

Procedure No.: PS/00037/2019

## RESOLUTION OF PUNISHMENT PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection before CLUB

RECREATIVO DEPORTIVO PARQUE CARTUJA, by virtue of a claim filed

by A.A.A. (hereinafter, the claimant) based on the following:

### BACKGROUND

FIRST: A.A.A. On October 16, 2018, he filed a claim with the Agency

Spanish Data Protection. The claim is directed against CLUB RECREATIVO

DEPORTIVO PARQUE CARTUJA with NIF G11712585 (hereinafter, the claimed).

The reasons on which the claim is based are that the CLUB RECREATIVO

SPORTS PARQUE CARTUJA to which it belongs, throughout the procedure of the

disciplinary file that began against the claimant from November 2017 to

June 2018, has provided all the members of said club, documentation in which

data such as your name, NIF, address, telephone, email, and place of work appear, as well as

such as the names and NIF of the partners that you proposed as witnesses during the

instruction of said disciplinary file.

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

of which this Agency has been made aware, the Subdirector General for Inspection of

Data proceeded to carry out preliminary investigation actions for the

clarification of the facts in question, in accordance with the provisions of the

Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter

GDPR).

THIRD: On February 13, 2019, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the claimant, for the

alleged infringement of article 5.1 f) of the RGPD in accordance with the provisions of the

article 83.5.a) of the RGPD and typified for the purposes of prescription according to article 72.1 a) of the LOPDGDD, attributable to the claimed.

FOURTH: Having been notified of the aforementioned initiation agreement, the respondent submitted a written allegations, stating that in response to the requirement of this Agency has carried out the following measures:

☐

☐

inform Mr. A.A.A. the annulment of the imposed sanction.

claim each of the partners who withdrew a copy of the disciplinary file, so that they present it at the club premises.

FIFTH: On 03/08/2019, the instructor of the procedure agreed to open a evidence practice period, taking into account the previous actions of investigation, E/08391/2018, as well as the documents provided by the respondent.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

2/4

## PROVEN FACTS

FIRST: The CLUB RECREATIVO DEPORTIVO PARQUE CARTUJA has provided its partners access to documentation in which data such as name, NIF, address, telephone, email, and place of work of the claimant, as well as the names and NIF of the partners that the claimant proposed as witnesses during the investigation phase of the disciplinary file that said club initiated against the claimant.

SECOND: On January 10, 2019, it sends a letter to the Spanish Protection Agency of Data, stating that in response to the request of this Organization, it has carried

carry out the following measures:

□

□

communicate to the claimant the annulment of the sanction imposed.

claim from the partners who requested it, the return of the document where

The data of the claimant appears (name, NIF, address, telephone, email, and place

of work), as well as the names and NIF of the partners that the claimant proposed

as witnesses during the investigation phase of the disciplinary file that said

club initiated against the claimant.

## FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RGPD recognizes to each authority

of control, and according to what is established in art. 47 of the Organic Law 3/2018, of 5

December, of Protection of Personal Data and guarantee of digital rights (in what

hereinafter LOPDGDD), the Director of the Spanish Data Protection Agency is

competent to resolve this procedure.

II

Article 6.1 of the RGPD establishes the assumptions that allow the legalization of the

treatment of personal data.

In addition, article 5.1 f) establishes that personal data must be processed

in such a way as to ensure adequate security of personal data, including

protection against unauthorized or unlawful processing and against loss, destruction or

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

("integrity and confidentiality").

III

According to the evidence currently available

agreement to initiate the sanctioning procedure, and without prejudice to what results from the instruction, it is considered that the CLUB RECREATIVO DEPORTIVO PARQUE CARTUJA has provided its partners with access to documentation in which data such as name, NIF, address, telephone, email, and place of work of the claimant, as well as the names and NIF of the partners that the claimant proposed as witnesses during the instruction of the disciplinary file that said club initiated against the claimant.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

3/4

IV

Known facts constitute an infringement according to article 83.5.a) of the RGPD and typified for the purposes of prescription according to article 72.1 a) of the LOPDGDD, attributable to the claimed, for violation of article 5.1 f) of the RGPD, which states that "the Personal data must be processed in such a way as to guarantee security. adequate use of personal data, including protection against unlawful processing authorized or unlawful and against loss, destruction or accidental damage, through the application of appropriate technical or organizational measures ("integrity and confidentiality»)"

v

Article 58.2 of the RGPD provides the following: "Each supervisory authority shall have all of the following corrective powers listed below:

b) sanction any person responsible or in charge of the treatment with a warning when the treatment operations have violated the provisions of this

Regulation;

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 certain way and within a specified period;

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;

The art. 83.5 of the RGPD establishes that infractions that affect:

“a) the basic principles for the treatment, including the conditions for the consent under articles 5, 6, 7 and 9;

b) the rights of the interested parties pursuant to articles 12 to 22.”

SAW

In the present case, it is considered that the CLUB RECREATIVO DEPORTIVO PARQUE CARTUJA has provided its members with access to documentation in which data such as name, NIF, address, telephone, email, and place of work of the claimant, as well as the names and NIF of the partners that the claimant proposed as witnesses during the investigation phase of the disciplinary file that said club initiated against the claimant, violating the provisions of art. 5 .1 f) of the RGPD.

According to what was stated,

7th

By the Director of the Spanish Data Protection Agency,

HE REMEMBERS:

1.- IMPOSE CLUB RECREATIVO DEPORTIVO PARQUE CARTUJA with NIF

G11712585, for a violation of article 5.1 f) of the RGPD in accordance with the provisions

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

in article 83.5.a) of the RGPD and typified for the purposes of prescription according to article 72.1

a) of the LOPDGDD, a sanction of warning.

2.- REQUIRE CLUB RECREATIVO DEPORTIVO PARQUE CARTUJA with NIF

G11712585, so that within a month from this act of notification, it proves before

this body the adoption of all technical or organizational measures necessary to

that the personal data that works in its database, are treated in such a way that

adequate safety is guaranteed in its use according to current protection regulations

data, including protection against unauthorized or unlawful processing in accordance

with the principle of “integrity and confidentiality”, regulated in art. 5.1f) GDPR.

Which should be applicable not only for this specific case, but also for possible

future assumptions, that is, with all partners, ensuring adequate security in

the processing of personal data, protecting the integrity and confidentiality of

in accordance with art. 5.1 f) RGPD, as well as compliance with all the regulations of

data protection in general.

3.- NOTIFY this Agreement to CLUB RECREATIVO DEPORTIVO PARQUE

CARTUJA with NIF G11712585

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 (article 48.2 of the

LOPD), and in accordance with the provisions of articles 112 and 123 of Law 39/2015,

of October 1, of the Common Administrative Procedure of the Administrations

Public, the interested parties may optionally file an appeal for reconsideration before

the Director of the Spanish Agency for Data Protection within a period of one month from

from the day following the notification of this resolution, or, directly appeal

contentious-administrative before the Contentious-administrative Chamber of the High Court

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

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

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

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

Sea Spain Marti

Director of the Spanish Data Protection Agency

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)