

□ File No.: EXP202103915

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 8, 2022, the Director of the Spanish Agency for
Data Protection agreed to initiate sanction proceedings against CLUB CORNELLÁ
ATLETIC, S.C.P. (hereinafter the claimed party). Notified the initiation agreement and
After analyzing the allegations presented, on March 2, 2023, the
proposed resolution that is transcribed below:

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File No.: EXP202103915

PROPOSED RESOLUTION OF SANCTION 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 09/17/2021, filed
claim before the Catalan Data Protection Agency that transfers with entry into the
Spanish Data Protection Agency on 09/21/2021. The claim is directed against
CLUB CORNELLÁ ATLETIC, S.C.P. with NIF G59338822 (hereinafter, the claimed). The
The reasons on which the claim is based are the following:
The defendant, Club de Atletismo, asks the associates for a form that contains a
"COVID-19 Responsible Statement" requesting health and safety data
vaccination, both for adults and minors, understanding that said

Data requests are contrary to data protection regulations. in the claim

a copy of the disputed forms is provided.

The copy of the two types of copies of the statement (adult or minor), contains

spaces to record as personal data: name, surname, ID, case of

minors: contact telephone number of these as father, mother, legal representative, and

contains the following statement that is translated into Spanish:

“- who does not have symptoms compatible with COVID-19 (fever, cough, respiratory distress, malaise, diarrhea) or with any other infectious picture.

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-That he has not tested nor is he positive for SARS COV 2 during the previous 14 days.

-That they have not been in close contact with confirmed positives or symptoms compatible-tible in the previous 14 days.

-That the vaccination calendar is up to date.” (This is for minors only).

I compromise to:

-"Inform the club of the appearance of any case of COVID-19 in the family environment (from child) and notify the technical manager in the event of any incident.

-Monitor my son's condition daily-to take the temperature before leaving home to go to school. If you have a fever or present any of the symptoms compatible with COVID-19, will not attend slopes” (in the case of minors).

-"Do not attend slopes in the event that you have a fever or present any of the symptoms compatible with COVID-19.”

The footer of the signature refers to a date of record of the declaration referring to 2020 in the model.

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5/12, of Protection of Personal Data and guarantee of digital rights (hereinafter LOPDGDD), on 11/3/2021, said claim was transferred to the defendant so that proceed to its analysis and inform this Agency within a month of the actions carried out to adapt to the requirements established in the regulations for the protection of data.

The transfer of the claim, which was carried out in accordance with the regulations established in the Law 39/2015, of 1/10, of the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP) by electronic notification, was not collected by the responsible, within the period of making available, understood as rejected in accordance with the provisions of art. 43.2 of the LPACAP, dated 11/14/2021, as stated in the certificate that works in the file.

Although the notification was validly made by electronic means, assuming that carried out the procedure in accordance with the provisions of article 41.5 of the LPACAP, under information, a copy was sent by postal mail on 11/15/2021, with no result after the two delivery attempts, and returned to origin for surplus on 12/7/2021.

THIRD: The General Sub-directorate of Data Inspection proceeded to carry out preliminary investigation actions to clarify the facts in question, in by virtue of the functions assigned to the control authorities in article 57.1 and of the powers granted in article 58.1 of Regulation (EU) 2016/679 (General Regulation of Data Protection, hereinafter GDPR), and in accordance with the provisions of the Title VII, Chapter I, Second Section, of the LOPDGDD was requested on 01/24/2022 to the reclaimed:

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"1. Purpose for which information related to COVID is collected in the declaration responsible attached.

2. Treatments carried out with said information, detailing whether it is automated or kept in some file, kept in a paper file.

3. Legal authorization to carry out said treatments.

4. Risk analysis of files containing medical data related to COVID.

5. Number of records contained in these files, relating to minors and relating to adults.

6. Detail if data is processed exclusively from partners or third parties who sign up to competitions or access the club's facilities.

7. Information that is provided to the interested parties as indicated in article 13 of the Regulation General of Data Protection.

8. Time during which these data are kept".

The defendant, in writing signed 04/01/2022, makes the following statements:

1. Purpose for which information related to COVID is collected in the responsive statement saber.

Information is collected at the request of the TERRITORIAL CIVIL PROTECTION PLAN OF CATALONIA-GENERALITAT DE CATALUNYA, PROCICAT (acronym for Plan of Civil Protection of Catalonia) that materializes later with the regulations of the CATALAN ATHLETICS FEDERATION.

Attached:

- Partial copy, only the title page of: "Sectoral Plan for the use of sports facilities",

"Department of the Presidency", "document approved by the TECHNICAL COMMITTEE OF THE PROCICAT FOR EMERGENCIES ASSOCIATED WITH EMERGENCY COMMUNICABLE DISEASES

PEOPLE WITH HIGH RISK POTENTIAL, of 10/28/2020". He accompanies him for a few hours.

jas, begin on page 66, of a pamphlet (in the footer it indicates that it summarizes

the criteria to be taken into account for the use of sports facilities.

He refers "In the stage of resumption of sports facilities-COVID 19" that with "the

stage back to the sports facilities", the "ACTION PLAN FOR THE

LACK OF CONFINEMENT OF SPORTS IN CATALONIA (General Secretary for Sport and

physical activity SGEAF, June 2020), which includes basic and organizational protection measures

tion to prevent the risk of transmission and favor the containment of infections for the

SARS-COV 2 in the sports sector. This Plan establishes that "the owner of each facility

sport will have to act in accordance with its own contingency plan that contemplates

regulations and prevention protocols to minimize the risks and spread of the pandemic.

mia" "To facilitate this task for the owners and managers of sports facilities, the pre-

This document includes, in a summarized and updated way, the main criteria to be

into account in the use of sports facilities during the resumption stage

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action plan for sports deconfinement in

of COVID-19, based on the “

” (link)

as well as in the

Catalonia

the health regulations of general application”

In the document (link) of the "action plan for the lack of confidence in sports in Catalonia and

The document

”, leads to the pdf of the General Secretary of Sport and Physical Activity,

SGEAF, update, resumption phase, June 2020 and contains its proposal for

the aforementioned Plan. The Plan includes informative and prevention, hygiene and conditioning measures.

facilities and health and safety measures, point 22 of which states:

"It is necessary to warn and inform people who have the will to

access a sports facility, that if you have been in close contact with a per-

If you are affected by COVID-19, even if you have mild symptoms, you should refrain from accessing

the sports facility for a minimum of 14 days, as well as participating in sports activities

vas or physical, and follow the action protocol referred to by your health center. In addition,

each user or worker must make a self-declaration of responsibility certifying

the above points, as well as committing not to go to the center if you have symptoms or are a

close contact.

