 File No.: PS/00323/2021

RESOLUTION OF TERMINATION OF THE PROCEDURE FOR PAYMENT

VOLUNTEER

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

to the following

BACKGROUND

FIRST: On July 14, 2021, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against LABORATORIOS

GONZÁLEZ, S.L. (hereinafter the claimed party). Notified the agreement of initiation and

After analyzing the allegations presented, on March 7, 2022, the

proposed resolution that is transcribed below:

<<

File number: PS/00323/2021

PROPOSED RESOLUTION OF PUNISHMENT PROCEDURE

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

the following:

BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) on 04/16/2020, filed a claim

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

GONZÁLEZ LABORATORIES, S.L. (hereinafter CLAIMED). The reasons in which

The claim is based on the fact that his workplace, the Calp City Council, started "yesterday" a

process consisting of the extraction and analysis of blood for the detection of antibodies

COVID-19 through a “private laboratory” “to which I expressly consented”, “they passed

my COVID 19 antibody results, my surprise was that they gave me the result

they gave in the afternoon through my email to me and my chief-political representation”.

"I asked the company for explanations, since no one has informed me of that."

He adds that in any case only the positive cases should have been communicated, but Sani-

dad, not "my Councilor and/or Mayor".

Along with the claim, provide a copy of:

-Email addressed to CLAIMED on 04/16/2020, with literal: “he has sent me my result

doctor to me and my boss and you do not have my consent to give this very personal information

nobody but me”, and the answer that the laboratory transcribes: “..the contracting person

of the service must have proof of the result, in case there is any positive case, take the

pertinent measures, in the event that the worker is unconscious and being

the period of infecting people continues to go to work. For this reason this

type of analytics are sent to the person in charge of the service..."

SECOND: In view of the facts stated in the claim and the documents

provided, motivating the non-application of the suspension of deadlines, the General Subdirectorate

Data Inspection General moved on 04/27/2020 for the purposes of the provisions of article

65.4 of the LOPDGDD the claim to the claimant and to the CALP CITY COUNCIL (investiga-

gado). They were asked:

"1. The decision made regarding this claim.

2. Report on the causes that gave rise to the incident that gave rise to the claim.

3. Report on the measures adopted to prevent similar incidents from occurring,

dates of implementation and controls carried out to verify its effectiveness.

4. Any other that you consider relevant.”

THIRD: Claimed, dated 05/14/2020, states:

1. The notification is sent directly to the person responsible for the service (in this case, the pull).

1. “The legal basis for treatment has changed due to the alarm situation due to the epi-COVID-19 pandemic, it is no longer the express consent of the employee but rather it is legitimized ask the employer (Calp Town Hall) to carry out the tests and analyzes to detect the COVID-19 to its workers and also, to know the results of the tests, as well how to communicate them to the Town Hall employee”.

2. “For urgent or necessary health reasons, it has been foreseen that the Administrations public authorities and competent health authorities will be the ones who must adopt the decisions are necessary”.

“The foregoing expressly refers to the possibility of processing the personal data of health of certain natural persons by the Data Controllers per-personal, in this case "Calp Town Hall", when by indication of the authorities competent health authorities, it is necessary to communicate to other people with whom said person physical contact has been in contact with the circumstance of its contagion, to safeguard both said natural persons from the possibility of contagion (their vital interests) when to prevent said natural persons, due to ignorance of their contact with a con-infected may spread the disease to other third parties (vital interests of third parties and rés public essential and/or qualified in the field of public health).

In the same way, and in application of what is established in the risk prevention regulations labor, and occupational medicine, employers may treat, in accordance with said regulation tively and with the guarantees that these regulations establish, the data of its employees sary to ensure the health of all its employees, which also includes the rest of employees other than the interested party, to ensure their right to health protection and avoid contagion within the company and/or work centers.”

3. Provide a copy of: "COVID 19 ANALYTICAL BUDGET" without date or signature, and where consists:

- "According to the conversation, the performance of the blood test for COVID 19, to the serological determination of the levels of Ig G – Ig M antibodies, would take an amount of € for each worker."

"In case of accepting said budget, in advance of the day of realization, it must be have a list of workers in excel format that must include:

Full name of the worker; ID; Date of Birth; telephone and a centralized mail do of the company where to send the results.

Workers should know that this laboratory will send a copy of said analysis to the management of the company, so that it has proof of the state of health of its workers. lowers in relation to a possible infection by COVID 19. Likewise, the positive cases communicated to the Epidemiology service of the Department of Health (Order of 03/04/1977 of the Ministry of Health).

If any worker does not agree that said results be communicated to the company, sa, you must state it at the time of blood extraction, providing an email electronic where to communicate the result.

5. Provides a copy of the report of the Legal Office of the AEPD number 17/2020 "in relation to with the data treatments resulting from the current situation derived from the extension of the virus COVID-19", of 03/12/2020, which indicates in article 9.2 of the RGPD the different assumptions data that may occur depending on the circumstances for the processing of personal data.

health, lifting the prohibition of article 9.1 of the same norm.

FOURTH: On 06/01/2020, CALP CITY COUNCIL informs and declares:

1. “The cause that gives rise to the incident is given by the person interested in the remission of the result.

of the tests carried out by COVID-19 by email, with a copy at the top.

higher, causing discomfort in the person interested in communication”.

On 04/11/2020 “it was proposed to workers in the social services area to submit

voluntarily submit to a COVID-19 antibody test”, for being employees who

they are on the front line, in some cases in direct contact with COVD-19 patients.

“That taking into account the legitimating basis of legal obligation, public interest in the ambit-

public health/preventive or occupational medicine and/or medical diagnosis, from the Con-

The Social Services Council decides and approves the hiring of an External Laboratory:

González Laboratories S.L.” who had previously performed blood tests on the staff of the

Calp civil protection service. Twenty-five people accepted.

“The company was provided with the names of the workers who were going to take the test, ID and

contact email, after previously requesting the data. as email

nico of the person in charge included that of the Delegate Councilor of the Area”.

“On 04/15, the workers carried out the analysis and that same day they communicated to each

one the result of the test by email, putting a copy in each email to the Councilor De-

legacy of the area

. ”

“The interested party sends by email, dated 04/16/2020, the discomfort to the Labora-

who has performed the tests, indicating that he has not consented to such communication.

cation."

1. "The consents of the external Laboratory contracted to com-

test the correct compliance with data protection."

