



**Procedure for the management of data protection rights**

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## 1. INTRODUCTION AND PURPOSE OF THE DOCUMENT

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the GDPR) entered into force in May 2016 and has applied since May 2018.

Chapter III of the GDPR is devoted to the Rights of the Data Subject and establishes specific terms on the procedure to be followed to assist data subjects in exercising their rights. For its part, the Spanish Personal Data Protection and Guarantee of Digital Rights Act [*Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales*] (the Data Protection Act) adapts national legislation to the aforementioned European Regulation, specifically with regard to the rights of data subjects, through its Title III.

The correct management of the rights that data subjects may request to exercise must observe three essential principles of all data processing: transparency, fairness and accountability. Therefore, given their importance, the basic notes that staff with access to personal data at Fundación ACS should be aware of in this respect are set out below.

## 2. DEFINITIONS AND ACRONYMS

### 2.1. DEFINITIONS

- **Supervisory Authority:** An independent public authority which is established by a European Economic Area country and oversees compliance with the data protection regulations within that territory.
- **Personal data:** any information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- **Special category data:** Those revealing any of the following characteristics of a natural person: racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data intended to uniquely identify a natural person, data concerning health or data concerning sex life or sexual orientation.
- **Data of a criminal nature:** Those relating to criminal convictions and offences or related security measures (e.g. a restraining order) imposed on a natural person.
- **Profiling or profile:** Any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements.
- **Processor or Data Processor:** Natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.
- **Data Subject:** Identified or identifiable person whose personal data are being or are to be processed. Any natural person whose personal data are handled by Fundación ACS. In this document, the terms “affected party” and “requester” may also be used as synonyms.
- **Controller or Data Controller:** Natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing.
- **Processing:** Any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording,

organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

## 2.2. ACRONYMS

**AEPD:** Spanish Data Protection Agency.

**EDPB:** European Data Protection Board.

**DPO:** Data Protection Officer.

**DPIA:** Data Protection Impact Assessment.

**Art. 29 WP:** Article 29 Working Party.

**Data Protection Act:** Spanish Organic Law 3/2018, of 5 December, on the Protection of Personal Data and Guarantee of Digital Rights [*Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales*].

**GDPR:** Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

**IDT:** International Data Transfer.

**CJEU:** Court of Justice of the European Union.

**CC:** Constitutional Court of Spain.

### 3. PROVISIONS COMMON TO THE RIGHTS

#### Transparency of information, communication and procedures for exercising the data subject's rights<sup>1</sup>

In general, Fundación ACS must make it easy for data subjects to exercise their rights, and the procedures and forms for doing so must be **visible, accessible and simple**. The information may be provided in writing or by other means, including electronic means, in particular where processing is carried out by these means.

The exercise of rights **must be free of charge** for the data subject, except in the case of clearly unfounded or excessive requests, especially when they are repetitive, in which case Fundación ACS may charge a fee to cover the administrative costs of complying with the request or refusing to act (the fee may not bring additional income for Fundación ACS and must effectively correspond to the actual cost to the organisation of processing the request).

Where the data subject submits the request **by electronic means**, the information must be provided by electronic means where possible, unless the data subject requests otherwise.

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<sup>1</sup> Article 12 of the GDPR. Transparent information, communication and modalities for the exercise of the rights of the data subject: 1. The controller shall take appropriate measures to provide any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means. 2. The controller shall facilitate the exercise of data subject rights under Articles 15 to 22. In the cases referred to in Article 11(2), the controller shall not refuse to act on the request of the data subject for exercising his or her rights under Articles 15 to 22, unless the controller demonstrates that it is not in a position to identify the data subject. 3. The controller shall provide information on action taken on a request under Articles 15 to 22 to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay. Where the data subject makes the request by electronic form means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject. 4. If the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy. 5. Information provided under Articles 13 and 14 and any communication and any actions taken under Articles 15 to 22 and 34 shall be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either: (a) charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or (b) refuse to act on the request.

The controller shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request. 6. Without prejudice to Article 11, where the controller has reasonable doubts concerning the identity of the natural person making the request referred to in Articles 15 to 21, the controller may request the provision of additional information necessary to confirm the identity of the data subject. 7. The information to be provided to data subjects pursuant to Articles 13 and 14 may be provided in combination with standardised icons in order to give in an easily visible, intelligible and clearly legible manner a meaningful overview of the intended processing. Where the icons are presented electronically they shall be machine-readable. 8. The Commission shall be empowered to adopt delegated acts in accordance with Article 92 for the purpose of determining the information to be presented by the icons and the procedures for providing standardised icons.

### **Periods**

Fundación ACS must inform the data subject of the actions arising from the request **within one month**. It may only be extended for a **further two months** in the case of particularly complex requests and the data subject must be notified of this extension within one month of receipt of the request.

If Fundación ACS decides not to comply with a request, it must notify this, giving reasons for its refusal, also within one month from its submission.

### **Proof of personality or representation**

Under the GDPR, data controllers must take steps to **verify the identity** of those exercising their rights.

Proof of the data subject's identity may be provided by showing a their national identification document or another valid document, or by sending a photocopy attached to the request. It is also possible to prove identity by means of an electronic signature when the procedure for exercising rights is carried out online.

However, it should be kept in mind that an identity document, although not a special category datum, is a datum with a degree of sensitivity that must only be requested when strictly necessary, and, therefore, **accreditation using the national identification document is not required in cases in which the data subject has already been identified by other means** (for example, if a newsletter unsubscription request is received from the same email address to which the newsletter is sent).