"Every user and athlete must responsibly declare that in the last 14 days

has not had any symptoms compatible with COVID 19, not having been positive or having

having lived with people who had close contact with infected people

(23)"

27 "Guarantee and certify that the Professionals, monitors, trainers and technicians who work

get off at sports facilities or equipment, as well as those that develop the

economic practice linked to physical activity and sport must be asymptomatic and

whenever the health authorities determine it, they must give a negative CO test.

VID19. “

It appears in the section: "general rules of prevention" "to sports facilities that

The general rules established by the health authorities must be applied.

"People with COVID-19 cannot access the sports facility, those who have

been in close contact or those who present symptoms compatible with the disease”.

"Installation-specific rules: To apply the prevention protocols, you must identify a responsible person. This person will also be the interlocutor with the authority health care when necessary.

"Control of users and workers: any individual user or worker

The operator of the facility must responsibly declare that he does not present any symptoms compatible with COVID-19, not being positive or close contact with an infected person

da"" the person in charge of the installation must adopt the necessary measures to identify the users who have participated in the scheduled activities to ensure traceability in the event that any positive is detected among the participants of the different activities

des

."

In the section "Practice of physical and sports activity" "general criteria for the practice organized physical and sports activity" 5" "People who participate in activities

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organized sports will have to declare responsibly that in the last 14 days have not had any symptoms compatible with COVID-19, have not been positive, Not having lived with people who have been, or having had close contact with them. people affected by it, as well as being obliged to inform them in case of have symptoms or have been positive.

In section 5 "competitions and sporting events" it is indicated: "Any organizer competitions and sporting events must have a protocol that ensures to guarantee the traceability of the participants and athletes avoid the risks of contagion

by COVID-19 and guarantee the measures provided for in this Plan. Also, people

Some participants will have to declare responsibly that in the last 14 days there has not been had any symptoms compatible with COVID-19, has not tested positive, nor has lived with people who have been, nor have had close contact with people infected nas”

"In accordance with DECREE 63/2020, of 06/18, of the new governance of the emergency caused by COVID-19 and the start of the resumption stage in the territory of Catalonia, as well as establishing Resolution SLT/1429/2020, of 06/18, by which Basic protection and organizational measures are adopted to prevent the risk of transmission and favor the containment of the SARS-CoV-2 infection, the General Secretariat of the Sport and Physical Activity has adopted the basic protection and organizational measures as to prevent the risk of transmission and favor the containment of infection by SARS-CoV-2 in the sports sector. For this reason it is indicated that through this annex “incorporated in the ACTION PLAN OF SPORTS LACK OF CONFINEMENT OF CATALUÑA approved by the PROCICAT Technical Committee on 06/13/2020, they are describe the measures adopted, which will be included in the legal instrument tuno”, among which are those referring to health declarations.

It can be seen that the plan does not mention at any point that the health authority recommends of or obliges to make the aforementioned responsible health declarations or any other extent that are included in the aforementioned form.

The aforementioned Decree 63/2020, of 06/18, in its article 5, establishes: "Empower the counselor of Health and the Minister of the Interior, in their capacity as authorities that are members of the Committee of Management of the PROCICAT Action Plan for emergencies associated with diseases emerging communicable diseases with potential high risk, in order to adopt the resolutions necessary to make effective the measures that are to govern the new stage that is beginning.”

- “Basic protocol to reduce the risk of contagion of COVID-19 in the development

of sports practice and competition”, of the Catalan Athletics Federation, which does not carries date but alludes to the Plan of the "General Secretariat for Sport and Physical Activity-SGEAF and approved by PROCICAT”. The protocol begins by indicating that according to the "action plan for the lack of confinement in sports in Catalonia" presented by the SGEAF, the phase of return to sporting activity and competition is determined, requiring to the organizers and owners of the facilities the adoption of specific protocols for the determination of measures that seek to avoid the risk of contagion of COVID-19 among users of sports facilities, as well as among participants in the activity.

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The "generic" protocol "will be adapted to the different communications that the authority competent authority determines”, according to the evolution of the pandemic.

- "The Catalan Athletics Federation proposes this protocol adapted to our sport and following the instructions of the SGEAF action plan that is complemented by the re-regulations specific to each competition.

In addition to containing preventive and hygiene measures, it is indicated in "recommendations to take into account in the organization of competitions”, section a) “before starting the activity ity”, for the “athlete” ”each athlete will provide a responsible statement in accordance with does not present symptoms of having COVID-19 and in case of having passed the disease declared rar that it has passed the appropriate quarantine period. Likewise, the declaration responds sable will have to prove that they have not been in contact with infected people, or have been traveled to officially declared risk areas in the immediately preceding 14 days

to the date of signing the document.

"It is recommended that athletes travel individually or exclusively with cohabiting families. "

"Each athlete will provide the contact details for the registration of the people attending the activity that guarantees the traceability of the group".

The same literal is contained for "workers, coaches, judges and volunteers.", and "public".

"For the organizer": "It will register the name and surname as well as the contact information of the people participating in the activity, whether they are athletes, workers, coaches, judges, volunteers, organizers, or public, to guarantee traceability".

"After the activity", for the organizer, it is necessary:

"It will keep the register of attendees and participants as well as the responsible declarations contributed for a minimum term of 30 calendar days from the date of the activity and established. It will be available to the health authorities in case it is required as a consequence. frequency of positives in contagion by COVID-19."

On the vaccine, no extreme is cited.

- -In the "Specific measures for competitions" contained in the same document, previously mentioned and then, also, of the Catalan Federation of Athletics, specific measures are indicated for the competitions, without alluding to the declarations of responsibility.

