medical data, to the Museum of Science and Innovation of La Coruna. Specifically, the denouncing official says that "he has sent the certificates issued after the medical examination" to the Museum mail Nacional de Ciencia (without indicating anything else, for example, from which headquarters we are talking). It is at this point that the organism we are addressing seems to want to base the imposition of the enormous economic sanction with which threaten this part. It is precisely the one that requires more clarification, due to above all to the darkness of the writing of the complaint, which, despite to expand widely on the other points already discussed, in this particular it is very concise and tiptoes over it. Specifically it is at this point where we believe that it is necessary to clarify the extremes well in order to that this organization to which we are addressing has a clear vision of it. presumed

From the wording of the complaint, it seems to be deduced that this party has sent the two communications; only two and not "certificates issued after the medical examinations", as if it were a large number, to an external entity to the Ministry of Science and Innovation, strange to it, where "someone" could have access to data on Ministry personnel.

The reality IS NOT THAT: the Museum of Science and Innovation of La Coruña, ES A WORK CENTER of the Ministry of Science and Innovation and, as such center, was communicated to this part, together with the headquarters of Paseo de la

Castellana 162 in Madrid, for the corresponding risk assessment

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and issuance of all documentation in this regard. Not only that, this party made a technical visit on July 29, 2020 to this work center in La Coruña, where he conducted various interviews with Ministry personnel there located, carried out technical measurements in the facilities and advised on all the preventive questions that were formulated to him.

This relevant aspect, the fact that the Science Museum in La Coruña is a work center of the Ministry of Science, it has been "overlooked" by the denouncing official in his written complaint, what this party understands which is manifest negligence on his part and, secondarily, in the opinion of this part, a sign of his evident bad faith, everything is said in strict defense terms.

The occupational risk assessment carried out by the Ministry included the center of Paseo de la Castellana 162 and that of La Coruña in Praza Museo National Science 1. The technicians of this service interacted with the staff of this dependency and the communications were exchanged were necessary for the development of the preventive activity. The address of mail from the National Museum of Science in La Coruña was provided to this part by the Ministry of Science, this part has not been invented, as is logical. The National Museum of Science IS THE MINISTRY, since it is a center of work of this (at least that is how it was communicated to us and that is how it has been evaluated).

The two aptitudes sent, let us remember that only two, went to the Ministry, in its center in La Coruña, the data of the company has never been released employer (the Ministry of Science and Innovation), were sent there because the two workers were reported in the computer system of this part as members of the staff of the center of La Coruña; we do not believe that the fact that, in a workforce of more than 250 people, two workers in a center that does not correspond to them, work center of the same company (Ministry), is a major contingency, which also has not caused any loss of data or its disclosure outside.

That is, there has been NO communication of data outside the scope of the company itself (Ministry), in addition, it has been a shipment to an account of mail from the company itself, of a minimum nature (two aptitudes).

Attached as document No. 1 is the screen of the center's own website.

work of the Ministry of Science in La Coruña and as document No. 2 the communication sent at the time to the center of La Coruña.

Attached as documents No. 3 and 4 are two of the multiple emails exchanged by this party with personnel of the Ministry of Science and Innovation of the work center of La Coruña.

Therefore, we understand that there has been no damage or infringement that is deserving of the sanction, which, for a serious infraction, is intended to be imposed on this part and that it would be a very serious damage to this company, which in it complies with its obligations at all times, it has been doing so for 20 years, and that has not given any reason for the initiation of this procedure. Is

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company, this SME, every day faces a daily test, as all companies in this country, to be more efficient and to be able to offer the best service, and we understand that you have clearly proven that in matter of data protection complies with current regulations, being always willing to improve its processes and services. And we don't think the imposition of a colossal sanction like the one with which this party is appropriate or justifiable in any way”.

TENTH: On 02/22/22, the evidence practice period began, agreeing- be in the same: a).- consider reproduced for evidentiary purposes the complaint filed by the complainant and her documentation, the documents obtained and generated that are part of file E/09595/2020 and b).- consider reproduced for evidentiary purposes. torials, the allegations to the initial agreement of PS/0525/2021, presented.