2. A communication has been sent to the affected party.

3. They have requested information from the Laboratory about the duties of information, audit

in terms of data protection, or equivalent documentation as evidence of measures

technical and organizational data, a copy of the emails sent, but, as of 05/27/2020, no

have received a reply.

4. "The name of the people who have tested positive has not been communicated

to the staff of the entity."

5. "The Calp City Council will reinforce the consent in the case of future thermal tests.

bearing in mind the duty of information."

FIFTH: The Director of the AEPD, in accordance with the provisions of article 65 of the

LOPDGDD, dated 10/9/2020 agrees to admit this claim for processing.

SIXTH: On 03/01/2021, within the preliminary investigation actions to

the clarification of the facts in question, by virtue of the investigative powers granted

to the control authorities in article 57.1 of Regulation (EU) 2016/679 (Regulation-

General Data Protection Document, and article 67 of the LOPDGDD is requested to RECLA-

MADO, who contributes:

"1. Copy of the contract signed with the Calp City Council in relation to the performance of

the analytics.

2. Accreditation of the information provided to the claimant in relation to the treatment of data

personal cough as well as to whom they would inform the result of the analysis."

On 03/17/2021, the respondent responds that there is no signed contract, the systematic

it is:

a) The Department contacts the Laboratory, requesting a budget, which is already

was sent in a previous reply. Once the budget is accepted, the Department passes it

to your economic department to make a credit reserve.

a) “On the day of sampling, the personnel (who are gathered in a room) are told that

the results will be sent to the Councilor on duty and to the interested party, none showing their

verbal or written opposition to perform said test and to communicate the results to the

councilor on duty.”

SEVENTH: On 07/14/2021, the Director of the AEPD agreed:

“INITIATE PUNISHMENT PROCEDURE against LABORATORIOS GONZÁLEZ, S.L.,

with NIF B03997434, for the alleged infringement of article 5.1.f) of the RGPD, in relation to

with article 5 of the LOPDGDD, as indicated in article 83.5.a) of the RGPD and 72

1.a) of the LOPDGDD, in accordance with article 83.2 d) and g) of the RGPD and 76.2 b) of

the LOPDGDD”.

"For the purposes specified in the art. 64.2 b) of Law 39/2015, of 1/10, of the Procedure

Common Administrative of the Public Administrations, the sanction that could correspond

ponder would be an administrative fine of 20,000 euros, without prejudice to what results from the

instruction".

The notification was sent electronically with the Notifications management system

Notify@. The shipment according to the certificate that appears in the file appears "Date of

made available: 07/15/2021 09:14:02 Automatic rejection date: 07/26/2021

00:00:00”

In accordance with the provisions of art. 43 of the LPACAP, the obligation to

notify with the provision of the notification in the electronic headquarters or in the

Unique Authorized Electronic Address (DEH) of the data controller

No claims were received.

EIGHTH: Regarding the allegations of the other party claimed, City Hall of

Calpe, PS/00364/2021, are incorporated because they are connected to the claim, indicating

on 08/02/2021:

1) There is no infraction in the conduct of the Calp City Council in the treatment of

data from the COVID-19 analysis performed voluntarily by the claimant based on the

consent of the affected.

“The results of the tests were communicated both to the individual workers-

mind as well as the Councilor responsible for the service, as this is the protocol to follow

by LABORATORIOS GONZALEZ S.L., and having been expressly consented by the

workers”. "The data was sent to the person in charge of the service" by protocol of the

laboratory service”, limited to verifying the existence of antibodies in their

pleads.”

1) The legal basis of the treatment can be multiple, both of public interest, or vital, of

according to recital 46. As the agreement indicates, the prohibition of treatment of

personal data yields when any of the circumstances of article 9.2 of the

RGPD” ”In the present case there are several of them, such as section a), b), c),

g), h), i). The exceptional circumstances of the social context must be taken into account and

toilet in which the events took place

“In the context of the state of alarm, the tests can be applied in the workplace,

to the extent that, in the context of an occupational risk prevention policy,

They are an ideal instrument to prevent the contagion and spread of the pandemic, being

this is the purpose of its practice and its legitimizing base”. "The tests were carried out in

those workers who expressly showed their consent, being known-

that the result would be communicated to the company, unless they expressed their disagreement.

formality at the time of blood draw, which did not happen in the present

case “A treatment of data exclusively limited to the result of the

COVID 19 test carried out, based on the consent of the affected person”

The treatment of these data has been carried out at all times applying the principles

of transparency, purpose limitation, accuracy and minimization that govern the

applicable regulations on data protection. According to these

principles, the City Council treated the health data derived exclusively from the

COVID-19 diagnostic tests, their only destination being the adoption of the measures

necessary to ensure the safety of employees and prevent the spread of

virus between them, and keeping the results only for the time

strictly necessary to control the pandemic”

NINTH: On 02/07/2022, the test practice period begins, giving

reproduced for evidentiary purposes the claim filed by the claimant and its

documentation, the documents obtained and generated during the admission phase to

processing of the claim, and the report of previous investigation actions that form

part of the procedure E/08228/2020.

Likewise, it is considered reproduced for evidentiary purposes, the allegations to the initial agreement

of the sanctioning procedure referred to, presented by CALPE CITY COUNCIL

and the documentation that accompanies them, as they are related to this claim.

In addition, LABORATORIOS GONZÁLEZ SL is requested to:

a) If the people from whom the samples are taken were informed of the health data that was

are going to collect, its treatment, purpose and the rest of the elements that are contained in the

article 13 of the RGPD. Copy of the information that was provided in this case to the claim-

keep.

On 02/15/2022, a reply was received, stating that they were verbally informed

of the tests to be carried out and their purpose. “Due to logistical error, the

informed consent with the patient, was carried out in the Calpe Town Hall and did not require

took at the time of the blood draw, as it was a voluntary test.

a) What did you subsequently do with the data from the results of the analyses?

It states that "with the result, positive/negative, it is reported by email to the

responsible for the City Council, a company that hires us for this purpose, and the interested party that

He voluntarily came to take the test.”

b) If you have introduced variations in the form of referral of the test results

practiced, or the content in negative or positive cases and reasons.

He answers “Yes. The patient who comes to have a sample taken is informed

by your company of the purpose and treatment of said analytics and that you can state that the

result is sent only to him, and not to the contracting company at the time of taking the

sample".

c) Total global annual turnover of the financial year 2019 of the entity, number

number of centers available and number of employees.