1. Treatments carried out with said information.

It was collected on paper and they are currently destroyed.

2. Legal authorization to carry out said treatments

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They reiterate that they attach the documentation of point 1

3. Risk analysis of files containing medical data related to COVID: Indicates

ca that "The documents have been destroyed."

4. Number of records contained in these files, relating to minors and relatives to ma-
years of age

"The approximate numbers according to the number of partners, 220 documents were collected
of minors and 198 of adults."

5. Detail if data is processed exclusively from partners or third parties who sign up
to competitions or have access to the club's facilities.

"Solely and exclusively the partners."

Information that is provided to the interested parties as indicated in article 13 of the Regulation

6.

General Data Protection Institute.

"In the registrations and renewals in the club, the members are informed of their rights
regarding the General Data Protection Regulation."

7. Time during which these data are kept.

"From September 2020 to June 2021."

FOURTH: On 07/8/2022, the Director of the AEPD agreed:

"START SANCTION PROCEDURE against CLUB CORNELLÁ ATLETIC, S.C.P., with

NIF G59338822, for the alleged violation of the following precepts:

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Article 9.2 of the GDPR, typified in article 83.5.a) of the GDPR and for the purposes of
prescription in article 72.1.e) of the LOPDGDD.

Article: 13 of the GDPR, typified in article 83.5.b) of the GDPR and for the purposes of prescription in article 72.1.h) of the LOPDGDD.”

“For the purposes specified in the art. 64.2 b) of the LPACAP, the sanctions that could be ponder would be an administrative fine of 4,000 euros for the violation of article 9.2 of the RGPD and 2,000 euros for the violation of article 13 of the RGPD, without prejudice to what come out of the instruction.”

FIFTH: Once the period for allegations that was granted in the initiation agreement has elapsed of the sanctioning procedure, dated 01/30/2023, it was agreed to open a practice period of evidence, according to the provisions of article 77 and 78 of Law 39/2015, of 1/10, of the Common Administrative Procedure of Public Administrations (hereinafter, LPA-CAP), practicing the following:

1. Consider reproduced for evidentiary purposes the claim filed 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 procedure E/13556/2021.

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2. Likewise, it is considered reproduced for evidentiary purposes, the allegations to the agreement of initiation of the referenced sanctioning procedure, presented by CLUB CORNELLÀ ATLETIC, S.C.P., and the documentation that accompanies them.

3. It will be requested through the Department of the Interior of the Generalitat de Catalunya, which request information from the Management Committee of the PROCICAT Action Plan for

emergencies associated with high-risk emerging communicable diseases (integrated by heads of the Department of the Interior and the Department of Health who, on the "Plan use of sports facilities", approved by the technical committee of PROCICAT for emergencies associated with emerging communicable diseases with the potential to high risk, report or contribution:

-a) Date of approval and which authorities approved it. Competition rules that are applicable for such approval.

-b) If the Plan contains reports from any health authority that make reference to the obligation for sports entities, such as sports federations and clubs, to that the athletes of said athletes had to provide a responsible declaration of health entities as well as employees. Copy of it, and if it was published in any newspaper official.

-If a responsible health declaration model was provided related to athletes, COVID 19 and participation in sports activities.

-If any measure was contemplated regarding the treatment of the rights of people from which the aforementioned declaration was to be obtained, or some directive was imposed in this sense.

the so-called "Action Plan for the

-c) Relationship between the Plan and lack of confinement in sports in Catalonia" of the SGEAF-update phase "June Dam 2020", and what role do the PROCICAT bodies or authorities play here?

After the allotted time, no response was received.

4. Report the following to the defendant within ten days:

According to your information, the declaration of responsible health was authorized by PROCICAT and then by the Catalan Federation. For this purpose, you are requested to report whether the models you provided for its partners, adults and minors, on a responsible declaration of

health, were their own or were collected from some other entity, since in one of them introduced: "Monitor my son's condition daily by taking his temperature before going out from home to go to school. "

Also, what they intended with the question that appeared in the questionnaire for minors –“That has the vaccination schedule up to date.”, when neither the PROCICAT Plan nor the Federation It alluded to vaccinations.

The respondent's response was received on 02/18/2023, in which he indicated:

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-“we base ourselves on the model used by an educational center, given that a large mass of our athletes were of school age at the time. In some of these models also Those two aspects were well included”. We put, for example, the link to a proposed model for students in a center in El Prat de Llobregat, in some type of educational activity, being the address https://seu.elprat.cat/siac/procedimiento_tver_doc.aspx?solcomp=20398.

It is a document of responsible declaration, "of acceptance of conditions of participation, obligation of information of informed consent". The document has aspects in common with those of the defendant, although there are others that are not included. Yes, I know includes the reference to the "declaration of having received the complete vaccination regimen COVID 19".

SEVENTH: Of the actions carried out in this procedure and of the documentation in the file, the following have been accredited:

PROVEN FACTS

1) The claimant is an athletics club, located in the province of Barcelona, which requests

to their sports partners, including minors, to complete and sign some forms that he offers them, called "responsible health declaration", which contain spaces to fill in your data, and the literal already prefilled. The statement is about symptoms of COVID-19, who has not had it or been in contact with people who had it, and who has an up-to-date vaccination schedule." (this for minors only).

2) When the defendant responded to the transfer of the claim, on 04/01/2022, before the start-up agreement, stated that it collected data exclusively from its partners in printed on paper, with the aforementioned statements, with some 220 documents of minors and 198 of legal age, during the period September 2020 to June 2021, and that they had been destroyed.

3) The responsible declaration models in which the health data of the sports partners of the defendant, lack any information on the treatment of data, its purpose, exercise of rights and other elements that make up article 13 of the GDPR. The defendant indicated that the partners are informed of their rights under the GDPR "in registrations and renewals in the Club".

