

□ Procedure No.: PS/00478/2019

938-051119

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00478/2019, instructed by the Spanish Agency for Data Protection, to the entity CLUB ATLANTIDA SUB DE SANTA CRUZ DE TENERIFE with CIF: G38097754, (hereinafter, "the entity claimed), for alleged infraction to Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/2016, regarding the Protection of Natural Persons with regard to the Treatment of Personal Data and the Free Circulation of these Data (RGPD), and in based on the following,

BACKGROUND

FIRST: dated 07/01/19, D. A.A.A. (hereinafter, "the claimant"), presented written before this Spanish Agency for Data Protection, in which, among others, denounced:

"On 06/25/19, the Board of Directors of Club Atlántida Sub in Santa Cruz de Tenerife sent an email from the address ***EMAIL.1, to all partners without a blind copy, having Making the personal email addresses of all members accessible. I eat partner, I signed in May this year an authorization form regarding the use of data where I authorize notifications to be sent to my email, being The transfer of data to third parties is expressly prohibited except when it is inconceivable for the maintenance of the relationship with the club and the obligatory organisms. two by law.

On June 26, several partners requested the Board of Directors by email nico to the address ***EMAIL.1, to send an email to all the partners requesting that they delete the previous one with the email addresses from both their inbox

like from the trash. Not having received a response, I proceed to present the presentation

I claim you."

SECOND: In view of the facts set forth in the claim and the documents provided by the claimant, the General Subdirectorate for Data Inspection proceeded to carry out actions for its clarification, under the investigative powers granted to the control authorities in article 57.1 of the RGD. Thus, with faith in the information request addressed to the entity.

According to a certificate from the Postal Service, the notification sent on 09/09/19 from this Agency, it was delivered to the address: ***ADDRESS.1 of Tenerife, on 09/12/19 being the receiver: D. B.B.B., ***NIF.1

THIRD: On 09/19/19, the claimant sends a new letter to this Agency, in which indicates, among others, the following:

"Dated 07/01/19 I file a claim with said company, for sending mail to all two partners without copy of hidden addresses, now I am about to put another claim-mation since on 09/16/19, they send another email in the same conditions without the hidden addresses of approximately 300 partners from the address www.aepd.es

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***EMAIL.1. Report that, as a result of this new security flaw, I and several of the partners we have received threatening emails from false addresses in our co-mail, as well as advertising and spam emails".

FOURTH: On 10/09/19, this Agency receives, through its electronic headquarters, document sent by D^a C.C.C., on behalf of the claimed entity

with the legend: "TRANSFER OF CLAIM AND REQUEST FOR INFORMATION",

without further documentation or attached information.

FIFTH: On 12/02/19, the Director of the Spanish Agency for the Protection of Data agreed to initiate sanctioning proceedings against the claimed entity, by virtue of the powers established in art. 58.2 of the RGPD and in articles 47, 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 (LOPDGDD), for alleged infringement of article 5.1.f) of the RGPD and considered very serious in 72.1.a) of the LOPDGDD for the purposes of prescription, setting an initial sanction of "WARNING", without prejudice to what will result in the course of the instruction of the procedure.

SIXTH: On 02/23/20, the initiation of the file was notified to the claimant entity. demanded, who has not filed before this Agency, any brief or allegation, within the the period granted for this purpose.

PROVEN FACTS

1.- According to the complaint, on 06/25/19 and 09/16/19, the Board of Directors of the Club Atlántida Sub from Santa Cruz de Tenerife, sent two emails from the ***EMAIL.1 address to about 300 partners, without blind copying of addresses, making-those visible and publicly accessible to all partners.

FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of control, and as established in art. 47 of Organic Law 3/2018, of December 5, bre, Protection of Personal Data and guarantee of digital rights (in the successive LOPDGDD), the Director of the Spanish Data Protection Agency is competent to resolve this procedure.

Sections 1) and 2), of article 58 of the RGD, list, respectively, the investigative and corrective powers that the supervisory authority may provide to the effect, mentioning in point 1.d), that of: "notifying the person in charge or in charge of the treatment of alleged infringements of these Regulations" and in 2.i), that of: "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."

In the present case, it is reported that the Board of Directors of Club Atlántida Sub in Santa Cruz de Tenerife has sent, on 25/06/19 and 09/06/19, two emails

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emails from the address ***EMAIL.1, to all partners without a blind copy, making public the personal email addresses of all of them.

III

Thus, the known facts could constitute an infraction, imputed to the claimed, for violation of article 5.1.f), of the RGD, which indicates that: "The Personal data will be processed in such a way as to guarantee adequate security. due, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage, through the application of technical measures or appropriate organizational measures ("integrity and confidentiality)".

For its part, section a) of article 72.1 of the LOPDGDD considers as "very serious", for prescription purposes, the: "treatment of personal data violating the principles and guarantee of article 5 of the RGD".

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

The sanction to be imposed must be graded according to the criteria established article 83.2 of the RGPD, and with recital 148 of the RGPD itself, which provides for the possibility of punishing with a warning in certain circumstances.

In view of the aforementioned precepts and others of general application, the Director of the Agency Spanish Data Protection.

RESOLVE

NOTICE: to the entity CLUB ATLANTIDA SUB OF SANTA CRUZ DE TENERIFE with CIF: G38097754, for violation of article 5.1.f) of the RGPD, typified in Article 83.5 of the RGPD.

REQUEST: to the entity CLUB ATLANTIDA SUB DE SANTA CRUZ DE TENERIFE, so that it proceeds to take the appropriate measures in the management of personal data. them from partners and prevent mass emails sent to all they are sent with a blind copy of the recipients and thus adapt their privacy policy ity to current regulations, for which you must take into account the provisions of art. Article 5.1.f) of the RGPD.

NOTIFY: this resolution to the entity CLUB ATLANTIDA SUB DE SANTA CROSS OF TENERIFE.

In accordance with the provisions of article 50 of the LOPDPGDD, this Re-

The solution will be made public once it has been notified to the interested parties.

Against this resolution, which puts an end to the administrative procedure in accordance with art. 48.6 of the LOPDPGDD, and in accordance with the provisions of article 123 of the LPACAP, the Interested parties may optionally file an appeal for reconsideration before the Director

of the Spanish Agency for Data Protection within a month from the date of
the day following the notification of this resolution or directly contentious appeal
before the Contentious-Administrative Chamber of the National High Court,
in accordance with the provisions of article 25 and section 5 of the additional provision

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Final fourth of Law 29/1998, of July 13, regulating the Contentious Jurisdiction-
administrative, within a period of two months from the day following the notification
tion of this act, as provided for in article 46.1 of the aforementioned Law.

Sea Spain Marti

Director of the Spanish Agency for Data Protection.

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