In the case of representation, whether legal or voluntary, the document accrediting the representation must be provided.

### **Method for exercising the right**

Fundación ACS provides data subjects with forms to exercise their rights (in the Appendices to this Procedure, as well as via the organisation's website), although the exercise of the right may not be denied for the sole reason that the data subject uses other means for the request.

For evidentiary purposes, each request received as well as the replies given to the data subject must be recorded and stored. This documentation is kept for as long as necessary to process the request and, subsequently, duly restricted, for the legally established period for the defence or filing of possible claims, which is currently 3 years from the last of the communications received from or addressed to the data subject in relation to the exercise of their rights, under the limitation period for actions in accordance with section 72 of the Data Protection Act.

### **Collaboration of data processors**

Fundación ACS may rely on the **collaboration of its data processors** to handle the exercise of the rights of data subjects, and it may include this collaboration in the data processing agreement. To this end, clauses must be included in the corresponding Processing Commission Agreements. The collaboration of each of the processors is limited to the activities in which each processor is involved, respectively, depending on the service provided to the organisation.

### **Collaboration with data controllers**

If, at any time, Fundación ACS acts as a data processor, it **must collaborate with the data controllers** to comply with and respond to any requests to exercise rights related to the processing that Fundación ACS carries out on behalf of data controllers. To this end, clauses must be included in the relevant Processing Commission Agreements. The collaboration of Fundación ACS will be limited to the activities in which it participates in accordance with the service it provides to the corresponding data controller.

In these cases, when data subjects contact Fundación ACS directly to exercise their rights, Fundación ACS must inform the corresponding data controller without undue delay.

### **Processing of requests**

Upon receipt of a request to exercise a right, regardless of how it is received, Fundación ACS must proceed as outlined in section 10 of this Procedure.

## 4. RIGHT OF ACCESS

### Concept.

The right of access is perfectly defined in Article 15 of the GDPR<sup>2</sup> and refers to the right to know whether the data controller is processing the data subject's data. If it is, the data subject must be informed of the type of data processed, the purpose, recipients, storage period, origin and international transfers.

In relation to the recipients of the data subject's data, the controller must specify the third parties with whom the requester's personal data are shared, including third parties with whom the data subject's information was shared in the past, regardless of whether or not the controller has a relationship with these third parties at the time receiving the request.

### Response.

#### a) Granting access:

The right of access must be granted, regardless of whether or not Fundación ACS has the requester's details, **within one month** of receiving the request (with the exception of the cases mentioned in section 3 above).

If Fundación ACS was processing the requester's data, it must provide the data subject with a **copy of the personal data being processed**. The controller may charge a reasonable fee based on administrative costs for any further copies requested by the data subject.

Where the data subject submits the request by electronic means, and unless the data subject requests otherwise, the information must be provided in a commonly used electronic format.

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<sup>2</sup> Article 15. Right of access by the data subject: 1. The data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the following information: (a) the purposes of the processing; (b) the categories of personal data concerned; (c) the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations; (d) where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period; (e) the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing; (f) the right to lodge a complaint with a supervisory authority; (g) where the personal data are not collected from the data subject, any available information as to their source; (h) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject. 2. Where personal data are transferred to a third country or to an international organisation, the data subject shall have the right to be informed of the appropriate safeguards pursuant to Article 46 relating to the transfer. 3. The controller shall provide a copy of the personal data undergoing processing. For any further copies requested by the data subject, the controller may charge a reasonable fee based on administrative costs. Where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, the information shall be provided in a commonly used electronic form. 4. The right to obtain a copy referred to in paragraph 3 shall not adversely affect the rights and freedoms of others.

b) Denial of access:

The GDPR does not establish any case of denial of access in the exercise of the right of access.

If Fundación ACS does not act on the request of the data subject, it must inform the data subject without delay, and at the latest within one month of receiving the request, of the reasons for its failure to act and of the possibility of lodging a complaint with a supervisory authority and taking legal action.

Where there is reasonable doubt as to the identity of the natural person making the request, although there is no obligation to do so, they may be asked to provide additional information necessary to confirm their identity.

## 5. RIGHT TO RECTIFICATION

The right to rectification is the right of the data subject to have inaccurate or incomplete data corrected<sup>3</sup>.

The request for rectification must state the data concerned and the correction to be made, and must be accompanied by supporting documentation.

Fundación ACS must communicate any rectification to each of the recipients to whom the personal data have been communicated.

### Response.

The GDPR provides that the data subject has the right to obtain from the controller, **without undue delay**, the rectification of inaccurate personal data concerning them. In any case, a response must be given to the data subject within the general time limit for requests to exercise rights (1 month, extendable by a further 2 months if the circumstances so require).

The controller must also communicate any rectification of personal data to each of the recipients to whom the personal data have been disclosed, unless this is impossible or would require a disproportionate effort.

Fundación ACS must inform the data subject about these recipients, if they so request.

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<sup>3</sup> Article 16 of the GDPR. Right to rectification

*The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her. Taking into account the purposes of the processing, the data subject shall have the right to have incomplete personal data completed, including by means of providing a supplementary statement.*

## 6. RIGHT TO ERASURE (CANCELLATION)

### Concept.

The right to erasure is based on the right to cancellation (erasure or elimination) of personal data.

The GDPR provides that, if the controller has made the requester's personal data public, it is obliged to inform other controllers who are processing the data of the obligation to erase any link, copy or repetition of the personal data.