3) The defendant implemented the aforementioned responsible declarations in accordance with the "SECTOR PLAN FOR THE USE OF SPORTS FACILITIES" which for the phase of return to sporting activity and competition, approved the ACTION PLAN FOR THE LACK OF CONFINEMENT OF SPORTS IN CATALONIA, by the General Secretary of the Sport and Physical Activity of the Generalitat of Catalonia, SGEAF, June 2020. The aforementioned Plan "collects basic and organizational protection measures to prevent the risk of transmission and favor the containment of infections for SARS-COV 2 in the sector sports". It is indicated in the Plan, that by each owner of a sports facility contingency plans must be made that contain protocols and regulations to prevent and minimize the spread of the pandemic. In several points of the mentioned Plan, it is

They include the literals that make up the obligatory responsible declaration of data of

that the defendant implemented and that includes various aspects, such as:

-Users or athletes who, when accessing facilities, if they have been with an affected person

by COVID 19, or if they have symptoms or have been close contacts, do not go.

-The same, for workers who have to commit not to go to the center if they have symptoms or is it close contact.

-User or athlete, who have not had symptoms compatible with COVID in the

last 14 days, not having been positive or having lived with people who had had

close contact with infected people.

-Likewise, it establishes that: "Any organizer of competitions and events

sports facilities must have a protocol that ensures the traceability of the

participants and athletes avoid the risks of contagion by COVID-19 and guarantee the

measures provided for in this Plan. "

4)

The Catalan Athletics Federation drew up a protocol for this purpose, which refers to and

develops the provisions of the aforementioned Plan of the General Secretariat for Sport and

physical activity. The Protocol follows the instructions of the SGEAF Plan and refers to the

aforementioned declarations of responsibility.

5)

The defendant implemented the declarations of responsibility for the approval and

obligatory nature of the plan of "ACTION PLAN FOR THE LACK OF CONFINEMENT

SPORTS IN CATALONIA of the SGEAF” and its Federation

The written forms to be completed by the partners were made by the defendant

6)

based on the model that he found of educational centers.

FUNDAMENTALS OF LAW

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In accordance with the powers that article 58.2 of Regulation (EU) 2016/679

(General Data Protection Regulation, hereinafter RGPD), grants each authority

of control and as established in articles 47, 48.1, 64.2 and 68.1 of the Organic Law

3/2018, of 5/12 on Protection of Personal Data and guarantee of digital rights (in

hereafter, LOPDGDD), the Director is competent to initiate and resolve this procedure

of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed

by the Spanish Data Protection Agency will be governed by the provisions of the

Regulation (EU) 2016/679, in this organic law, by the provisions

regulations dictated in its development and, insofar as they do not contradict them, with character

subsidiary, by the general rules on administrative procedures."

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Article 4 of the GDPR defines:

“For the purposes of this Regulation, the following shall be understood as:

1) personal data: any information about an identified or identifiable natural person

("the interested"); An identifiable natural person shall be considered any person whose identity can be determined, directly or indirectly, in particular by means of an identifier, such as for example a name, an identification number, location data, an identifier online or one or several elements of physical, physiological, genetic, psychological, economic, cultural or social of said person;

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, comparison or interconnection, limitation, deletion or destruction;"

"15) data relating to health: personal data relating to the physical or mental health of a natural person, including the provision of health care services, revealing information about your state of health;"

In addition, for a full understanding of the concept of health data, it is necessary to go for its interpretation of international standards, as specified in article 10 of the Constitution

Spanish tion. The World Health Organization in its Magna Carta defined the term

"health" as "the state of complete physical, mental or social well-being, and not merely the absence of affections or illnesses".

It is section 45 of the Explanatory Report of Convention 108 of the Council of Europe, the which indicates that its concept encompasses "information concerning past health, pre-present and future, physical or mental, of an individual", "which may be information about an individual in good health, sick or deceased", adding that "it must be understood that

These data also include information relating to alcohol abuse or drug use. high drug."

It is a broad concept, according to the judgment of the Court of Justice of the

European authorities, Plenary Chamber, of 11/6/2003, case C-101/2001 (Lindqvist Case), in which
It is reasoned that the indication, on an Internet web page, that a person has been injured
swam one foot and is on partial sick leave constitutes personal data relating to health
within the meaning of Article 8(1) of the Directive. In other words, according to the aforementioned Court, the
expression data relating to health, used by Directive 95/46 /CE, must be interpreted
comprehensively, which includes information relating to the physical and psychological aspects
of a person's health. In the present case, it was mentioned in an email,
automated means, that the complainant, identifiable, was on leave for psychological reasons.
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The members of the defendant's Athletics Club are the ones who fill out the forms
declaring data referring to their health, at least that is how it can be deduced from the first part, which contains
has declarations referring to health data of the declarant, even when they are not appropriate
based on a clinical history of the subjects, they should be considered as referential data.

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related to people's health, given that either they directly concern the
health of the individual or are closely related to health. The final-
the quality of the collection and the content of this data related to COVID-19 in order to
to prevent the transmission is different and of a different nature from the collection that is made of the
cio with the purpose of registering in the Club as a federated in order to be able to participate in
the competitions.

In the health crisis situation caused by COVID19, the Athletics Club adopts
the measures aimed at preventing new infections of COVID-19, under the instructions

indicated by PROCICAT and the applicable plans, but it is necessary to examine whether they conform to the same or includes something not contemplated in it and if it is in accordance with the regulations of data protection, considering that the measures must be applied according to the criteria defined by the health authorities, which are the ones that define the general measures of prevention and hygiene.

Article 3 of the Organic Law 3/1986, of 14/04, on Special Measures in Matters of Public Health, is a norm of coverage of sanitary measures that involve some restriction of fundamental rights, specifically, when it provides that "in order to control communicable diseases, the health authority, in addition to carrying out the actions general preventive measures, may adopt the appropriate measures to control the fermos, of the people who are or have been in contact with them and of the environment immediate environment, as well as those deemed necessary in the event of a physical risk. be transmissible".

Resolution SLT/1429/2020, of 06/18, of the Department of Health of the Generalitat de Catalonia, by which basic protection and organizational measures are adopted to prevent reduce the risk of transmission and favor the containment of the SARS-CoV-2 infection with- has basic prevention measures, "which must be completed with action plans sectorial plans prepared and approved within the framework of the PROCICAT Action Plan (Pro-Civil Protection of Catalonia) for emergencies associated with emergent communicable diseases. people with potential high risk, as a guarantee of a governance of the health emergency ria of high technical and specialized level that reinforces the health authority."