Respond by providing form 200 of corporate tax for 2019, and annual accounts.

In the same figure that has three employees, it is a MICROPYME, with a tax base ne-

gative or zero. In the profit and loss account, it appears as "net amount of the

businesses: 168,462.47 euros”

The CALPE CITY COUNCIL, (incorporated due to the connection of the facts), was requested

to report or answer the following questions:

a) Category, number and type of work activity carried out by the personnel to whom

offered them the COVID test. If all developed the same functions.

Why if the employees made daily contact with the population in the provision of the service?

tion of risk, the obligation to carry out the test based on the LPRL was not decided,

art 22 to the entire group.?

Report whether there was an assessment of the degree of occupational risk of these employees.

On 03/01/2022, a response was received stating that carrying out the

analytical tests was initially limited only to the Department of Social Services,

personnel who "provided service in person in contact with other colleagues and

users.”

In the context of the declaration of the State of alarm, in mid-April 2020, having

do open to the public services of an essential nature, such as the provision of home help

to dependent people or attention to users with basic needs, constituted a risk

something that should be attenuated as much as possible,

The decision to carry out the tests was preceded by a request from those affected

and in this sense "the simplest possible formula was arbitrated, which was the hiring by

part of the City Hall of a laboratory to carry out the tests.” This measure

should be understood as a decision of the City Council aimed at improving "the prevention of

a very specific occupational hazard.

The initial idea was that the tests should preferably be submitted to "women workers

of the home care service that provided assistance to people dependent on advanced

although the definitive one was that this possibility be offered to all workers

of social services without it being mandatory.”

Article 14 of Law 31/1995 on occupational risk prevention requires the employer to

Guarantee without excuses or exceptions the safety and health of the workers at your service.

service in all aspects related to work, being obliged to adopt as many

measures are necessary to avoid serious risks.

“Article 22 of the aforementioned law may even require these tests to be carried out in

In order to avoid specific risks for the worker himself, his colleagues or the users,

these being a clearly preventive measure.”

“Of course the result of these tests has to be known by the employer because

otherwise it is impossible to implement preventive measures in order to separate

those infected workers to prevent the spread of the virus.”

“This knowledge of the results of the tests by the employer is legitimized

based on the provisions of article 22 of the aforementioned law on the prevention of occupational risks.

b) Inform if they had approved a Specific Occupational Risk Prevention Plan before

the Coronavirus. Inform with what entity and with what modality of prevention of risks la-

health and safety of its personnel is covered, and paper that at the date of

the analyzes were being carried out by the Occupational Risk Prevention Service

(SPRL)

He responded that in April 2020, the City Council with most of its services closed

to the public and its employees confined to their homes, made the decision due to the obligation

face-to-face work and direct contact with elderly users, especially vulnerable

necessitated by carrying out virus detection tests in the aforementioned Department.

“In this very particular context, a specific prevention plan was not necessary, since to

detect contagion in those asymptomatic people, this type of analytical tests

They were the only possible measure at such a critical moment.”

Regarding the SPRL, he reports that it is carried out by the company CUALTIS SL, and that it proceeds

made it possible to carry out an evaluation of risks of exposure to viruses in the different centers, as

that face-to-face activity was recovering in them.

At the time of the reported events, there was no prevention plan against COVID

given the unforeseen extraordinary nature of the pandemic

Likewise, to point out with respect to the procedure that is currently followed in the preparation

of PCR tests, which offers the possibility to people who have had contact

with a partner who is positive after an antigen test or PCR of

workplace and working hours. The person who understands that he is in those

circumstances you must inform your manager, and request to undergo the test in

our health department. From the Department of Health they take the following

data, to send them to the HCB clinic: - Name and surnames. - Telephone number (reachable). - Co-

electronic mail. And, you are told that the HCB clinic will contact them

to give them an appointment and do the PCR. Regarding the result, it is communicated to the email

that the worker gives to HCB, and it is sent to them by means of a private password.

If it is positive, the worker must notify their supervisor, contact

contact with the public health service, and refer the sick leave to human resources as soon as possible.

dad.

Provide a copy of "ASSESSMENT OF RISK OF EXPOSURE TO CORONAVIRUS" edition

initial 03/25/2020, last update 06/11/2020, to Calp City Council, Social Welfare

carried out based on the exceptional circumstances due to the state of alarm decreased

ted in Royal Decree 463/2020 of 03/14 and its derived regulations. In the tasks to

evaluating and in a job, the aforementioned home assistant or assistant, with tasks of

care for sick and disabled elderly people. Other positions are also valued

as office or concierge staff in customer service.

Provides a classification table in three ranges of risk scenarios corona exposure

viruses in the workplace. As relevant aspects, it could be meant that they contain

general measures applicable in work centers in the event that a

worker began to have symptoms compatible with the disease, and the associated process

do that includes “immediate contact with the telephone enabled for it by the community

autonomous or corresponding health center, and, where appropriate, with the corresponding services.

occupational risk prevention services, and more specific measures for the healthcare sector.

home treatment" in accordance with the provisions of the Technical Document for the management

home of COVID-19 published by the Ministry of Health of the Government of Spain

(version March 17, 2020), for which practically the same is foreseen, that in case

If they present “respiratory symptoms, they should not go to work. They should consult

health services to carry out an individualized assessment of the relevance of the

continuity of their work activities.”, adding that_

“-If it is confirmed that the assistant has tested positive for coronavirus, the company will be the

responsible for communicating it to the users they have attended or to their families. Ade-

Furthermore, they must establish communication with the users of the service with whom said assistant

liar has been in contact during the last 14 days”

“General measures for the PROTECTION OF THE HEALTH OF PERSONS” are also foreseen.

NAL ASSISTANCE TO USERS AFFECTED BY CORONAVIRUS”

“4.4. Rules of action if symptoms of the disease appear If the symptoms appear

pray at home:

Any worker who presents symptoms compatible with the disease will not go to the

work center, will communicate it to the company and will contact the services of

health, following the recommendations indicated. Keep the company informed

of evolution.

The possible presence of workers who have had close contact should be assessed.

