

□ Procedure No.: PS/00067/2021

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00067/2021, instructed by the Spanish Agency for Data Protection to the entity, TECNOLOGIA EXTREMEÑA DEL LITIO, S.L. with CIF.: B87667861, owner of the website: www.sanjovaldeflorez.es, under the claims filed for the alleged violation of the protection regulations of data, and taking into account the following:

BACKGROUND

FIRST: This Agency has received 16 briefs sent by the claimants indicated in the annex, between 10/04/19, and 10/09/19, where it was indicated that: "The entity claimed has created a web page: www.sanjovaldeflorez.es, in which upper part appears the word "Contact", in which you can fill in a Contact Form. There is no further mention of data processing personal, neither in this nor in any other place of the page".

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 powers of investigation granted to the control authorities in article 57.1 of the Regulation (EU) 2016/679 (GDPR). Thus, on 11/15/19 and 11/26/19, it addresses both information requirements to the claimed entity.

According to a certificate from the Electronic Notifications and Electronic Address Service, the request sent to the claimed entity, on 11/15/19 through the service of NOTIFIC@ notifications, was rejected at destination on 11/26/19.

According to a certificate from the State Post and Telegraph Society, the request sent to the claimed entity, on 11/26/19, through the SICER service, it was returned

to origin with the message “unknown”, on 12/20/19.

THIRD

: by this Agency, checks are made on the Policy of

Privacy, Legal Notice of the reported website, www.sanjovaldeflorez.es,

verifying the following characteristics in this regard:

A).- Regarding the processing of personal data on the website:

On the home page, through the <<contact>> link, located at the top of

the same, the web redirects to a form, <https://sanjovaldeflorez.es/contacto>

/ ,

where personal data of users is collected, such as name and email.

On the same contact page, there is information on the identity of the person in charge

of the website: “TECNOLOGÍA EXTREMEÑA DEL LITIO, S.L; C/ Juan de la Cierva,

18; Mejostilla Industrial Estate; 10004 CACERES – Spain”.

B).- About the "Privacy Policy" of the website:

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Through the link <<Privacy Policy>>, existing at the bottom of the page.

main page, the web redirects to a new page, <https://sanjovaldeflorez.es/politica-privacy/> that provides information on the identification of the person responsible for

the website; on the purpose, legitimacy and category of the data collected

two; about consent to treatment; on compliance with the regulations of

app; security measures; the exercise of rights that assist users

rivers; the links or external links existing on the website; the modification of the

privacy policy; the person in charge of the file and those in charge of the treatment; the services offered by third parties on the web; revocation of consent; the systems for capturing personal data and about “social plugins”.

However, regarding the regulations applied to the website, it is indicated that: “Technology Extremeña del Litio, SL. complies with the guidelines of Organic Law 15/1999 of 13 of December on the Protection of Personal Data, the Royal Decree 1720/2007 of December 21, which approves the Regulations for the development of Said Organic Law and other regulations in force and applicable at all times, velando for guaranteeing the correct use and treatment of the user’s personal data.

As of May 25, 2018, we will be governed by the regulations that will come into force, being the General Regulation on Data Protection (GDPR) of the European Union Pea. Likewise, Extremeña del Litio Technology, SL. reports that it complies with the Law 34/2002 of July 11, on Services of the Information Society and Commerce Electronic Service and will request your consent from the USER for the treatment of your e-mail for commercial purposes at all times”.

FOURTH: On 02/19/21, the Director of the Spanish Agency for the Protection of Data agreed to open a sanctioning procedure for non-compliance with the provisions of the article 13 of the RCPD with a sanction of “warning”, regarding the policy of privacy on the website.

SIXTH: Once the initiation agreement has been notified, the claimed person has not received any written statement of allegations at the initiation of the file, in the period granted to the effect.

Of the actions carried out in this procedure, of the information and documentation presented by the parties, the following have been accredited:

PROVEN FACTS

1º.- As indicated in the claims, on the web, www.sanjosevaldeflorez.es does not

There is a mention of the processing of personal data.

2º.- As this Agency has been able to verify, the website in question can collect personal data of users, such as name and email.

Information on the identification of the responsible for the website; on the purpose, legitimacy and categories of the damages collected; about consent to treatment; on compliance with the norm application; security measures; the exercise of rights that assist the users; the links or external links existing on the website; the modification of the privacy policy; the person in charge of the file and those in charge of the treatment;

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the services offered by third parties on the web; revocation of consent; the systems for capturing personal data and about "social plugins".

However, said privacy policy refers to the repealed Organic Law 15/1999 of December 13 on the Protection of Personal Data, the Real Decree 1720/2007 of December 21, which approves the Development Regulation of said Organic Law.