Among the general measures it establishes:

"People presenting symptoms compatible with COVID-19 should contact the public health system and must follow, both they and their close contacts, the instructions indications of home isolation in accordance with the protocols approved by the auto-health care."

“the measures of this resolution must be completed with sectoral plans of the activities that must be approved in accordance with the provisions of the Confinement Transition Plan. ratified by the Government on 04/25/2020, and that “in any case, plans must be prepared sectoral regulations in relation to the following areas and activities: “sports facilities” you go”. These plans must be updated to adapt to the situation.” “People you- holders of the different activities are responsible for adapting their conditions to the measures data and forecasts contained in the corresponding sectoral plan”. Coordination is established The enforcement of the measures will be through the bodies provided for in the plan of performance of the future emerging men with high risk potential.

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“...If these are activities that are required to adopt self-protection measures in accordance with Decree 30/2015, of 3/03, which approves the catalog of activities and obligatory centers forced to adopt self-protection measures and the content of these measures is established, the per- Owners of the activities must prepare, under their responsibility, an orga- specific organization in accordance with the corresponding sectoral plan, which must be annexed follow your self-protection plan, at the disposal of the corresponding authorities. The per- Owners of the activities must inform their workers and workers of the protocol. doras and the attendees or users.”

Decree Law 27/2020, of 07/13, amending Law 18/2009, of 10/22, on public health and the adoption of urgent measures to address the risk of outbreaks of COVID-19.

19, of the Generalitat de Catalunya, BOE 08/12/2020, DOGC 07/14/2020, modifies the law of public health of Catalonia 19/2009 of 22/10 adding to article 55 a letter k that indicates:

In situations of pandemic or epidemic declared by the competent authorities, the competent health authorities may adopt measures to limit the activity, movement of people and the provision of services in certain territorial areas procedures provided for in annex 3, in accordance with the provisions of article 55 bis.

Second. An article 55 bis is added with the following tenor:

Procedure for the adoption of measures in a declared pandemic situation

"1. The adoption of the measures referred to in letter k) of the previous article have in order to guarantee the control of infections and protect the health of people, adapting based on the principle of proportionality.

For these purposes, the adoption of the indicated measures will require the issuance of a report issued by the director of the Public Health Agency, in the assistance aspects to be implementation of the Catalan Health Service and in epidemiological and public health aspects.

ca, at the proposal of the Agency itself, which will aim to prove the current situation risk of contagion, the control situation of the pandemic, the sufficiency of the measures, and propose the measures to be adopted.

The reports will conform to the parameters established in the annexes of the aforementioned Decree.

Law 27/2020, of 07/13.

2. Whenever possible, the resolution will make recommendations to follow to avoid contagion risks. In the event that mandatory measures are established, there is It is necessary to expressly warn of this obligation, which will be based on the in-issued forms...

3. The resolution that establishes the measures will indicate their duration, which in principle does not have must be greater than 15 days, except when the necessary establishment is justified of a longer term, without prejudice to the possibility of requesting an extension, justifying the maintenance compliance with the conditions that justified its adoption. In any case, reports will be issued newspapers of the effects of the measures, as well as a final report, once these have been exhausted.

4. The establishment of the aforementioned measures will have to be carried out taking into account always counts to the least affectation to the rights of the people, and whenever it is possible, they will have to be territorially adjusted to the minimum scope necessary for their effectiveness. dad.

5. The resolution by which the specific measures are adopted may establish mechanisms graduation of the measures based on the evolution of the indicators.”

The processing of personal data in situations of health emergency is followed by being applicable the personal data protection regulations (RGPD and LOPDGDD), for which applies all its principles, contained in article 5 of the GDPR, and among them the processing of personal data with legality, loyalty and transparency, limitation of the purpose, principle of limitation of the conservation period, and of course, and it is necessary to do special emphasis on it, the principle of data minimization.

II

The GDPR establishes a very broad concept of health data, and gives it a regime specific, corresponding to the so-called "special categories of data" to which referred to in article 9 of the normative text.

This article 9 GDPR, after establishing in its section 1 a general prohibition for the treatment processing of these data, contemplates, its section 2, a series of exceptions in which the Data processing is possible, when one of the following circumstances occurs, (Only those related to the case are referred to).

“a) the interested party gave their explicit consent for the processing of said personal data.

for one or more of the specified purposes, except where Union Law or
of the Member States provides that the prohibition referred to in paragraph 1 does not
it can be lifted by the interested party;

[...]"

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

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

to give your consent;

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

i) the processing 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 ensure

high standards of quality and safety of health care and medicines

medical devices or products, on the basis of Union or State law

members that establish adequate and specific measures to protect the rights and li-

rights of the interested party, in particular professional secrecy"

For its part, the LOPDGGD dedicates its seventeenth additional provision to the treatments

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

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Health data processing.

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

are regulated by the following laws and their development provisions:

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

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

c) Law 41/2002, of November 14, basic regulation of patient autonomy and of rights and obligations regarding information and clinical documentation.

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

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

f) Law 14/2007, of July 3, on Biomedical Research.

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

h) Law 20/2015, of July 14, on organization, supervision and solvency of entities insurers and reinsurers.

i) The consolidated text of the Law on guarantees and rational use of medicines and products sanitary, approved by Royal Legislative Decree 1/2015, of July 24.

j) The consolidated text of the General Law on the rights of persons with disabilities and their social inclusion, approved by Royal Legislative Decree 1/2013 of November 29."

The measures adopted within the framework of COVID-19 within the scope of the Generalitat de Catalunya

lunya are governed by public health law 18/2009 of 10/22. Its article 55 establishes the in-

administrative intervention in health protection and disease prevention so

which authorizes the health authority to intervene in public and private activities to pro-

protect the health of the population and prevent disease, being able to establish the requirement of

records, authorizations, prior communications or responsible declarations to facilities

establishments or services and industries, products and activities subject to the

conditions provided for in article 61.