I disagree with this worker, considering as close contact any person who

has been in the same place as a case, at a distance of less than 2 meters and for

more than 15 minutes. The period to be considered will be from 2 days before the onset of symptoms

until the moment in which the case is isolated. Close contacts of confirmed cases

two will carry out home quarantine for 14 days from the date of last contact with

the case, following up by the Prevention Service.

c) Information that was provided to the personnel on the treatment of the data related

with the blood test, and communication of results, whose ends are contained in the

article 13 of the RGPD. They should consider that in the budget they received from the laboratory

river figured and they knew

-which would have to be provided along with the list of workers, "a central mail-

lyse of the company where to send the results “

-that “workers should know that a copy of said analysis will be sent to the management

tion of the company.”

-that "If any worker does not agree that said results be communicated to

the company must state it at the time of the blood draw, providing a

email where to communicate the result.

Responds that "information to those affected about the processing of personal data

staff was provided by the Laboratory and all those who underwent the test signed their

consent with full knowledge of the legal requirements."

a) What was the purpose of the respective Department knowing the complete analysis, together

to your name and surnames and it was decided to provide your e-mail to the laboratory, and if you did not oppose

so by the City council reasoning to this request of the laboratory. Reason if it did not exist

another option that did not include that communication to the Department so as not to disseminate results data.

two as in this case, negative.

He answers that the purpose of the Department knowing the results of the tests is so

obvious as well as justified since it was about verifying if there was any infected employee in

in order to implement all prevention measures. The objective of the test was to

ensure the safety of employees and users, being "the sole purpose of the test

provide information to the City Council to avoid risks to people. And considering

lack of staff at the time, it is clear that there was no other option, given

that the Department assumed the responsibility of guaranteeing the safety of the workers and

users".

b) If the Protection Delegate intervened in the design of the data processing process

of data, report made. If you didn't intervene, why didn't you do it?

They point out that he did not intervene in the decision because it was not considered necessary and also because

the confinement situation prevented working normally on those dates.

c) Explanation of whether any optional criteria were contemplated for carrying out the tests

diagnostic tests for the detection of COVID-19 to the referred personnel, to carry out the

blood test for COVID 19, for the serological determination of the levels of anti-

IgG–IgM bodies

It indicates that the optional criterion followed was the one recommended by the contracted laboratory.

taking into account that at that time PCR tests were the exception due to their

shortage and antigen tests were practically non-existent. “The National Service itself

National Health, in April 2020, did not have a clear protocol for the preventive detection of the

illness."

d) If there was any positive among the tests carried out, and what was the procedure

to continue, once the results were obtained, whether negative or positive, considering

that it was an antibody detection test that reveals that the virus has been passed, and

reason for which no other type of test was carried out and it was specified in this one.

He replied that the tests carried out did not show any positive contagion, "although in

In some cases, they did reveal traces of previous contagion in a worker“”. “It was treated

of a measure adopted in extremis, with the sole purpose of isolating those workers

that could spread the disease.

“No protocol had to be applied because no active contagion was detected.”

e) Based on the compliance measures (art 25 of the RGPD), a copy of the registration is requested.

documentation that must be available before carrying out data processing, in

regarding the risks that data processing entails for the rights of individuals.

methods, means and method of treatment to effectively apply the principle of confidentiality.

cialidad in the concrete examination of extraction of blood samples for the purpose that

It was intended.

Doesn't respond.

f) Based on the compliance measures (art 5.2 of the RGPD documentation that supports

I specify the legitimate basis of treatment that they consider is the one that concurred for the

performance of the tests and communication to the Councillor, considering the purpose of the co-

school, the context, and the willingness to submit or not to it.

Doesn't respond.

g) Copy of the record of treatment activity (art 30 RGPD)

Doesn't respond.

h) If, after this claim, measures have been taken to take into account to

that facts such as those denounced are not repeated, explain which ones.

Doesn't respond.

TENTH: Of the actions carried out in this procedure and the

documentation in the file, the following have been accredited:

PROVEN FACTS

FIRST: On 04/11/2020 the Department of Social Services of the City Council of

Calp “proposed workers in the social services area to voluntarily submit to

a COVID-19 antibody test. There is no document of the same, accepting

the claimant be tested, which was carried out at the City Hall offices the morning

from 04/15/2020. It should be noted that the Calp Town Hall is followed by the same

claim file Ps/00364/2021.

The test carried out on the claimant and 24 other employees, on 04/15/2020, consisted of

a blood test for COVID 19, for the serological determination of the levels of

Ig G – Ig M antibodies, recommended and contracted with an external laboratory:

LABORATORIOS GONZÁLEZ S.L, (LG).

Some of the employees who were tested provide services in

home help in contact with vulnerable people.

SECOND: As a way of articulating the consent to communicate the results to the

employees who practice the tests and in general, the process, and that serves as

procedure adopted in this process, the City Council of Calpe accepted some

conditions, which LG presented to him, reflected in the document ANALYTICAL BUDGET

COVID 19, which indicated the following requirements:

- “There must be a list of workers in excel format in which they de-

Ben to include: Full name of the worker; ID; Date of Birth; phone and a

centralized mail of the company where to send the results.

- Workers must know that this laboratory will send a copy of said

analysis to the management of the company, so that it has proof of the state of health

of its workers in relation to a possible infection by COVID 19.

If any worker does not agree that said results be communicated to the company,

sa, you must state it at the time of blood extraction, providing an email

email where to communicate the result.

In development of this last condition of communication of results data, there is no

that the claimant be informed by neither of the two parties, City Council or Laboratory,

and this, expressly stated that it was not informed of such communication in the results

analysis, arguing the Laboratory that the day of sampling is said to the

staff that is “gathered in a room, that the results will be sent to the Councilor on duty

and to the interested party, none showing their verbal or written position to carry out the test and to

communicate the results”.

THIRD: The claimant states in her claim that she receives the results of the analysis
policy in her email with a copy to her boss, Councilor and the first thing she did was ask
explanations to “her company”, stating that no one had informed her of this. After,
states that he went to the Laboratory by e-mail asking about the facts, indicating in
copy of the email you provide, dated 04/16/2020 “you do not have my consent to give this
very personal information to no one but me”.

From reading the claim, there is no proof that the claimant tested positive for CO-
VID 19 in the test, does not state it, and what was stated by the Calp City Council in
tests is also deduced as well, indicating that there were no positives.