FOUNDATIONS OF LAW

Yo

Is competent to resolve this Sanctioning Procedure, the Director of the Agency Spanish Data Protection Agency, by virtue of the powers that article 58.2 of the Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/16, regarding to the Protection of Natural Persons with regard to Data Processing

Personal and the Free Circulation of these Data (RGPD) recognizes each Authority of Control and, as established in arts. 47, 64.2 and 68.1 of the Organic Law 3/2018, of December 5, on the Protection of Personal Data and Guarantee of the Digital Rights (LOPDGDD).

II

Article 64.2.f) of Law 39/2015, of the Common Administrative Procedure of the Public Administrations, of October 2, 2015, (LPACAP), provides that: "f) Indication of the right to formulate allegations and to be heard in the procedure and the deadlines for its exercise, as well as an indication that, in case of not making allegations the contents of the initiation agreement, it may be considered motion for a resolution when it contains a precise pronouncement about the imputed responsibility.

In the present case, such requirements have been observed, since in the agreement of At the beginning, it was warned of the provisions of article 64.2.f) of the LPACAP, it was specified the presumed infraction committed together with its corresponding typification, is determined The amount of the sanction was determined in accordance with the graduation criteria taken into account based on the evidence obtained to that date, also reporting on the planned reductions on the amount set by virtue of the provisions of article ass 85 of the LPACAP.

In consideration of the foregoing and in accordance with the provisions of article 64.2.f) of the LPACAP, the initiation agreement is considered a Resolution Proposal, since it contained a precise pronouncement about the imputed responsibility tada and, after its notification in the form described in the antecedent of the fourth fact, the claimed has not made allegations to the same within the period granted for such purposes. cough.

It is reported that "the website does not comply with current regulations regarding the Protection of

Data in its Privacy Policy”.

III

In this sense, article 13 of the RGPD establishes the information that must be provide the interested party at the time of collecting their personal data.

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For its part, article 99 of the RGPD, the entry into force and application of the new RGPD was, “twenty days after its publication in the Official Journal of the European Union (05/25/16)” and would be applicable as of May 25, 2018”. Therefore, from 05/25/18, the LO was repealed. 15/1999, (LOPD), applying compulsorily, from that date, the current GDPR and from 12/07/18 the new LOPDGDD.

The known facts constitute an infraction, attributable to the defendant, for violation of article 13 of the RGPD, which establishes the information that must be provide the interested party at the time of collecting their personal data.

For its part, article 72.1.h) of the LOPDGDD considers it very serious, for the purposes of prescription, “the omission of the duty to inform the affected party about the treatment of your personal data in accordance with the provisions of articles 13 and 14 of the RGPD”

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

However, Article 58.2) of the RGPD provides that: "Each supervisory authority will have all the following corrective powers indicated below: b)

sanction any person responsible or in charge of the treatment with a warning when

treatment operations have violated the provisions of this

Regulation; (...); i) impose an administrative fine pursuant to Article 83,

in addition to or instead of the measures mentioned in this section, depending on the

circumstances of each particular case”, therefore, the sanction that must correspond

it is warning.

In accordance with the foregoing, by the Director of the Spanish Agency for

Data Protection,

RESOLVE

NOTICE: to the entity, TECNOLOGIA EXTREMEÑA DEL LITIO, S.L. with CIF.:

B87667861, owner of the website: www.sanjovaldeflorez.es for infringement of articles

article 13, of the RGPD, regarding the "Privacy Policy" of its website.

WHAT: In accordance with article 58.2 of the RGPD, the corrective measure that must be

imposed on the entity, TECNOLOGIA EXTREMEÑA DEL LITIO, consists of ORDE-

NARLE that, within one month, counting from the notification of this resolution,

take the necessary measures to adapt the privacy policy to what is stipulated

in current regulations, that is, the RGPD and the LOPDGDD.

NOTIFY: this resolution to the entity, TECNOLOGIA EXTREMEÑA DEL

LITHIUM, S.L.

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

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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 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 of this act, as provided for in article 46.1 of the aforementioned Law.

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Director of the Spanish Agency for Data Protection.

ANNEX.- List of Complainants in PS/0067/2021:

Claimant No. 1.- A.A.A.

Claimant #2.- B.B.B.

Complainant nº3.- C.C.C.

Claimant nº4.- D.D.D.

Claimant no. 5.- E.E.E.

Claimant nº6.- F.F.F.

Claimant nº7.- G.G.G.

Claimant nº8.- H.H.H.

Claimant nº9.- I.I.I.

Claimant #10.- J.J.J.

Claimant nº11.- K.K.K.

Claimant nº12.- L.L.L.

Claimant nº13.- M.M.M.

Claimant nº14.- N.N.N.

Claimant nº15.- Ñ.Ñ.Ñ.

Claimant nº16.- O.O.O.

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