As measures to be adopted within the framework of COVID-19, Annex III indicates that "The alert derives from

evada of the COVID and the resolutions to control the pandemic can include the following:

following forecasts:

Public health measures:

General public health advice

contact identification,

Diagnostic tests,

isolation And Quarantine,

territorial displacements personal displacement,

merchandise transports

meetings public spaces and other meeting places,

professional and non-professional sport regulation of sports activities both professional

national and federated and non-professional according to the type of sport, capacity and use of the

facilities. These measures can be updated by resolution of the co-

management committee of the plan for emergencies associated with communicable diseases and

emerging with potential PROCICAT risk and may be applicable to any other pan-

demia or epidemic declared within the framework of law 18/2009 of October 22"

In this regard, the Action Plan for the lack of confinement in sports in Catalonia prepared

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by the SGEAF, approved by the PROCICAT plan, introduces the declarations of responsibility

number of people accessing sports facilities and the commitments they assume

through the forms.

PROCICAT is the Civil Protection Plan of Catalonia that aims to counter

to general emergencies that may arise in its territorial scope and in the lower couch. PROCICAT and the Catalan Civil Protection Law provide for the creation of procedures or action protocols within PROCICAT itself to deal with emergencies not covered by special plans. Specifically, the Civil Protection Law of Catalonia, in article 16, establishes that: "The Civil Protection Plan of Catalonia has must integrate the various territorial and special plans, and must contain the forecast of emergencies to which the country may be subjected due to catastrophic situations or public calamities, the catalog of available human and material resources and the protocols lines of action to deal with them, in addition to the basic guidelines for restoring the services and recover normality".

The GDPR and the LOPDGDD legitimize the processing of health data without the consent of the interested party, or exempts the prohibition of the treatment of the health data of those affected, in some of the aforementioned assumptions, adding that, in addition, like any treatment must comply with a legitimizing legal basis established in article 6.1 of the GDPR, and comply with the general principles established in article 5 of the aforementioned GDPR.

In the present case, the rules contained in the protocol of the Catalan Federation of Athletics in the development of sports practice and competition, impose "the athlete as imperative": "will provide", a responsible statement and obliges you to record the data, proceeding from the prior approval arranged by PROCICAT of a series of criteria for which it was authorized by the Public Health Law. The Plan contains criteria to be take into account the use of sports facilities during the resumption stage tion of COVID-19 that affect users and workers, with practically the same content in the declarations executed by the sports federations.

Completion of a responsible declaration that you do not have the disease, in which there is no information on its foundation or consequences of the in- veracity of the same, appears therefore imposed by an entity referred to in the law of

public health, and in a Plan elaborated by the Administration for which said declarations

if they did not have symptoms, had not been positive or had contacts, they would be appropriate

as determined in article 9.2 i) of the GDPR for reasons of public interest in health, but

provided that appropriate and specific measures were added to protect the rights and li-

rights of the interested party, a circumstance that here is estimated not to occur, because:

- There is no information on the legal grounds that originate the data collection.

- There is no information on any obligatory point indicated in article 13

of the GDPR, including the exercise of rights.

- Not only are data collected from "responsible declaration", but also added

data of the vaccination regimen, this element, not provided for in the PROCICAT standard as a means of

Lost for access to facilities or the practice of the competition.

Therefore, the criterion that could save the aforementioned treatment of health data is not met.

which would be framed in letter i) of article 9.2 of the GDPR.

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Furthermore, it can be observed that in neither of the two Catalan Federation entities or

PROCICAT, as measures, makes any allusion to the complete vaccination regimen that is

Fierce in the declaration of minors.

Therefore, it is considered that the defendant has committed this violation of article 9.2 of the

GDPR.

IV.

Article 6.1 of the GDPR establishes the assumptions that allow processing to be considered lawful.

lie of personal data.

1. Processing will only be lawful if at least one of the following conditions is met:

- a) the interested party gave his consent for the processing of his personal data for one or various specific purposes;
- b) the treatment is necessary for the execution of a contract in which the interested party is party or for the application at his request of pre-contractual measures;
- c) the treatment is necessary for the fulfillment of a legal obligation applicable to the responsible for the treatment;
- d) the processing is necessary to protect the vital interests of the data subject or of another person. physical na;
- e) the treatment is necessary for the fulfillment of a mission carried out in the public interest. co or in the exercise of public powers conferred on the data controller;
- f) the treatment is necessary for the satisfaction of legitimate interests pursued by the user. responsible for the treatment or by a third party, provided that said interests do not prevail. interests or the fundamental rights and freedoms of the interested party that require the protection of personal data, in particular when the data subject is a child.

The provisions of letter f) of the first paragraph shall not apply to the treatment carried out by public authorities in the exercise of their functions

The membership of people to the claimed Club presupposes that their data can be processed for the purpose of their associative relationship, in order to promote and extend ordinary sporting activity, purpose that marks the treatment of these data, being able to treat the data in those cases, which are not the ones analyzed here, which keep in relation to COVID-19 health measures in sports facilities and events.

It is estimated that in this specific case there could be an enabling cause for the treatment of data of the federated sports partners of the claimed.

V

In addition, the statements contained in the forms that are the object of the claim lack of any information on the ends that any data collection must contain of the interested party, considering in this case a specific purpose related to the COVID-19.

The defendant has infringed article 13 of the GDPR, which indicates:

"1. When personal data relating to him or her is obtained from an interested party, the person responsible for the treatment, at the time they are obtained, will provide you with all the information indicated below:

- a) the identity and contact details of the person in charge and, where appropriate, their representative;
- b) the contact details of the data protection officer, if applicable;
- c) the purposes of the treatment for which the personal data are intended and the legal basis of the treatment;
- d) when the treatment is based on article 6, paragraph 1, letter f), the legitimate interests of the person in charge or of a third party;
- e) the recipients or categories of recipients of personal data, if any;
- f) where appropriate, the intention of the controller to transfer personal data to a third country or international organization and the existence or absence of a decision adequacy of the Commission, or, in the case of transfers indicated in articles 46 or 47 or article 49, paragraph 1, second paragraph, reference to the adequate or appropriate guarantees and the means to obtain a copy of these or the fact that they have been provided.