FOURTH: It is not accredited or derived from the "budget", nor from the manifestations of the
parties, that LG had the email of the claimant, to send the results of
the tests, but if from an email from the Calp City Council arranged for this purpose. Of the
manifestations of this and of LG (he stated in tests that with the results, it is positive
or negative, the person in charge of the City Council is informed by email),

It follows that the claimant gets to know her analytics by sending it by e-mail that
the City Council does on 04/15/2020 in the afternoon, although the claimant tells the
Laboratory that “has sent the results of the tests to me and my boss”, is not dis-
letter, because the City Council in its allegations states that it transferred to the Laboratory:

“Names of workers who were going to take the test, DNI, and email of
contact, after previously requesting the data. As the email of the person in charge,
that of the Delegate Councilor of the area was included “. Of these manifestations, he did not provide documentation.
I'm sorry to prove it.

FIFTH: The claimant makes a complaint to the Laboratory, an entity dedicated to providing

health services in the branch of clinical analysis, answering this: "the per-

The person contracting the service must have proof of the result, in case there is any possible case.

it is necessary to take the pertinent measures, in the event that the worker is unconscionable.

patient and being the period of infecting people continues to go to work. By

For this reason, this type of analysis is sent to the person responsible for the service." , although in this

course the result was negative, he proceeded to transfer to the City Council the result of the

analysis of the claim.

SIXTH: The City Council of Calp refers to the Department of Social Services as the

responsible for the service of the personnel who carried out the analysis, and in evidence provided a copy

of "ASSESSMENT OF RISK OF EXPOSURE TO CORONAVIRUS" carried out by the Ser-

occupational risk prevention service with which occupational risks are covered,

initial 03/25/2020, area, or department of "Social Welfare", referring, among others, to the person

related personnel to whom the analytical test was submitted. In addition to not contemplating a

type of preventive analysis without symptoms, none of its sections contemplate that in

case of any positive in an employee, case that has not been the object of the claim-

tion, but it was negative, the complete result of the analysis must be communicated to the

company, or a Councilor responsible for the area of activity in which it falls. If you point

that the evaluation foresees the participation of prevention services as a service of

contact in case of positives that assesses and monitors the quarantines.

SEVENTH LG stated in evidence that the people he performs the tests on

verbally reports the tests to be carried out and their purpose, adding

informed consent with the patient was supposed to be carried out by the City Council

uncle of Calp

FOUNDATIONS OF LAW

Yo

Article 4.15 of the RGPD defines health data as “personal data related to the

physical or mental health of a natural person, including the provision of health care services

that reveal information about their state of health”.

Article 4.11 of the RGPD indicates: “consent of the interested party”: any expression of vo-

free, specific, informed and unequivocal will by which the interested party accepts, either

By means of a declaration or a clear affirmative action, the processing of personal data that

concern you;”

In this case, it is about the health of Calp City Council employees, people who

provided their services in home help that could be in contact with the virus and vo-

voluntarily come to perform the blood test offered free of charge by the City Council.

treatment to employees, through a private clinical analysis company.

The processing of personal data in health emergency situations follows

being, in accordance with the personal data protection regulations (RGPD and

LOPDGDD), so all its principles are applied, contained in article 5 of the

RGPD, and among them the treatment of personal data with legality, loyalty and

transparency, limitation of the purpose (in this case, to detect a possible contagion for

not come to work, and facilitate contact tracing and follow-up of positive cases,

probable or possible cases of COVID-19), principle of limitation of the term of conservation, and by

Of course, and special emphasis must be placed on it, the principle of data minimization.

Regarding this last aspect, express reference must be made to the fact that the data processed will have

to be exclusively those limited to those necessary for the intended purpose, without

may extend said treatment to any other personal data not strictly

necessary for said purpose, without convenience being confused with necessity,

because the fundamental right to data protection continues to be applied normally,

without prejudice to the fact that, as has been said, the data protection regulations themselves

establishes that in emergency situations, for the protection of interests

essential public health and / or vital of natural persons, if applicable, may

process the health data necessary to prevent the spread of the disease that has

caused the health emergency.

The lawful processing of personal data must have a legal basis that falls within the

any of the cases provided for in article 6.1 of the RGPD.

The personal data protection regulations (Regulation (EU) 2016/679 of the Par-

European and Council declaration of 04/27/2016, regarding the protection of natural persons

with regard to the processing of personal data and the free circulation of these

data and repealing Directive 95/46/EC (General Data Protection Regulation)

data, RGPD) contains the necessary safeguards and rules to legitimately allow the

processing of personal data in situations, such as the present one, in which there is an emergency

general health agency. When applying said precepts foreseen for these

in the RGPD, in accordance with the applicable sectoral regulations in the field of

public health, considerations related to data protection -within the limits of

limits provided by law - should not be used to hinder or limit the effectiveness

of the measures adopted by the authorities, especially the health authorities, in the fight against

the epidemic, since the personal data protection regulations already contain a re-

regulation for such cases that reconciles and weighs the interests and rights in contention

for the common good.

In principle, personal data should only be processed on the basis of vital interest

of another natural person when the processing cannot be manifestly based on a

different legal basis. (recital 46)

“As a legal basis for lawful processing of personal data, notwithstanding that

There may be other bases, such as compliance with a legal obligation, art.

6.1.c) RGPD (for the employer in the prevention of occupational risks of its employees)-,

The RGPD explicitly recognizes the two mentioned: mission carried out in the public interest (art.

6.1.e) or vital interests of the interested party or other natural persons (art. 6.1.d).”

However, for the treatment of health data it is not enough that there is a

legal of art. 6 GDPR, but in accordance with art. 9.1 and 9.2 RGPD there is a

circumstance that lifts the prohibition of treatment of said special category of data

(including health data).

Thus, article 9 of the RGPD, after establishing in its section 1 a general prohibition for the

treatment of this data, contemplates, its section 2, a series of exceptions in which

the treatment of the data is possible, when one of the following circumstances occurs,

(only those related to the case of health surveillance control or

Medical diagnostic).

the treatment

"1 . are prohibited

of personal data revealing ethnic origin or

racial, political, religious or philosophical convictions, or trade union membership,

and the processing of genetic data, biometric data aimed at identifying

unambiguously to a natural person, data relating to health or data relating to sexual life or

sexual orientation of a natural person.