Fundación ACS must take reasonable steps, taking into account the technology available and the means at its disposal, including technical measures, to inform the data controllers who are processing the data of the data subject's request.

Furthermore, Fundación ACS must communicate any erasure to each of the recipients to whom the personal data have been communicated.<sup>4</sup>

### Request.

The GDPR provides that data subjects have the right to have their personal data erased and no longer processed if they are no longer necessary for the purposes for which they were collected or otherwise processed, if data subjects have withdrawn their consent to the processing or object to the processing of personal data concerning them, or if the processing of their personal data otherwise breaches the Regulation.

There is an obligation to erase and delete personal data in the following cases:

- Data that are no longer required for the purpose for which they were collected.

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<sup>4</sup> Article 17. Right to erasure ('right to be forgotten'): 1. The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies: (a) the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed; (b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or point (a) of Article 9(2), and where there is no other legal ground for the processing; (c) the data subject objects to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing, or the data subject objects to the processing pursuant to Article 21(2); (d) the personal data have been unlawfully processed; (e) the personal data have to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject; (f) the personal data have been collected in relation to the offer of information society services referred to in Article 8(1). 2. Where the controller has made the personal data public and is obliged pursuant to paragraph 1 to erase the personal data, the controller, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data. 3. Paragraphs 1 and 2 shall not apply to the extent that processing is necessary: (a) for exercising the right of freedom of expression and information; (b) for compliance with a legal obligation which requires processing by Union or Member State law to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller; (c) for reasons of public interest in the area of public health in accordance with points (h) and (i) of Article 9(2) as well as Article 9(3); (d) for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing; or (e) for the establishment, exercise or defence of legal claims.

- The data subject withdraws consent to processing on the basis that that consent was given voluntarily, by means of express consent, and they now have the right to withdraw it.
- Objection to the processing of personal data.
- Personal data have been processed unlawfully.
- Data erased for compliance with a legal obligation under EU law or the law of the Member State to which the controller is subject.
- Data of a child under 16 years of age collected with parental consent.

**The right to erasure does not apply** where the personal data are necessary for any of the following purposes:

- Exercise of the right to freedom of expression and information, particularly with regard to news concerning public figures or people of public interest.
- Where it is intended to comply with a legal obligation (EU or Member State law) which requires the processing of personal data to fulfil a task carried out in the public interest or exercising official authority. This case involves the passive storage or processing of data as there is a rule that obliges Fundación ACS to store data for a certain period of time. At the end of this period, the data will be completely erased.
- For reasons of public interest in the field of public health.
- For archiving, public interest, scientific and historical research or statistical purposes.
- For the preparation, filing or defence of claims. During this period, the data are duly blocked and once this period has elapsed, the data must be completely erased.

**Response.**

The same deadlines and procedures apply to this right as to the other rights envisaged in the GDPR.

The controller must communicate any erasure of personal data performed to each of the recipients to whom the personal data have been disclosed, unless this is impossible or would require a disproportionate effort. Fundación ACS must inform the data subject about these recipients, if they so request.

## 7. RIGHT TO RESTRICTION OF PROCESSING

### Concept.

The restriction of processing means that, at the request of the data subject, the processing operations that would be appropriate in each case will not be applied to their personal data<sup>5</sup>.

### Request.

Restriction may be requested when:

- The data subject has exercised the rights to rectification or to object and the controller is in the process of determining whether to comply with the request.
- The processing is unlawful, which would lead to the erasure of the data, but the data subject objects to this.
- The data are no longer necessary for processing, which would also result in their erasure, but the data subject requests the restriction because they need them for the preparation, filing or defence of claims.

For the duration of the restriction, the data controller may only process the data concerned beyond their storage:

- With the consent of the data subject.
- For the preparation, filing or defence of claims.
- To protect the rights of another natural or legal person.
- For reasons of important public interest of the Union or the Member State concerned.

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<sup>5</sup> Article 18. Right to restriction of processing:

4. The data subject shall have the right to obtain from the controller restriction of processing where one of the following applies: (a) the accuracy of the personal data is contested by the data subject, for a period enabling the controller to verify the accuracy of the personal data; (b) the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of their use instead; (c) the controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise or defence of legal claims; (d) the data subject has objected to processing pursuant to Article 21(1) pending the verification whether the legitimate grounds of the controller override those of the data subject.

5. Where processing has been restricted under paragraph 1, such personal data shall, with the exception of storage, only be processed with the data subject's consent or for the establishment, exercise or defence of legal claims or for the protection of the rights of another natural or legal person or for reasons of important public interest of the Union or of a Member State. 6. A data subject who has obtained restriction of processing pursuant to paragraph 1 shall be informed by the controller before the restriction of processing is lifted.

Response.

The same deadlines and procedures apply to this right as to the other rights envisaged in the GDPR.

Fundación ACS must communicate any restriction of processing performed to each of the recipients to whom the personal data have been disclosed, unless this is impossible or would require a disproportionate effort. It must also inform the data subject about these recipients, if they so request.

## 8. RIGHT TO DATA PORTABILITY

Concept

The data subject has the right to transfer their data to another data controller without hindrance from the data controller to whom the data have been provided, when:

- The processing is based on consent.
- The processing is carried out by automated means.

In exercising their right to data portability, the data subject has the right to have the data transmitted directly from the controller to the other controller, provided that it is technically feasible<sup>6</sup>.