ELEVENTH: On 07/12/22, the proposal for resolution, in which it is proposed that, by the Director of the Agency Spanish Data Protection Agency proceeds to warn the entity, AKER RISK PREVENTION, S.L. for the infringement of article 5.1.f) of the RGPD, for the lack of confidentiality of the personal data of officials of the Ministry of Science and Innovation when sending an email, by mistake to the National Museum of Science.

TWELFTH: Once the proposed resolution has been notified to the party complained against, the latter, dated 07/18/22, presents a brief of allegations, indicating, among others, what

Next:

“In the draft resolution proposal, this body to which we are addressing makes it perfectly clear, in the list of PROVEN FACTS that (quote-

mos in correlative order):

1st) and 2nd) Regarding both the alleged deficiencies in the treatment of personal data, as in the company's privacy policy, this part has thoroughly informed all workers of the rights that they assist them both prior to the performance of the Medical Examination Labor, and later at the time of downloading your recognition in addition to having a privacy policy accessible at all times.

ment and in accordance with data protection regulations. Already at this time

The agency stated in its letter dated 12/15/2021 that "it is considered 2 that the information provided to the interested party at the time of obtaining your personal data when you access consultation at the facilities of the entity. ity, such as the information provided in the "Privacy Policy", of the website claimed, does not contradict the provisions of article 13 of the GDPR".

3º) Sending 2 certificates, which do NOT contain any medical data, to the Museum of Science and Innovation of La Coruña, which is a work center of the Ministry of Science and Innovation.

From the written complaint formulated by the data protection delegate of the Ministry of Science and Innovation have been accredited, after a process

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inquisitive that has lasted almost TWO YEARS (since its opening on 10/30/2020,

two very clear facts in the opinion of this party:

1.- The manifest ignorance of the data protection regulations by part of the signatory of the written complaint. On the one hand, unknown is not pre- The express consent of the worker who is going to undergo recognition is required. occupational medical treatment, since the legal basis of the treatment is the provision of own service, included within the legal prescriptions of the prevention of occupational hazards. On the other hand, he is also unaware that the Registry of Actions Treatment activities do NOT have to be accessible via the web, but rather, in all case, it will be made available to the Control Authority when requested, in accordance with the provisions of article 30; 4 of the RGPD.

2.- The evident bad faith of the complainant in his writing, with serious omissions in his written complaint, such as not knowing that the National Museum of Science and Technology is a dependency, a work center, of the Ministry of Science and Innovation. In this way, in his writing he wanted to make it look like two certificate tests of two employees of the Ministry of Science and Innovation (without medical data) had arrived, as if by magic, at the aforementioned Museum of Science and Technology.

In the written sanction proposal it is concluded by this body that this party is deserving of a “warning” for an “alleged infringement of the art. Article 5.1.f) of the RGPD”. This party does not know what legal basis the presumption of an infraction to impose a sanction. We understand that the The only valid presumption in law is that of innocence, and that infractions deserving of legal censure must be fully accredited and demonstrated triads From the motion for a resolution, it is not concluded that it has been accredited any conduct or action contrary to the protection regulations data, with which we understand that the imposition of warnings is NOT

I lie any

3 Based on the foregoing, IT IS REQUESTED: that, once this es-
written and after the timely processing, after almost two years of answering this
part all the information requirements that have been directed to it and formulate
allegations, proceed to issue a resolution in which it is agreed that no
No “alleged infringement” of the data protection regulations has occurred
and proceed to the definitive closure and filing of these proceedings. That
warns the complainant himself, who has not only proven a lack of knowledge
inappropriate to the position he occupies as data protection delegate of the
Ministry of Science and Innovation and an evident bad faith in the drafting of
his written complaint, for causing a serious waste of time and resources
both to this organism to which we are addressing, and to this part, which must
guide their efforts to daily activity to generate the necessary income
for their subsistence, like any other company in this country

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.