2. Section 1 shall not apply when one of the following circumstances occurs:

“a) the interested party gave his explicit consent for the treatment of said personal data.

with one or more of the specified purposes, except when Union Law or

of the Member States provides that the prohibition referred to in paragraph 1 does not

it can be raised by the interested party;

[…]”

c) the processing is necessary to protect the vital interests of the data subject or of another person.

physically, in the event that the interested party is not capable, physically or legally,

to give your consent;

[…]”

g) the processing is necessary for reasons of essential public interest, based on the

Law of the Union or of the Member States, which must be proportional to the objective per-

followed, essentially respect the right to data protection and establish measures

adequate and specific to protect the interests and fundamental rights of the interested party.

do;

h) the treatment is necessary for the purposes of preventive or occupational medicine, evaluation of the

worker's ability to work, medical diagnosis, provision of assistance or treatment

of a health or social nature, or management of health and social assistance systems and services.

on the basis of the law of the Union or of the Member States or by virtue of a

contract with a healthcare professional and without prejudice to the conditions and guarantees contained

pladas in section 3;

i) the treatment is necessary for reasons of public interest in the field of public health.

such as protection against serious cross-border threats to health, or to gain

guarantee high levels of quality and safety of health care and medicines.

medical products or products, on the basis of the Law of the Union or of the States

members that establishes adequate and specific measures to protect the rights and liberties

liberties of the interested party, in particular professional secrecy"

[…]"

3. The personal data referred to in section 1 may be processed for the aforementioned purposes.

in section 2, letter h), when your treatment is carried out by a professional subject to the

obligation of professional secrecy, or under your responsibility, in accordance with the Law of

the Union or of the Member States or with the standards established by the bodies

competent nationals, or by any other person also subject to the obligation to

secrecy in accordance with the law of the Union or of the Member States or the rules

established by the competent national bodies."

For its part, the LOPDGGD, in its article 9, indicates:

"1. For the purposes of article 9.2.a) of Regulation (EU) 2016/679, in order to avoid

discriminatory situations, the consent of the affected party alone will not suffice to lift the

Prohibition of data processing whose main purpose is to identify your ideology,

union membership, religion, sexual orientation, beliefs, or racial or ethnic origin.

The provisions of the preceding paragraph will not prevent the processing of said data under

of the remaining cases contemplated in article 9.2 of Regulation (EU) 2016/679,

when so appropriate.

2. The data processing contemplated in letters g), h) and i) of article 9.2 of the

Regulation (EU) 2016/679 based on Spanish law must be covered by

a regulation with the force of law, which may establish additional requirements related to its

security and confidentiality.

In particular, said rule may protect the processing of data in the field of health

when required by the management of health and social care systems and services,

public and private, or the execution of an insurance contract to which the affected party is a party."

In addition, it dedicates its seventeenth additional provision to the data processing of

health, in the following terms: "Seventeenth additional provision. treatments of

health data.

1. They are covered by letters g), h), i) and j) of article 9.2 of the Regulation (EU)

2016/679 the processing of data related to health and genetic data that is

be regulated in the following laws and their development provisions:

[…]"

a) Law 14/1986, of April 25, General Health.

b) Law 31/1995, of November 8, on the Prevention of Occupational Risks.

c) Law 41/2002, of November 14, regulating basic patient autonomy and

of rights and obligations regarding information and clinical documentation.

d) Law 16/2003, of May 28, on cohesion and quality of the National Health System. and)

Law 44/2003, of November 21, on the organization of health professions.

[…]"

g) Law 33/2011, of October 4, General Public Health. "

That is, the RGPD and the LOPDGDD legitimize the processing of health data, if there were no

explicit consent of the interested party, if any of the aforementioned assumptions concur,

adding, that in addition, like any treatment, it must be adjusted to a legal basis

legitimizing and comply with the general principles established in article 5 of the aforementioned RGPD.

The claimant acknowledges that she voluntarily chose to undergo the extraction test and

blood test, therefore there was consent in itself for the practice of the test.

In addition, there is the case that a health care is produced to which the re-

claimant according to the scheme of article 9.2.h) RGPD. However, submit to

this test does not lead per se to the results in the form of transfer of the communication of

the analysis carried out, are communicated to the contracting party, City Council, unless expressly

there would be specific and informed consent, and explicit of said extreme, circum-

tance that motivates the imputation to LG of the infringement of article 5.1.f) of the RGPD.

II

The defendant is an entity that processes health data, in addition, article 4 of the RGPD defines

ne:

Article 4 of the GDPR defines:

“2) «processing»: any operation or set of operations performed on data

personal data or sets of personal data, whether by automated procedures or not,

such as the collection, registration, organization, structuring, conservation, adaptation or

modification, extraction, consultation, use, communication by transmission, diffusion or

any other form of authorization of access, collation or interconnection, limitation, suppression or

destruction;

[…]”

7) “controller” or “controller”: the natural or legal person, authority

public, service or other body that, alone or jointly with others, determines the ends and means

of the treatment; if the law of the Union or of the Member States determines the purposes and

means of treatment, the person responsible for treatment or the specific criteria for its

appointment may be established by the Law of the Union or of the Member States;

8) “in charge of the treatment” or “in charge”: the natural or legal person, authority

public, service or other body that processes personal data on behalf of the person responsible for the

treatment;"

The legal position of LG that contracts or of the Calpe City Council that

accepts the terms proposed by the Laboratory, the "performing of the blood analysis of the

COVID 19, for serological determination of Ig G – Ig M antibody levels,”

According to the nature of the data transmission, it must be differentiated whether it is

a data communication or the provision of a service in the name and on behalf of Ayun-

treatment to which the service is provided. For LG to be considered in charge of the

treatment, it should limit its activity to the terms provided in article 28 of the RGPD,

treating the data on behalf of the person in charge, in accordance with their instructions, and complying with

gives the benefit of returning the data or destroying it. LG, as a provider of assistance services

health care must be considered a health center, defined in article 3 of the Law

41/2002 of 11/14, basic regulation of patient autonomy and rights and obligations

information and clinical documentation, such as "the organized set of

professionals, facilities and technical means that carry out activities and provide services

to take care of the health of patients and users”.

Article 14.2 of the aforementioned Law provides that "Each center will file the records

clinics of their patients, whatever the paper, audiovisual, computer or

another type in which they are recorded, in such a way that their safety, their correct

conservation and recovery of information”, adding article 17.1 of the same

Law that "Health centers have the obligation to keep the clinical documentation

in conditions that guarantee its correct maintenance and safety, although

necessarily in the original support, for the due assistance to the patient during the

time appropriate to each case and, at least, five years from the date of discharge

of each healthcare process.