This right does not apply:

- To data of third parties that a data subject has provided to a controller.
- Where the data subject has requested the portability of data relating to them but provided to the controller by a third party.

Response.

If appropriate, Fundación ACS must comply with the request of the data subject by making the personal data available to the data subject, or to another data controller designated for this purpose by the data subject, in a structured, commonly used and machine-readable format.

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<sup>6</sup> Article 20. Right to data portability: 1. The data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a controller, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller without hindrance from the controller to which the personal data have been provided, where: (a) the processing is based on consent pursuant to point (a) of Article 6(1) or point (a) of Article 9(2) or on a contract pursuant to point (b) of Article 6(1); and (b) the processing is carried out by automated means. 2. In exercising his or her right to data portability pursuant to paragraph 1, the data subject shall have the right to have the personal data transmitted directly from one controller to another, where technically feasible. 3. The exercise of the right referred to in paragraph 1 of this Article shall be without prejudice to Article 17. That right shall not apply to processing necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. 4. The right referred to in paragraph 1 shall not adversely affect the rights and freedoms of others.

The exercise of this right must not adversely affect the rights and freedoms of others, and, therefore, Fundación ACS must first carry out an analysis to cleanse the personal information that can actually be provided to the data subject.

Furthermore, given that the exercise of this right does not imply the erasure of the data, unless expressly requested by the data subject and that erasure is effectively carried out, Fundación ACS must inform the data subject that it will continue to process their personal data.

In any case, a response must be given to the data subject within the general time limit for requests to exercise rights (1 month, extendable by a further 2 months if the circumstances so require).

## 9. RIGHT TO OBJECT AND RIGHTS IN RELATION TO AUTOMATED INDIVIDUAL DECISIONS

### Concept.

The data subject has the **right to object**, at any time, on grounds relating to their individual situation, to the processing of personal data relating to them that are processed on the basis of legitimate interest or in the public interest.

Fundación ACS must cease processing personal data unless it can demonstrate compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject, or it needs them to prepare, file or defend claims<sup>7</sup>.

**Right to object to automated decisions** (e.g. determining a person's eligibility for consumer finance credit based solely on algorithms without human intervention):

Data subjects have the right not to be subject to a decision that has legal effects concerning them or significantly affects them and which is based solely on automated processing of data intended to evaluate certain personal aspects relating to them, such as their professional performance, creditworthiness, reliability or conduct<sup>8</sup>.

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<sup>7</sup> Article 21. Right to object: 1. The data subject shall have the right to object, on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her which is based on point (e) or (f) of Article 6(1), including profiling based on those provisions. The controller shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims. 2. Where personal data are processed for direct marketing purposes, the data subject shall have the right to object at any time to processing of personal data concerning him or her for such marketing, which includes profiling to the extent that it is related to such direct marketing. 3. Where the data subject objects to processing for direct marketing purposes, the personal data shall no longer be processed for such purposes. 4. At the latest at the time of the first communication with the data subject, the right referred to in paragraphs 1 and 2 shall be explicitly brought to the attention of the data subject and shall be presented clearly and separately from any other information. 5. In the context of the use of information society services, and notwithstanding Directive 2002/58/EC, the data subject may exercise his or her right to object by automated means using technical specifications. 6. Where personal data are processed for scientific or historical research purposes or statistical purposes pursuant to Article 89(1), the data subject, on grounds relating to his or her particular situation, shall have the right to object to processing of personal data concerning him or her, unless the processing is necessary for the performance of a task carried out for reasons of public interest.

<sup>8</sup> Article 22. Automated individual decision-making, including profiling: 1. The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her. 2. Paragraph 1 shall not apply if the decision: (a) is necessary for entering into, or performance of, a contract between the data subject and a data controller; (b) is authorised by Union or Member State law to which the controller is

**Exceptions** to the exercise of the right to object (automated processing):

- It is necessary for the performance of a contract between the data subject and the controller.
- It is authorised by law.
- It has the explicit consent of the data subject.

**Right to object to processing for direct marketing:**

Where personal data are processed for direct marketing purposes, the data subject has the right to object to that processing at any time.

At the time of the first communication with the data subject at the latest, they must be informed of the right to exercise their right to object.

It must be explicitly brought to the attention of the data subject and presented clearly and separately from any other information.

If the direct marketing activities consist of sending commercial communications by electronic means, Title III of the Spanish Information Society Services and e-Commerce Act [*Ley 34/2002, de 11 de julio, de servicios de la sociedad de la información y de comercio electrónico*] must be observed and complied with. In this respect, each commercial communication sent by electronic means must include an email address or other valid electronic address where the recipients can exercise this right, and it is forbidden to send communications that do not include this address.

**Response.**

The GDPR contains no provision on this issue. However, it is presumed, by analogy, that the data subject has the right to obtain from the controller, **without undue delay**, the rectification of inaccurate personal data concerning them. Fundación ACS must proceed in accordance with the provisions for the right to erasure, unless the activity to which the data subject objects is direct marketing, in which case it must automatically comply with the request and inform the data subject accordingly.

In any case, a response must be given to the data subject within the general time limit for requests to exercise rights (1 month, extendable by a further 2 months if the circumstances so require).