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First: On the presumed infractions committed in terms of protection of
data, when workers access the facilities of the entity, it
presents the following documentation:

1.- Copy of a signed individualized informed consent form

on 11/03/20 by a worker from the Ministry of Science and Innovation, and that,

according to the entity, were sent to the Ministry, prior to the completion of
of medical examinations.

2.- A copy of the document with informative clause on protection is provided
of data included when the worker goes to the AKER facilities

PREVENTION, where the following text appears:

“(…) I let you know that: _ I DO want to pass the medical examination”

“(…) In accordance with the Law on Prevention of Occupational Risks (31/95 of
November 8), the employer must carry out periodic monitoring of the
health of your employees.

For this, it is necessary to obtain their acceptance to carry out the recognition
doctor to which he must submit due to the characteristics of his work or
required by a legal provision.

I take this opportunity to inform you that the results of the medical examinations
are confidential, leaving only evidence of their APTITUDE
or not for the performance of their work. Access to the results of
medical examinations is restricted to medical personnel and, where appropriate, to
the Labor Authority legitimated to know said information, except
express consent of the worker (art. 22.3 and 4 of the Law on the Prevention of
Occupational hazards). (…)

DATA PROTECTION CLAUSE.

AKER PREVENCIÓN DE RIESGOS SL, as responsible for the file
automated Health Surveillance, ensures full compliance with the
Personal Data Protection regulations and thus, in accordance with
Regulation (EU) 2016/679, Organic Law 3/2018 of December 5, of
Protection of Personal Data and guarantee of digital rights and others
applicable regulations.

The privacy policy of AKER PREVENCIÓN DE RIESGOS SL ensures the exercise of the rights of access, rectification, cancellation, information and opposition, in the terms established in the current legislation, being able to use the telephone (914464968), email to datos@akerprevencion.com or write to AKER PREVENCIÓN DE RIESGOS SL, Calle Hermosilla, 64 7º B Madrid 28001. For any questions, clarification or complaint can be addressed to the Data Protection Delegate at email dpd@akerprevención.com. You also have the option of contact the Spanish Agency for Data Protection for any questions or

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claim. You can consult the privacy policy of Aker Prevention at the web address: <https://akerprevencion.com/inicio/proteccion/>. “

3.- Provide a copy of the document: “INFORMATION PROCEDURE OF DATA PROTECTION IN HEALTH SURVEILLANCE” where it is stated AKER OCCUPATIONAL RISK PREVENTION logo and the following content:

“[...] 4.1 Prior information to the worker: When the worker goes to the Aker Prevention facilities, within the procedures prior to the action Health, you are presented for your knowledge and completion of the document entitled "Health Surveillance Authorization" (registration: Consent Informed VS Aker), [...]

4.2 Information in the RML download process: The worker receives, when

the RML is already available, an email, in the account that previously has indicated to the staff of Aker Risk Prevention, a message in which You are transferred, among other information, your rights in terms of protection of personal data, which you must accept to continue with the download process. There you are informed of your access rights, rectification, cancellation, information and opposition, in the terms established in current legislation.

4.3 Information contained in the RML: The worker is again informed of the rights that assist you in terms of the processing of your personal data personnel, through the inclusion of an "Information Clause on the Protection of Data" where the informative content of the processes of the sections 4.1 and 4.2 [...]"

4.- When the medical report is available for download, it is sent to the user an email with a link to download your occupational medical examination. That previously the interested party must record a access password.

5.- Provide a copy of the informative clause included in the protection banner data, at the time the user accesses the web to download the labor medical examination, which includes, among others, the following information:

"AKER PREVENCIÓN DE RIESGOS LABORALES SL, as responsible for the automated file guarantees full compliance with the regulations of Protection of Personal Data, Regulation (EU) 2016/679, Law Organic 3/2018 of December 5, Protection of Personal Data and guarantee of digital rights and other applicable regulations.

End of treatment: provision of professional occupational health services.

Data conservation criteria: the data will be kept during the

time indicated in the applicable regulations.

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Communication of the data: the data will not be communicated to third parties, except

legal obligation. Rights of the interested party: the privacy policy

of AKER PREVENCION DE RIESGOS SL ensures the exercise of rights

of access, rectification, cancellation, information and opposition, in the terms

established in the current legislation, being able to use the route

telephone (914464968), email to datos@akerprevencion.com or

write to AKER PREVENCION DE RIESGOS SL, cale Hermosilla,

64 7º B Madrid 28001. In addition, you have the right to file a claim

before the control authority (Spanish Data Protection Agency) if

considers that the treatment does not comply with current regulations. Can

Consult

Aker Prevention's privacy policy at:

<https://akerprevencion.com/inicio/protección/>.

6.- Provide a copy of the informative clause on data protection included

in the occupational medical report that the user downloads, where it is stated, among

others, the following information:

“AKER PREVENCION DE RIESGOS SL, as responsible for the file

automated Health Surveillance, ensures full compliance with the

Personal Data Protection regulations and thus, in accordance with

Regulation (EU) 2016/679, Organic Law 3/2018 of December 5, of Protection of Personal Data and guarantee of digital rights and others applicable regulations.

The privacy policy of AKER PREVENCION DE RIESGOS SL ensures the exercise of the rights of access, rectification, cancellation, information and opposition, in the terms established in the current legislation, being able to use the telephone (914464968), email to datos@akerprevencion.com or write to AKER PREVENCION DE RIESGOS SL, Calle Hermosilla, 64 7º B Madrid 28001. For any questions, clarification or complaint can be addressed to the Data Protection Delegate at email dpd@akerprevención.com. You also have the option of contact the Spanish Agency for Data Protection for any questions or claim. You can consult the privacy policy of Aker Prevention at the web address: <https://akerprevencion.com/inicio/proteccion/>.

The data of your Occupational Medical Examination will be kept during the time established by current legislation.

Second: The information that the claimed entity provides in the "Privacy Policy Privacy" of its website: (<https://www.akerprevencion.com/inicio/proteccion/>:), is the

Next:

"AKER PREVENCION DE RIESGOS SL, as responsible for the file automated, guarantees full compliance with the Protection regulations of Personal Data and thus, in accordance with the Organic Law 03/2018, on the Protection of Personal Data and guarantee of rights and the Regulation (EU) 2016/679 the Company is informed of the incorporation of your data for the maintenance and development of your relationship

contract and management with AKER. Likewise, it is indicated that the data

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provided by the Company will be used exclusively to provide the contracted services and report any new legislation or any technical improvement in occupational risk prevention that could affect or be in the interest of the client company. The data provided by interested parties for the provision of services in the Medicine Area of the Work will be used exclusively for the provision of said services and not will be transferred to any third party, except by legal obligation.

The privacy policy of AKER PREVENCIÓN DE RIESGOS SL ensures the exercise of the rights of access, rectification, cancellation, information and opposition, in the terms established in the current legislation, being able to use for this the telephone (914464968), Email

(datos@akerprevencion.com) or write to AKER PREVENCIÓN DE RIESGOS SL, Hermosilla street, 64 7º B Madrid 28001.

Privacy Policy:

At Aker Prevention we have always been concerned about protecting your data, that is why we want to be transparent with the use we make of the in order to continue offering you the best service. For this reason,

Next, we provide you with our Privacy Policy, adapted to the RGPD and other applicable regulations:

Identification of the Data Controller:

Aker Occupational Risk Prevention SL.

Calle Hermosilla 64 7º B MADRID. Telephone:914464968.

Email: data@akerprevencion.com

Purpose of the Treatment of your personal data:

Aker Risk Prevention treats your personal data, for the maintenance and development of their contractual and management relationship. Also, it is indicated that The data provided by the COMPANY will be used exclusively for provide the contracted services and report any new legislation or technical improvement in occupational risk prevention that may be of the interest of the client company. Your data may also be processed in the Occupational Health area, in relation to occupational medical examinations carried out and exclusively for the provision of this service.

Legitimation for the treatment of your data:

The legal basis for the treatment of your data is the execution of the relationship contract, of which you are a party, in your capacity as a company, and whose content knows and has expressly subscribed in the corresponding contract provision of services, which is annually renewable. also their data will be processed in relation to labor medical examinations that can be carried out and that are essential for the realization of the service.

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Period of conservation of personal data:

The personal data you provide us will be kept while maintain the contractual / commercial relationship in force, or for a period of four years from the last commercial relationship following the regulations to tax effects. In addition, data relating to training courses is will be kept for a period of five years from its delivery and the data relating to medical examinations carried out will be kept for a period of 5 years from its completion, in accordance with the legislation applicable.

Communication or transfer of data:

Your data will not be communicated to any third party, except legal obligations in force before national and/or European authorities, such as the communication of certain contractual data to the Ministry of Employment and Social Security of Spain through the SERPA telematics system. The data personnel obtained for the provision of services of the Medicine Area of the Work will not be communicated to any third party, except by legal obligation.

Rights:

Any interested party has the right to obtain from the data controller of personal data:

1 - Access.

The interested party shall have the right to obtain from the person responsible for the Treatment Confirmation of whether or not the data you are receiving is being processed. concern, as well as detailed information about certain aspects of the treatment being carried out.

2 - Rectification.

The interested party shall have the right to obtain, without undue delay, from the controller of the treatment the rectification of the inaccurate personal data that

concern. Taking into account the purposes of the treatment, the interested party will have right to have incomplete personal data completed, including by means of an additional statement.

3 - Deletion ("right to be forgotten").

The interested party shall have the right to obtain, without undue delay, from the controller of the treatment the deletion of the personal data that concerns you, which will be obliged to delete the personal data without undue delay, with the limits established in the applicable regulations.

4 - Limitation of your treatment.

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The interested party shall have the right to request the limitation regarding the treatment of your personal data, in accordance with the provisions of the applicable regulations.

5 - Right to the portability of your data.

In other words, you will have the right to receive the personal data that concerns you, that provided to a data controller, in a structured format, of common use and mechanical reading and to transmit them to another person in charge of the treatment.

6 - Opposition to treatment.

In certain circumstances and for reasons related to your situation

In particular, the interested parties may oppose the processing of their data. The entity will stop processing the data, except for legitimate, compelling reasons or the

exercise or defense of possible claims.

7 - Right to file a claim with the Protection Officer

of data.

You can request any clarification in relation to this protection policy

of data or file a claim with the Data Protection Delegate

of Aker Prevention of Occupational Risks, by sending an email to the

address: dpd@akerprevencion.com or by sending a letter to: Delegate of

Data Protection of Aker Prevention, calle Hermosilla 64 7º B Madrid

28001.

8 - Right to file a claim with a supervisory authority

In case you understand that the rights that in this

correspond to you, you can file a claim with the Agency

Spanish Data Protection Office located in Madrid, Calle Jorge Juan, 6.

(www.agpd.es).

Third: About sending an email to the National Museum of Science, the

entity claimed affirms that: "(...) the Museum of Science and Innovation of La Coruña,

is a work center of the Ministry of Science and Innovation and, as such, was

communicated, together with the headquarters of Paseo de la Castellana 162 in Madrid, for the

corresponding occupational risk assessment and issuance of all documentation

in this regard and therefore, the occupational risk assessment carried out by the Ministry

included the center of Paseo de la Castellana 162 and that of La Coruña in Praza Museo

National Science 1.

The mailing address of the National Museum of Science in La Coruña was

provided to this party by the Ministry of Science, and the two emails sent

sent there because the two workers were informed in the system

IT of this part as members of the staff of the center of La Coruña; by

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so there has been no communication of data outside the scope of the own company (Ministry) (...)".

- Attached is the communication sent to the center of La Coruña with the two certificates of aptitude of the workers belonging to said training center worked.

FOUNDATIONS OF LAW

I.- Competition:

The Director of the Spanish Agency is competent to resolve this procedure.

Data Protection, in accordance with the provisions of art. 58.2 of the RGPD in the art. 47 of LOPDGDD.

II.- About the presumed violation of confidentiality when sending the certificates

issued after the medical examination by mistake to the email of the Museum.

The company AKER RISK PREVENTION, S.L. is the awardee of the health surveillance services for public employees of the Ministry of Science and Innovation and within the Ministry is, as a work center, the Museum of Science and Innovation of La Coruña,

Well, according to the entity itself, as such a center, it was, together with the headquarters of the Ministry at Paseo de la Castellana 162 in Madrid, included in the evaluation of occupational risks and health surveillance of its workers, carrying out, according to

It appears in the documentation provided by the entity, two medical examinations to the two workers assigned to the Museum's workplace. attached for your corroboration of the communication sent at the time to the center of La Coruña with the two certificates of aptitude of the two officials.

However, the entity does not prove that the Ministry indicated as workers of the Museo de Ciencia de la Coruña to the two people whose aptitude results he sent to the work center in La Coruña and not to the Ministry itself, as it did with the other workers.

Regarding this, recital (39) RGD indicates that:

“(…) Personal data must be processed in a way that guarantees a adequate security and confidentiality of personal data, including for prevent unauthorized access or use of said data and the equipment used in the treatment.

In this sense, article 5.1.f) of the RGD establishes that the processing of data carried out by the person in charge and/or in charge of them will be carried out: in such a way as to ensure adequate data security including protection against unauthorized or unlawful processing and against loss, destruction or accidental damage, through the application of appropriate technical or organizational measures.

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And it establishes in section 2 that the person responsible and/or in charge of said treatment:

"will be responsible for compliance with the provisions of section 1 and capable

to prove it."

Therefore, the fact that the respondent entity sent the certificates issued after the medical examination, with identification data of two officials to the Museum of Science of La Coruña and not to the Ministry itself as it did with the certificates of the other workers without the Ministry classifying them as workers of the center de la Coruña constitutes an infraction, attributable to the claimed party, for Violation of article 5.1.f) of the RGPD.

Article 72.1.a) of the LOPDGDD, considers "very serious", for prescription purposes, "The processing of personal data violating the principles and guarantees established in article 5 of Regulation (EU) 2016/679."

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

It should be noted that the LOPDGDD contemplates in its article 77 the sanction of warning in relation to the processing of personal data that is not

match your forecasts. In this regard, article 83.7 of the RGPD contemplates that

Without prejudice to the corrective powers of the control authorities under

of Article 58(2), each Member State may lay down rules

on whether and to what extent administrative fines can be imposed on

public authorities and bodies established in that Member State.

In this same sense, 58.2) of the RGPD provides that:

"Each supervisory authority shall have all of the following powers

corrective measures indicated below: (...) b) address all responsible or

in charge of the treatment a warning when the operations of

treatment have violated the provisions of this Regulation; (...); Yo)

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

Therefore, in accordance with the foregoing, by the Director of the Agency
Spanish Data Protection,

RESOLVES:

FIRST: WARN the entity AKER PREVENCIÓN DE RIESGOS, S.L. with
CIF.: B82977836, for an infringement of article 5.1.f) of the RGPD, typified in the
article 83.5.a) of the RGPD.

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SECOND: NOTIFY this resolution to the entity AKER PREVENTION OF
RISKS, S.L. and to the claimant about the outcome of the claim

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, and in accordance with the
established in articles 112 and 123 of the LPACAP, the interested parties may
file, optionally, 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 appeal
before the Contentious-Administrative Chamber of the National High Court,
in accordance with the provisions of article 25 and paragraph 5 of the provision
additional fourth of Law 29/1998, of 13/07, regulating the Jurisdiction

Contentious-administrative, within two months from the day after

to the notification of this act, as provided in article 46.1 of the aforementioned text

legal.

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

may provisionally suspend the firm resolution in administrative proceedings if the

The interested party expresses his intention to file a contentious-administrative appeal.

If this is the case, the interested party must formally communicate this fact by

writing addressed to the Spanish Agency for Data Protection, presenting it through

of the Electronic Registry of the Agency [<https://sedeagpd.gob.es/sede-electronicaweb/>],

or through any of the other registers 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 was not aware of the filing of the contentious appeal-

within a period of two months from the day following the notification of the

This resolution would terminate the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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