2. In addition to the information mentioned in section 1, the data controller will provide the interested party, at the time the personal data is obtained, the following

information necessary to guarantee fair and transparent data processing:

a) the period during which the personal data will be kept or, when this is not possible,

the criteria used to determine this term;

b) the existence of the right to request access to the data from the data controller

personal information relating to the interested party, and its rectification or deletion, or the limitation of its

treatment, or to oppose the treatment, as well as the right to data portability;

c) when the treatment is based on article 6, paragraph 1, letter a), or article 9,

paragraph 2, letter a), the existence of the right to withdraw consent at any

moment, without affecting the legality of the treatment based on prior consent

upon his withdrawal;

d) the right to file a claim with a control authority;

e) if the communication of personal data is a legal or contractual requirement, or a requirement

necessary to sign a contract, and if the interested party is obliged to provide the data

personal and is informed of the possible consequences of not providing such data;

f) the existence of automated decisions, including profiling, to which

referred to in Article 22, paragraphs 1 and 4, and, at least in such cases, significant information

about applied logic, as well as the significance and intended consequences of that

treatment for the interested party.

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3. When the controller plans the subsequent processing of personal data

for a purpose other than that for which they were collected, will provide the interested party, with

prior to said further processing, information about that other purpose and any

additional relevant information under paragraph 2.

4. The provisions of sections 1, 2 and 3 shall not apply when and to the extent that the interested party already has the information”

The purpose of collecting data relating to health for the prevention of COVID implies store some new special category data that was not reported to your

Headlines. It is considered that the aforementioned article has been infringed.

SAW

In accordance with the evidence available in this act of processing of agreement to start disciplinary proceedings, and without prejudice to what results from the instruction, it is considered that the facts exposed could violate the provisions of the articles: 9.2, and 13 of the GDPR, with the scope expressed in the Fundamentals of Law above, which implies the commission of the offenses typified in article 83 section 5.a) and b) of the GDPR that under the heading "General conditions for the taxation of administrative fines" provides that:

Violations of the following provisions will be sanctioned, in accordance with the paragraph 2, with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, for an amount equal to a maximum of 4% of the total turnover annual global of the previous financial year, opting for the one with the highest amount:

to)

consent under articles 5, 6, 7 and 9;

b)

the basic principles for the treatment, including the conditions for the the rights of the interested parties in accordance with articles 12 to 22.”

In this regard, the LOPDGDD, in its article 71 establishes that "Infractions are the acts and conduct referred to in sections 4, 5 and 6 of article 83 of the Regulation (UE) 2016/679, as well as those that are contrary to this organic law”.

For the purposes of the limitation period, article 72 of the LOPDGDD indicates:

“Infractions considered very serious.

"1. Based on what is established in 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:

[...]

e) The processing of personal data of the categories referred to in article 9 of the

Regulation (EU) 2016/679, without any of the circumstances provided for in

said precept and in article 9 of this organic law.

[...]

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h) The omission of the duty to inform the affected party about the processing of their data

personal in accordance with the provisions of articles 13 and 14 of Regulation (EU) 2016/679

and 12 of this organic law. (...)"

VII

Sections d) and i) of article 58.2 of the GDPR provide the following:

"Each control authority will have all the following corrective powers indicated

next: (...)

"d) order the controller or processor that the processing operations

comply with the provisions of this Regulation, where applicable, of a

certain manner and within a specified period of time;"

"i) impose an administrative fine in accordance with article 83, in addition to or instead of the

measures mentioned in this section, according to the circumstances of each case

particular;"

In this case, the sanctioning procedure of an administrative fine is resorted to, given the category of the data that is collected and the risks of the rights and freedoms that with they are compromised. The imposition of adjustment measures in the treatment is compatible with the sanction consisting of an administrative fine, according to the provisions of art. 83.2 of the GDPR.

VIII

The determination of the sanctions that should be imposed in the present case requires observe the provisions of articles 83.1) and .2) of the GDPR, precepts that, respectively, provide the following:

"1. Each control authority will guarantee that the imposition of administrative fines pursuant to this Article for the infringements of this Regulation indicated in paragraphs 4, 5 and 6 are in each individual case effective, proportionate and dissuasive.

2. Administrative fines will be imposed, depending on the circumstances of each case. individually, in addition to or in lieu of the measures contemplated 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, scope or purpose of the processing operation in question, as well as the number of affected stakeholders and the level of damages they have suffered;
- b) intentionality or negligence in the infraction;
- c) any measure taken by the controller or processor to alleviate the damages suffered by the interested parties;

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- d) the degree of responsibility of the data controller or processor, given account of the technical or organizational measures that they have applied under articles 25 and 32;
- e) any previous infringement committed by the controller or processor; 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 if the controller or processor reported the infringement and, if so, to what extent;
- i) when the measures indicated in article 58, paragraph 2, have been ordered previously against the person in charge or the person in charge in relation to the same matter, compliance with said measures;
- j) adherence to codes of conduct under article 40 or to mechanisms of 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, through the offence."

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

"1. The sanctions provided for in sections 4, 5 and 6 of article 83 of Regulation (EU) 2016/679 will be applied taking into account the graduation criteria established in the section 2 of said article.

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

may be taken into account:

- a) The continuing nature of the offence.
- b) Linking the offender's activity with data processing personal.
- c) The benefits obtained as a consequence of the commission of the infraction.
- d) The possibility that the conduct of the affected party could have led to the commission of the infringement.
- e) The existence of a merger by absorption process subsequent to the commission of the violation, which cannot be attributed to the absorbing entity.
- f) The affectation of the rights of minors.
- g) Have, when it is not mandatory, a data protection delegate.

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- h) Submission by the person responsible or in charge, on a voluntary basis, to alternative conflict resolution mechanisms, in those cases in which there are controversies between those 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 Regulation (EU) 2016/679.”

In accordance with the precepts transcribed, for the purpose of setting the amounts of the sanctions of fine to be imposed in the present case typified in article 83.5.a) of the GDPR, of which holds the defendant responsible, for the infringement of article 9.2 of the GDPR, it is estimated concurrent as aggravating factors the following factors that reveal a greater

illegality and/or culpability in the conduct of the defendant:

-Article 83.2.a) GDPR "nature, seriousness and duration of the infringement, taking into account account the nature, scope or purpose of the processing operation in question, as well as such as the number of interested parties affected and the level of damages that have suffered;". The data was collected during nine months amounting to a total of 220 of minors, and 198 adults, all of them members of the Club, and it affected all athletes members of the Club who attended any competition organized by it.