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*subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests; or (c) is based on the data subject's explicit consent. 3. In the cases referred to in points (a) and (c) of paragraph 2, the data controller shall implement suitable measures to safeguard the data subject's rights and freedoms and legitimate interests, at least the right to obtain human intervention on the part of the controller, to express his or her point of view and to contest the decision. 4. Decisions referred to in paragraph 2 shall not be based on special categories of personal data referred to in Article 9(1), unless point (a) or (g) of Article 9(2) applies and suitable measures to safeguard the data subject's rights and freedoms and legitimate interests are in place.*

## 10. PROCEDURE IN VIEW OF A REQUEST TO EXERCISE RIGHTS

### **Immediate communication to the Data Protection Officer**

Given the risk involved in dealing with these requests in relation to the tight deadline for responding to requests, as well as the implications of failing to handle them or handling them incorrectly, any person who becomes aware of a request for access, rectification, erasure or objection must immediately notify the Data Protection Officer for instructions on how to proceed.

### **Who deals with the requests?**

When there are customer service or complaint departments, the staff in charge of these departments must be informed so that they can channel this type of request, which, in any case, must always be communicated to the Data Protection Officer.

A copy of this Procedure must be disseminated to all staff working with the public or dealing with complaints, so that all requests are transmitted through the appropriate channels and are responded to in a timely manner.

### **Granting or denial of the request**

If the right is denied or if any correction is required, Fundación ACS must inform the data subject.

- Any request received must be dealt with, even if the person concerned is not known at all or no contact details are available.
- In the event that the personal data of the data subject are not available, it must also inform them within the same period established for responding.
- When the communication containing the request does not contain sufficient identifying data, a response must be sent requesting its correction, unless Fundación ACS does not have more data on the data subject with which to confirm their identity, in which case there is no obligation to process the request, although it is necessary to respond to the data subject indicating this.
- The request must be rejected if it is made by a person other than the data subject and no proof of representation is provided.
- The erasure of data is not appropriate where the personal data must be kept for the periods envisaged in the applicable provisions (tax and employment regulations, for example) as well as in the contractual relations between the person and the entity that justified the processing of the data.

- Although highly unlikely, the request could be refused if a law or a rule of Community law prevents the entity from disclosing to data subjects the processing of their data.

### **How and when to reply**

Fundación ACS must respond to all requests in writing. The response must be sent by certified letter or any other method that offers proof that a response has been sent, and a copy of the response must be kept. If the request was received electronically, Fundación ACS must respond electronically, unless the data subject has requested another format for this purpose.

The period for responding to any request to exercise rights is one (1) month, which may be extended by a further two (2) months in the case of particularly complex requests, although the data subject must be notified of this extension within one (1) month receiving the request to exercise a right.

## **11. FORMS**

### **11.1. EXERCISE OF THE RIGHT OF ACCESS**

I, Mr/Ms \_\_\_\_\_, of legal age, domiciled at \_\_\_\_\_, postcode \_\_\_\_\_, with national identification number \_\_\_\_\_, a photocopy of which is attached, request to exercise my right of access, in accordance with **Article 15 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.**

#### **I REQUEST:**

- 1) That my right of access to my personal data be complied with within a maximum period of **one month** from receipt of this request.
- 2) That if the request to exercise the right of access is granted, I be provided with a copy of the personal data being processed, if possible by sending it to the address indicated above.
- 3) To be provided, in a legible and clear manner, with the following information in relation to the processing of my data:
  - a) The purposes of the processing, as well as the categories of personal data being processed.
  - b) The recipients or categories of recipients to whom my personal data have been or will be disclosed, including, where applicable, recipients in third parties or international organisations.

- c) Information on the appropriate guarantees concerning the transfer of my data to a third country or to an international organisation, where applicable.
  - d) The expected storage period or, if this is not possible, the criteria for determining this period.
  - e) If there are automated decisions, including profiling, meaningful information on the logic applied, as well as the significance and intended consequences of that processing.
  - f) If my personal data have not been obtained directly from me, the information available on their origin.
  - g) Any other information that must be provided to me in accordance with the applicable law in force.
- 4) In the event that ACS considers that my request is not admissible, please inform me so that I can contact the competent supervisory authority, if necessary.

I have been informed that Fundación ACS will process my personal data to handle this request and that I can exercise my data protection rights by sending an email to the following address [pdd.fundacionacs@grupoacs.com](mailto:pdd.fundacionacs@grupoacs.com) and obtain more information about the processing of my personal data via the following link <https://www.fundacionacs.com/descarga/aviso-de-privacidad-web.pdf>.

In \_\_\_\_\_, on \_\_\_\_\_ 20\_.

Signed:

## 11.2. EXERCISE OF THE RIGHT TO RECTIFICATION

I, Mr/Ms \_\_\_\_\_, of legal age, domiciled at \_\_\_\_\_, postcode \_\_, with national identification number \_\_\_\_\_, a photocopy of which is attached, request to exercise my right to rectification, in accordance with **Article 16 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.**

### I REQUEST:

- 1) That my personal data be rectified within one month of receipt of this request, and that I be notified in writing of the result of the rectification carried out.

No.	INCORRECT DATUM	CORRECT DATUM
1		
2		
3		

2) That the rectification be communicated to each of the recipients to whom my personal data have been previously communicated.

3) That in the event that Fundación ACS considers that the rectification is not appropriate, I be informed of the reasons so that, where appropriate, I can complain to the corresponding supervisory authority.

I have been informed that Fundación ACS will process my personal data to handle this request and that I can exercise my data protection rights by sending an email to the following address [pdd.fundacionacs@grupoacs.com](mailto:pdd.fundacionacs@grupoacs.com) and obtain more information about the processing of my personal data via the following link <https://www.fundacionacs.com/descarga/aviso-de-privacidad-web.pdf>.