Consequently, together with the possible treatment that could derive from the relationship

between the LG and the entity requesting the service, Law 41/2002 imposes on

the former the obligation to process the data to be included in the history

patient's clinic, obviously exceeding said treatment of "the instructions of the

responsible for the treatment", which determines the impossible application of the legal position

of the figure of the person in charge of treatment, and the impossibility of considering that LG as

health center, or provider of such services, is a mere person in charge of the treatment of the

entity on whose behalf it performs clinical analyses.

For this reason, LG should be considered responsible for the treatment it carries out,

derived from the clinical analyzes carried out.

III

LABORATORIOS GONZÁLEZ, S.L. the alleged infringement of article 5.1.f) of the

RGPD that indicates:

"Personal data will be:

"processed in such a way as to guarantee adequate security of the personal data"

them, including protection against unauthorized or unlawful processing and against their loss,

accidental destruction or damage, through the application of technical or organizational measures

appropriate (“integrity and confidentiality”).”

The LOPDGDD states in its article 5:

"1. Those responsible and in charge of data processing as well as all persons

that intervene in any phase of this will be subject to the duty of confidentiality to the

referred to in article 5.1.f) of Regulation (EU) 2016/679”

It is credited that LG imposed in its conditions and the City Council did not deny it, the transfer or

communication of the results of the analytical tests, without specifying whether positive or negative

tives, to the City Council, and that such communication is carried out on 04/15/2021, communicating it

the Calpe City Council, which had received it from LG, to the claimant and a copy to her Boss,

Councilor for Social Services.

The duty of secrecy of the results, which is part of the clinical history, refers to several

articles of Law 41/2002 already mentioned in the following terms:

- The explanatory statement refers to confidentiality, related to relative intimacy

to health-related information.

-article 7:”1. Everyone has the right to respect for the confidentiality of the

data referring to your health, and that no one can access them without prior authorization

protected by law.

2. The health centers will adopt the appropriate measures to guarantee the rights to

referred to in the previous section, and will draw up, when appropriate, the rules and procedures

protocolized procedures that guarantee legal access to patient data”

- The terms in which access to the clinical history is configured do not fit someone

that he is not the owner of the data, the only one to whom his own results belong.

“This duty of secrecy is essential in today's increasingly complex societies,

in which advances in technology place the person in risk areas for

protection of fundamental rights, such as privacy or the right to protection of

the data collected in article 18.4 of the EC. Indeed, this precept contains a

“Guarantee institute of the rights to privacy and honor and the full enjoyment of the

rights of citizens which, moreover, is in itself a right or freedom

fundamental, the right to liberty against potential attacks on dignity and

the freedom of the person from an illegitimate use of the mechanized treatment of

data” (STC 292/2000). This fundamental right to data protection pursues

guarantee that person a power of control over their personal data, over its use and

destination” (STC 292/2000) that prevents situations that threaten the

dignity of the person, “that is, the power to protect their private life from publicity

not dear” (National High Court Judgment, dated 09/14/2001).

For the rest, communicate negative results, with the complete analysis made to the City Council.

treatment, is neither necessary nor proportional, proving the infraction.

Article 83.5 of the RGPD indicates:

IV

"5. Violations of the following provisions will be sanctioned, in accordance with

section 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of

of a company, of an amount equivalent to a maximum of 4% of the turnover

global annual total of the previous financial year, choosing the highest amount:

a) the basic principles for the treatment, including the conditions for the consent

tion under articles 5, 6, 7 and 9;”

Article 58.2 of the RGPD provides: "Each control authority will have all the si-

following corrective powers indicated below:

d) order the person in charge or in charge of the treatment that the operations of

treatment comply with the provisions of this Regulation, where appropriate, in accordance with

a specified manner and within a specified time;”

i) 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

particular;"

Regarding the measures adopted after the initial agreement, the respondent points out that now:

“ The patient who comes to have a sample taken is informed by his company

of the purpose and treatment of said analysis and that it can state that the result is

send only to him, and not to the contracting company at the time of taking the sample”.

It is not appropriate, since the claimant is the controller of the treatment that leads to

out doing the tests and guarding the data. The Laboratory is the one that must provide

tion the information of the data collection, and the results of the analytics. As for the

communication of the results through the complete report of the test, it does not have to establish

rar by default any manifestation of the interested party, but that the data in the contents are

they have to send only to him. A different matter is to communicate the positive ones, compared to what is not

It is not necessary to send the complete results, being able to establish other means that do not

understand the full analysis.

The LOPDGDD establishes, for prescription purposes, in article 72, the following:

"1. Based on the provisions of article 83.5 of Regulation (EU) 2016/679

are considered very serious and will prescribe after three years the infractions that suppose a

substantial violation of the articles mentioned therein and, in particular, the following

you:

a) The processing of personal data violating the principles and guarantees established

in article 5 of Regulation (EU) 2016/679.

SAW

The determination of the sanction that should be imposed in this case requires observing

the provisions of articles 83.1 and 2 of the RGPD, precepts that, respectively, have

ne the following:

"1. Each control authority will guarantee that the imposition of administrative fines

you go under this article for the infractions of these Regulations indicated

in sections 4, 9 and 6 are in each individual case effective, proportionate and dissuasive.

sorias."

"two. Administrative fines will be imposed, depending on the circumstances of each

individual case, in addition to or as a substitute for the measures referred to in article

58, section 2, letters a) to h) and j). When deciding to impose an administrative fine and its

amount in each individual case shall be duly taken into account:

a) the nature, seriousness and duration of the offence, taking into account the nature

origin, scope or purpose of the treatment operation in question, as well as the number

of interested parties affected and the level of damages they have suffered;

b) intentionality or negligence in the infringement;

c) any measure taken by the controller or processor to pa-

allocate the damages suffered by the interested parties;

d) the degree of responsibility of the person in charge or of the person in charge of the treatment,

gives an account of the technical or organizational measures that have been applied by virtue of the articles

titles 25 and 32;

e) any previous infringement committed by the person in charge or the person in charge of the treatment;

f) the degree of cooperation with the supervisory authority in order to remedy the

infringement and mitigate the possible adverse effects of the infringement;

g) the categories of personal data affected by the infringement;

h) the way in which the supervisory authority became aware of the infringement, in particular

Determine whether the controller or processor reported the breach and, if so, to what extent;

i) when the measures indicated in article 58, section 2, have been ordered

previously against the person in charge or the person in charge in question in relation to the same.

As a matter of course, compliance with said measures;

g)

adherence to codes of conduct under Article 40 or to certification mechanisms

certification approved in accordance with article 42, and

k) any other aggravating or mitigating factor applicable to the circumstances of the case,

such as financial benefits obtained or losses avoided, directly or indirectly.

you, through the infraction."

Within this section, the LOPDGDD contemplates in its article 76, entitled "Sanctions and

corrective measures":

"1. The penalties provided for in sections 4, 5 and 6 of article 83 of the Regulation

(EU) 2016/679 will be applied taking into account the graduation criteria established in

section 2 of the aforementioned article.

2. In accordance with the provisions of article 83.2.k) of Regulation (EU) 2016/679

may also be taken into account:

a) The continuing nature of the offence.

b) The link between the activity of the offender and the performance of treatment of

personal information.

c) The profits obtained as a result of committing the offence.

d) The possibility that the conduct of the affected party could have induced the

violation.

e) The existence of a merger by absorption process subsequent to the commission of the

infringement, which cannot be attributed to the absorbing entity.

f) Affectation of the rights of minors.

g) Have, when not mandatory, a data protection delegate.

h) Submission by the person in charge or person in charge, on a voluntary basis,

alternative conflict resolution mechanisms, in those cases in which

there are disputes between them and any interested party.

3. It will be possible, complementary or alternatively, the adoption, when appropriate,

of the remaining corrective measures referred to in article 83.2 of the Regulation

(EU) 2016/679."

For the assessment of the sanction, the following factors are considered:

-83.2.a) of the RGPD, "the nature, seriousness and duration of the infringement, taking into account

the nature, scope or purpose of the treatment operation in question, as well as

such as the number of interested parties affected and the level of damages they have suffered.

suffered"

The consideration of the process, as not individual but that affects the same operations

treatment of the group to which the tests were performed, as the praxis of community

load the results.

-83.2.g) of the RGPD "the categories of personal data affected by the in-

fraction” This is special category data, health.

-76.2b) “The link between the activity of the offender and the performance of treatment of personal data.”, since it exercises a type of habitual services in which it charges high relevanishes data processing.

As a consequence, with the elements that are available, the sanction is quantified in €20,000.

In view of the foregoing, the following is issued

MOTION FOR A RESOLUTION

That the Director of the Spanish Data Protection Agency sanction

LABORATORIOS GONZÁLEZ, S.L., with NIF B03997434 for an infringement of article 5.1.f) of the RGPD, typified in article 83.5 a) of the RGPD, and in article 72.1.a) of the LOPDGDD, with a fine of €20,000 (twenty thousand euros).

Likewise, in accordance with the provisions of article 85.2 of the LPACAP, informs that you may, at any time prior to the resolution of this procedure, carry out the voluntary payment of the proposed sanction, which will entail a reduction of 20% of the amount of the same. With the application of this reduction, the sanction would be established at 16,000 euros, and its payment will imply the termination of the process. The effectiveness of this reduction will be conditioned to the withdrawal or Waiver of any administrative action or recourse against the sanction.

In case you chose to proceed with the voluntary payment of the amount specified above, in accordance with the provisions of article 85.2 cited, must make it effective

by depositing it in the restricted account number ES00 0000 0000 0000 0000 0000 open to

name of the Spanish Agency for Data Protection in the bank

CAIXABANK, S.A., indicating in the concept the reference number of the procedure

that appears in the heading of this document and the cause, by voluntary payment, of

reduction in the amount of the penalty. Likewise, you must send proof of admission to the

Subdirectorate General for Inspection to proceed to close the file.

By virtue thereof, you are notified of the foregoing, and the procedure is made clear to you.

so that within TEN DAYS he can allege whatever he considers in his defense and

present the documents and information that it considers pertinent, in accordance with the

article 89.2 of the LPACAP.

RRR

INSPECTOR/INSTRUCTOR

>>

SECOND: On March 15, 2022, the claimed party has proceeded to pay

of the sanction in the amount of 16,000 euros making use of the reduction foreseen in

the motion for a resolution transcribed above.

THIRD: The payment made entails the waiver of any action or resource in via

against the sanction, in relation to the facts referred to in the

resolution proposal.

FOUNDATIONS OF LAW

Yo

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter RGPD), grants each control authority and as established in articles 47 and 48.1 of the Law Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: “The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions regulations issued in its development and, as long as they do not contradict them, with a subsidiary, by the general rules on administrative procedures.”

II

Article 85 of Law 39/2015, of October 1, on Administrative Procedure Common to Public Administrations (hereinafter LPACAP), under the rubric "Termination in sanctioning procedures" provides the following:

"1. Started a sanctioning procedure, if the offender acknowledges his responsibility, the procedure may be resolved with the imposition of the appropriate sanction.

2. When the sanction is solely pecuniary in nature or it is possible to impose a pecuniary sanction and another of a non-pecuniary nature, but the inadmissibility of the second, the voluntary payment by the alleged perpetrator, in any time prior to the resolution, will imply the termination of the procedure, except in relation to the replacement of the altered situation or the determination of the compensation for damages caused by the commission of the infringement.

3. In both cases, when the sanction is solely pecuniary in nature, the competent body to resolve the procedure will apply reductions of, at least,

20% of the amount of the proposed sanction, these being cumulative with each other.

The aforementioned reductions must be determined in the notification of initiation

of the procedure and its effectiveness will be conditioned to the withdrawal or resignation of

any administrative action or recourse against the sanction.

The reduction percentage provided for in this section may be increased

regulations."

According to what was stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: TO DECLARE the termination of procedure PS/00323/2021, of

in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to LABORATORIOS GONZÁLEZ,

S.L.

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 as prescribed by

the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of the Public Administrations, the interested parties may file an appeal

contentious-administrative before the Contentious-administrative Chamber of the

National Court, in accordance with the provisions of article 25 and section 5 of

the fourth additional provision of Law 29/1998, of July 13, regulating the

Contentious-Administrative Jurisdiction, within a period of two months from the

day following the notification of this act, as provided in article 46.1 of the

aforementioned Law.

Sea Spain Marti

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