-Article 83.2 g) "the categories of personal data affected by the infraction" health data have been collected.

With these factors, a fine of 4,000 euros is deemed appropriate, without prejudice to what results from the instruction.

For the violation of article 13 of the GDPR, they are considered concurrent as aggravating the following factors that reveal greater unlawfulness and/or culpability in the defendant's conduct:

-Article 83.2.a) "the nature, seriousness and duration of the infringement, taking into account the nature, scope or purpose of the processing operation in question, as well as the number of interested parties affected and the level of damages they have suffered;" signifying its severity determined by the absolute lack of informative reference in a far-reaching measure that affected all partners and that took place for a while wide, reaches nine months.

-Article 83.2.b) "intentionality or negligence in the infringement", concurring in this case of negligence because another conduct other than that of absolutely omitting any reference.

With these factors, a penalty of 2,000 euros is deemed appropriate, without prejudice to what results from the instruction.

In view of the foregoing, the following is issued

PROPOSED RESOLUTION

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That the Director of the Spanish Data Protection Agency sanction CLUB

CORNELLÁ ATLETIC, S.C.P., with NIF G59338822, by:

-a violation of article 9.2 of the GDPR in accordance with article 83.5. a) GDPR and for the purposes of prescription in article 72.1. e) of the LOPDGDD, with 4,000 euros.

-a violation of article 13 of the GDPR, in accordance with article 83.5. b) of the GDPR, and for the purposes of prescription in article 72.1.h) of the LOPDGDD, with 2,000 euros.

Likewise, in accordance with the provisions of article 85.2 of the LPACAP, you are informed that it may, at any time prior to the resolution of this proceeding, carry out the voluntary payment of the proposed penalty, which will mean a reduction of one 20% of the amount thereof. With the application of this reduction, the sanction would be established at 4,800 euros, and its payment will imply the termination of the procedure. The effectiveness of this reduction will be conditioned to the withdrawal or resignation of any Administrative action or appeal against the sanction.

In case you choose to proceed to the voluntary payment of the specified amount above, in accordance with the provisions of article 85.2 cited, must make it effective by entering the restricted account IBAN number: ES00-0000-0000-0000-0000-0000 opened in the name of the Spanish Data Protection Agency 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 reason, due to voluntary payment, for the reduction of the amount of the penalty. Likewise, you must send proof of income to the Sub-directorate

General of Inspection to proceed to close the file.

By virtue of this, you are notified of the foregoing, and the procedure is revealed to you in order to that within TEN DAYS you can allege whatever you consider in your defense and present the documents and information it deems pertinent, in accordance with article 89.2 of the LPACAP.

B.B.B.

INSPECTOR/INSTRUCTOR

926-121222

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EXHIBIT

File index EXP202103915

09/21/2021 A.A.A.

10/06/2021 Written by (...)

11/03/2021 Transfer of claim to CLUB CORNELLA ATLETIC, S.C.P.

11/15/2021 Reiteration to CLUB CORNELLA ATLETIC, S.C.P.

12/22/2021 Admission for processing to A.A.A.

01/24/2022 Request. information 2 to CLUB CORNELLA ATLETIC, S.C.P.

01/24/2022 responsible statement 1

01/24/2022 responsible statement 2

01/24/2022 Stagecoach

02/22/2022 Request. information 3 to CLUB CORNELLA ATLETIC, S.C.P.

04/04/2022 response request

04/04/2022 Information on planned actions

04/04/2022 document 1

04/04/2022 document 2

05/31/2022 Written by (...)

07/11/2022 A. opening to CLUB CORNELLÀ ATLETIC, S.C.P.

08/09/2022 Info. Complainant to A.A.A.

01/30/2023 Notification p. tests 2 to Generalitat de Catalunya. Secretary General of Inter-
river

01/30/2023 Notification p. tests to CLUB CORNELLÀ ATLETIC, S.C.P.

01/31/2023 Notification p. tests to CLUB CORNELLÀ ATLETIC, S.C.P. 2

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SECOND: On March 8, 2023, the claimed party has proceeded to pay

the sanction in the amount of 4800 euros making use of the reduction provided for in the
motion for a resolution transcribed above.

THIRD: The payment made entails the waiver of any action or resource in the
against the sanction, in relation to the facts referred to in the
resolution proposal.

FUNDAMENTALS OF LAW

Yo

Competence

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679
(General Data Protection Regulation, hereinafter GDPR), grants each
control authority and as established in articles 47, 48.1, 64.2 and 68.1 of the
Organic Law 3/2018, of December 5, on the Protection of Personal Data and
guarantee of digital rights (hereinafter, LOPDGDD), is competent to
initiate and resolve this procedure the Director of the Spanish Protection Agency

of data.

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

II

Termination of the procedure

Article 85 of Law 39/2015, of October 1, on Administrative Procedure

Common for Public Administrations (hereinafter LPACAP), under the heading

"Termination in disciplinary proceedings" provides the following:

"1. Initiated a disciplinary procedure, if the offender acknowledges his responsibility,

The procedure may be resolved with the imposition of the appropriate sanction.

2. When the sanction has only a pecuniary 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 presumed perpetrator, in

any moment 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 offence.

3. In both cases, when the sanction is solely pecuniary in nature, the

The competent body to resolve the procedure will apply reductions of at least

20% of the amount of the proposed penalty, these being cumulative among themselves.

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 resource against the sanction.

The percentage reduction provided for in this section may be increased according to regulations."

According to what has been stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: DECLARE the termination of procedure EXP202103915, in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to CLUB CORNELLÀ ATLETIC, S.C.P.

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

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

Against this resolution, which puts an end to the administrative process as prescribed by the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of Public Administrations, interested parties may file an appeal administrative litigation before the Administrative Litigation Chamber of the

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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 for in article 46.1 of the referred Law.

Mar Spain Marti

Director of the Spanish Data Protection Agency

968-171022

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