In \_\_\_\_\_, on \_\_\_\_\_ 20\_.

Signed:

### 11.3. EXERCISE OF THE RIGHT TO ERASURE (CANCELLATION)

I, Mr/Ms \_\_\_\_\_, of legal age, domiciled at \_\_\_\_\_, postcode \_\_\_\_\_, with national identification number \_\_\_\_\_, a photocopy of which is attached, request to exercise my right to erasure, in accordance with **Article 17 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.**

#### **I REQUEST:**

1) That my personal data be erased within one month of receipt of this request, and that I be notified in writing of the result of the erasure carried out.

The personal data to be erased are those marked below:

All those that Fundación ACS holds regarding me.

Those specified below:

2) That in the event the requested erasure is not accepted in whole or in part, I be informed of the reasons so that, where appropriate, I can complain to the corresponding supervisory authority.

3) That in the event that Fundación ACS considers that the rectification is not appropriate, I be informed of the reasons so that, where appropriate, I can complain to the corresponding supervisory authority.

I have been informed that Fundación ACS will process my personal data to handle this request and that I can exercise my data protection rights by sending an email to the following address [pdd.fundacionacs@grupoacs.com](mailto:pdd.fundacionacs@grupoacs.com) and obtain more information about the processing of my personal data via the following link <https://www.fundacionacs.com/descarga/aviso-de-privacidad-web.pdf>.

In \_\_\_\_\_, on \_\_\_\_\_ 20\_.

Signed:

#### 11.4. EXERCISE OF THE RIGHT TO OBJECT

I, Mr/Ms \_\_\_\_\_, of legal age, domiciled at \_\_\_\_\_,  
postcode \_\_\_\_\_, with national identification number  
\_\_\_\_\_, a photocopy of which is attached, request  
to exercise my right to object, in accordance with **Article 21 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.**

**I REQUEST:**

1) To object to the processing of my personal data, and, therefore, the cessation of the processing of my data within one month, taking into consideration that:

(describe the situation in which the processing of your personal data is taking place and list the reasons why you object to the processing).

2) That in the event the requested objection is not accepted, I be informed of the reasons so that, where appropriate, I can complain to the corresponding supervisory authority. I have been informed that Fundación ACS will process my personal data to handle this request and that I can exercise my data protection rights by sending an email to the following address [pdd.fundacionacs@grupoacs.com](mailto:pdd.fundacionacs@grupoacs.com) and obtain more information about the processing of my personal data via the following link <https://www.fundacionacs.com/descarga/aviso-de-privacidad-web.pdf>.

In \_\_\_\_\_, on \_\_\_\_\_ 20\_.

Signed:

**11.5. EXERCISE OF THE RIGHT TO RESTRICTION OF PROCESSING**

I, Mr/Ms \_\_\_\_\_, of legal age, domiciled at \_\_\_\_\_, postcode \_\_, with national identification number \_\_\_\_\_, a photocopy of which is attached, request to exercise my right to restriction of processing, in accordance with **Article 18 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.**

**I REQUEST:**

1) That my request that my personal data not be used for (indicate processing or purpose) be granted within one month, for the following reason (select):

- I have exercised the rights to rectification or to object and the controller is in the process of determining whether to comply with the request.
- The processing is unlawful, but I object to the erasure of my data.
- The data are no longer necessary for processing, but I object to their erasure as they are necessary for the preparation, filing or defence of claims.

2) That the restriction of processing be communicated to each of the recipients to whom my personal data have been previously communicated.

3) That in the event that the data controller considers that the restriction of processing is not appropriate, it communicate this to me.

I have been informed that Fundación ACS will process my personal data to handle this request and that I can exercise my data protection rights by sending an email to the following address [pdd.fundacionacs@grupoacs.com](mailto:pdd.fundacionacs@grupoacs.com) and obtain more information about the processing of my personal data via the following link <https://www.fundacionacs.com/descarga/aviso-de-privacidad-web.pdf>.

In \_\_\_\_\_, on \_\_\_\_\_ 20\_.

Signed:

#### 11.6. EXERCISE OF THEE RIGHT TO DATA PORTABILITY

I, Mr/Ms \_\_\_\_\_, of legal age, domiciled at \_\_\_\_\_, postcode \_\_, with national identification number \_\_\_\_\_, a photocopy of which is attached, request to exercise my right to data portability, in accordance with **Article 20 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.**

#### I REQUEST:

1) That my personal data be provided within one month in a structured, commonly used and machine-readable format to:

- Me at the above address.
- Directly to the following entity: (specify name or company name, tax identification number and address), where technically possible.

2) In the event that Fundación ACS considers that my request is not admissible, please inform me so that I can contact the competent supervisory authority, if necessary.

I have been informed that Fundación ACS will process my personal data to handle this request and that I can exercise my data protection rights by sending an email to the following address

[pdd.fundacionacs@grupoacs.com](mailto:pdd.fundacionacs@grupoacs.com) and obtain more information about the processing of my personal data via the following link <https://www.fundacionacs.com/descarga/aviso-de-privacidad-web.pdf>.

In \_\_\_\_\_, on \_\_\_\_\_ 20\_.

Signed:

#### 11.7. EXERCISE OF THE RIGHT TO OBJECT TO AUTOMATED INDIVIDUAL DECISIONS

I, Mr/Ms \_\_\_\_\_, of legal age, domiciled at \_\_\_\_\_, postcode \_\_, with national identification number \_\_\_\_\_, a photocopy of which is attached, request to exercise my right to data portability, in accordance with **Article 20 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.**

#### **I REQUEST:**

- 1) Not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning me or similarly significantly affects me, in particular in the following respects:
- 2) That the necessary measures be taken to safeguard my rights and freedoms, as well as my legitimate interests, the right to human intervention, and that I be able express my point of view and challenge the decision, if the processing of my personal data is based on the conclusion or performance of a contract, or on my explicit consent.
- 3) That my request be complied with in the terms set out above within one month.
- 4) In the event that Fundación ACS considers that my request is not admissible, please inform me so that I can contact the competent supervisory authority, if necessary.

I have been informed that Fundación ACS will process my personal data to handle this request and that I can exercise my data protection rights by sending an email to the following address [pdd.fundacionacs@grupoacs.com](mailto:pdd.fundacionacs@grupoacs.com) and obtain more information about the processing of my personal data via the following link <https://www.fundacionacs.com/descarga/aviso-de-privacidad-web.pdf>.

## 11.8. EXERCISE OF THE RIGHT OF INFORMATION

I, Mr/Ms \_\_\_\_\_, of legal age, domiciled at \_\_\_\_\_, postcode \_\_, with national identification number \_\_\_\_\_, a photocopy of which is attached, request to exercise my right to data portability, in accordance with **Article 20 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.**

### **I REQUEST:**

- 1) To be provided, free of charge, with all information concerning the processing of my personal data, which must be made available to me in accordance with the applicable regulations in force.
- 2) In the event that Fundación ACS considers that my request is not admissible, please inform me so that I can contact the competent supervisory authority, if necessary.

I have been informed that Fundación ACS will process my personal data to handle this request and that I can exercise my data protection rights by sending an email to the following address [pdd.fundacionacs@grupoacs.com](mailto:pdd.fundacionacs@grupoacs.com) and obtain more information about the processing of my personal data via the following link <https://www.fundacionacs.com/descarga/aviso-de-privacidad-web.pdf>.

## 11.9. TEMPLATE RESPONSE RIGHT OF ACCESS

In \_\_\_\_\_, on \_\_\_\_\_20

**Mr (name and surnames of the data subject).**

C/ (street name, number, door, staircase).

Postcode (postcode) – Town

CASE (case no.)

Dear Sir/Madam,

In relation to your request registered in our company on 00/00/00, in which you request access to the data on you contained in our files, we attach<sup>9</sup>:

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<sup>9</sup> Establish what is appropriate in each case based on the file and the data subject's request.

- A copy of the personal data subject to processing.
- Direct remote access to your personal data in our systems, via the following link: \_\_\_\_\_

We also inform you that your data have not been communicated to any entity/have been communicated to the following entities:

- Name of entity 1: \_\_\_\_\_ Address: \_\_\_\_\_

We also inform you that the intended uses and purposes of the file are: \_\_\_\_\_<sup>10</sup>

The envisaged storage period for personal data is \_\_\_\_\_.

The origin of your data is the services agreement/form/etc. (specify).

Profiling has/has not been carried out with your personal data, and no other automated decisions have been taken.

There have been no international transfers of your personal data./ There have been international transfers of your data to the following countries:. These international transfers were based on the following guarantees:

If you consider the above data to be inaccurate or incomplete, you may request to exercise the rights to rectify or erase personal data or to restrict the processing of personal data, or to object to that processing, attaching to your request supporting documentation of the request to be made.

If you do not agree with this response, please note that you can file a complaint with the Spanish Data Protection Agency.

Finally, please refer to the case number given in the letter in any further communication you wish to make.

Yours sincerely,

Signed:

#### 11.10. TEMPLATE RESPONSE PROVISIONALLY DENYING THE RIGHT (RECTIFICATION)

In \_\_\_\_\_, \_\_\_\_\_ 20\_\_

**Mr (name and surnames of the data subject).**

\_\_\_\_\_

<sup>10</sup> Reflect the uses and purposes of the corresponding file.

C/ (street name, number, door, staircase).

Postcode (postcode) – Town

CASE (case no.)

Dear Sir/Madam,

In response to your letter registered in our offices on 00/00/00, in which you requested to exercise your Right to \_\_\_\_\_ of the data included in the File<sup>11</sup> relating to you, we inform you that, to be able to provide you with them, it is necessary that<sup>12</sup>:

- ✓ You sign the request to identify the data subject.
- ✓ You attach to your communication a photocopy of your national identification document to identify the data subject.

Once this requirement has been met, we will proceed to handle your request for access/correction/cancellation.

Finally, please refer to the case number given in the letter in any further communication you wish to make.

Yours sincerely,

Signed:

#### 11.11. TEMPLATE RESPONSE INFORMING OF THE RECTIFICATION OF DATA

In \_\_\_\_\_, on \_\_\_\_\_20

**Mr (name and surnames of the data subject).**

C/ (street name, number, door, staircase).

Postcode (postcode) – Town

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<sup>11</sup> *The file regarding which access/correction/cancellation was requested.*

<sup>12</sup> *Detail the formal deficiency leading to the denial of access/rectification/cancellation.*

CASE (case no.)

Dear Sir/Madam,

In accordance with your request for **rectification** registered in our offices on 00/00/00, we inform you that after the pertinent verifications we have proceeded to rectify your data in our files, as indicated by you.

The rectified data are as follows:

✓ ..

We also inform you that your data<sup>13</sup>

- have not been communicated to any entity.
- have been communicated to the following entities:
  - Name of entity 1: \_\_\_\_\_
  - Address: \_\_\_\_\_
  - Name of entity 2: \_\_\_\_\_
  - Address: \_\_\_\_\_

Finally, please refer to the case number given in the letter in any further communication you wish to make.

Yours sincerely,

Signed:

#### 11.12. TEMPLATE RESPONSE COMMUNICATING THE CANCELLATION OF DATA

In \_\_\_\_\_, on \_\_\_\_\_ 20

**Mr (name and surnames of the data subject).**

C/ (street name, number, door, staircase).

<sup>13</sup> Establish what is appropriate in each case based on the file referred to.

Postcode (postcode) - Town

CASE (case no.)

Dear Sir/Madam,

In accordance with your request for cancellation registered in our offices on 00/00/00, we inform you that after the pertinent verifications we have proceeded to **cancel** the data associated with you and with our organisation in our files.

We also inform you that that cancellation will give rise to the blocking of the data, which will be stored solely at the disposal of the public administrations, judges and courts to deal with possible liability arising from the legal relationship maintained with \_\_\_\_\_ during the relevant limitation period.

We also inform you that your data have been disclosed, and so the following entities have been informed, requesting the erasure of your personal information:<sup>14</sup>

- Name of entity 1: \_\_\_\_\_
- Name of entity 2: \_\_\_\_\_

Finally, please refer to the case number given in the letter in any further communication you wish to make.

Yours sincerely,

Signed:

### 11.13. TEMPLATE RESPONSE DENYING THE CANCELLATION OF DATA

In \_\_\_\_\_, on \_\_\_\_\_20

**Mr (name and surnames of the data subject).**

C/ (street name, number, door, staircase).

Postcode (postcode) – Town

CASE (case no.)

<sup>14</sup> Establish what is appropriate in each case based on the file referred to.

Dear Sir/Madam,

In response to your kind communication registered in our entity on 00/00/00, in which you requested the **cancellation** of the following data related to you, we inform you that we cannot process your cancellation request for the following reason:<sup>15</sup>

- The data are processed in the exercise of the right to freedom of expression and information.
- The purpose of the processing is to comply with a legal obligation.
- For reasons of public interest in the field of public health.
- The data are processed for archiving, public interest, scientific and historical research or statistical purposes.
- For the preparation, filing or defence of claims.

We also inform you that your data <sup>16</sup>

- have not been communicated to any entity.
- have been communicated to the following entities:

Name of entity 1:

Name of entity 2:

Finally, please refer to the case number given in the letter in any further communication you wish to make.

Yours sincerely,

Signed:

#### 11.14. TEMPLATE RESPONSE INFORMING THAT THERE IS NO INFORMATION IN THEIR NAME

In \_\_\_\_\_, on \_\_\_\_\_ 20

**Mr (name and surnames of the data subject).**

<sup>15</sup> Choose the reason for refusing the cancellation.

<sup>16</sup> Establish what is appropriate in each case based on the file referred to.

C/ (street name, number, door, staircase).

Postcode (postcode) – Town

CASE (case no.)

Dear Sir/Madam,

In relation to your communication registered in our offices on \_/\_/\_, in which you requested to exercise the **right to** \_, we inform you that, having performed the relevant checks, as of this date, the data relating to your national identification document\_\_\_\_\_are not registered in our files.

Finally, please refer to the case number given in the letter in any further communication you wish to make.

Yours sincerely,

Signed:

#### 11.15. TEMPLATE RESPONSE INFORMING OF THE RESTRICTION OF PROCESSING PERFORMED

In \_\_\_\_\_, on \_\_\_\_\_20

**Mr (name and surnames of the data subject).**

C/ (street name, number, door, staircase).

Postcode (postcode) – Town

CASE (case no.)

Dear Sir/Madam,

In accordance with your request to **restrict the processing of your personal data** registered in our offices on 00/00/00, we inform you that after performing the pertinent verifications we have actioned it, for the reasons you indicated.

We also inform you that your data<sup>17</sup>

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<sup>17</sup> Establish what is appropriate in each case based on the file referred to.

- have not been communicated to any entity.
- have been communicated to the following entities:
  - Name of entity 1: \_\_\_\_\_
  - Address: \_\_\_\_\_
  - Name of entity 2: \_\_\_\_\_
  - Address: \_\_\_\_\_

Finally, please refer to the case number given in the letter in any further communication you wish to make.

Yours sincerely,

Signed:

11.16. TEMPLATE RESPONSE TO REQUEST FOR DATA PORTABILITY

In \_\_\_\_\_, on \_\_\_\_\_ 20

**Mr (name and surnames of the data subject).**

C/ (street name, number, door, staircase).

Postcode (postcode) – Town

CASE (case no.)

Dear Sir/Madam,

In accordance with your request for **portability of personal data** registered in our offices on 00/00/00, we inform you that after performing the pertinent verifications we have ported the data associated with you to the entity indicated below:

- Name of entity 1: \_\_\_\_\_
- Tax identification number: \_\_\_\_\_

- Address: \_\_\_\_\_

We also inform you that Fundación ACS will continue to process your personal data as it has been doing, unless you expressly request otherwise and it is appropriate to comply with that request under the circumstances.

Finally, please refer to the case number given in the letter in any further communication you wish to make.

Yours sincerely,

Signed: