

□ Procedure No.: PS/00385/2020

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/0385/2020, following the entity, CANARYCLICK CONSULTING SL with CIF.: B76323666, (hereinafter, "the claimed entity"), owner of web pages: ***URL.1; ***URL.2; ***URL.3 and ***URL.4, under the nine (9) claims filed against them, for alleged violation of the regulations of data protection and attending to the following:

BACKGROUND:

FIRST: On 04/30/19, the MINISTRY OF HEALTH, CONSUMPTION AND WELFARE TO BE SOCIAL, sends to this Agency a written complaint against the website ***URL.1, in-saying therein that:

"The portal denounced, from the first moment gives the impression of being a page of the European institutions since the logo of the European Parliament appears and a video of the European Commission which can mislead people to whom which is directed, since it really is a private company. That at the end of the page page, in a very small paragraph, informs about the company that owns the website. That personal data must be entered (name and surnames, DNI, telephone number) phone, email, social security affiliation number and co-address postal mail) to know the price of said management (69 euros) or to consult the letter queña at the end of the website. That incomplete information is given about the transfer of data personal data, since the question arises as to what this company does with the data of the consumers. That in the privacy section of the website it is not specified with who the data is shared with and also for how long the data will be stored. cough".

SECOND: On 11/06/19, claimant No. 2, sends this Agency a letter of

complaint against the website, ***URL.2, indicating therein that:

“That website uses all kinds of official symbols to mislead the citizen.

damage and to provide them with all their personal data (NIE, telephone, address, name, names of their parents), in order to send official certificates”.

THIRD: On 11/07/19, claimant No. 3, sends this Agency a letter of

complaint against the website ***URL.2, indicating therein that:

“On September 3, you receive proof of having paid the administrative fees

of the criminal record certificate and a mail is said to be himself

who obtains the requested certificate in person with what the procedure for which he paid

has not occurred. That after filing a complaint, the amount is claimed again

charged and the deletion of your data without having received any response.

FOURTH: On 06/20/20, claimant No. 4, sends this Agency a written declaration

complaint against the website ***URL.4, indicating therein that:

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

2/18

“The web offers management services through the web to obtain certificates. It

what they offer are really instructions on how to get those certificates, but

that is discovered once the payment has been made”.

FIFTH: On 07/07/20, claimant No. 5, sends this Agency a written declaration

complaint against the website ***URL.3, indicating therein that:

“They have charged him for managing a registration. That at the moment he realized

that it was not an official page and sent an email to cancel. what to

The next day they told him that he could not cancel or make the refund that had been past the period. They haven't sent you any papers. The only thing they have sent It is a document where you state what you have to bring and where to present it. that they haven't made no management. That on the web it says that they carry out the procedures to that you don't have to move from home. That they have replied to emails saying that already they have given him what he has paid, which is the file that he puts where he has to present the papers that she has to look for".

SIXTH: On 07/07/20, claimant No. 6, sends this Agency a written declaration complaint against the website ***URL.4, indicating therein that:

"On this website they are dedicated to collecting user data with the excuse of managing them. official certificates and charging for it. Who proceeded to ask them to destroy their data (DNI, dates of birth, telephone numbers, email) and return the money. That They promise to return the money, but they do not refer to destroying the data.

SEVENTH: On 07/22/20, claimant No. 7, sends this Agency a letter of complaint against the website ***URL.4, indicating therein that:

"He made a request on his website to obtain the Madrid environmental label and they have not answered or received anything. That this company has scammed her and wants her to remove have all your data. That you can't get in touch with anyone from the company."

EIGHTH: On 08/16/20, claimant No. 8, sends this Agency a written declaration complaint against the website ***URL.4, indicating therein that:

"He requested the processing of the European health card without knowing that said page was a fraud and thinking that it was an official body. That they did not carry out the procedure and They don't give you the money back."

NINTH: On 09/18/20, claimant No. 9, sends this Agency a letter of complaint against the website ***URL.4, indicating therein that:

"The web is supplanting the Ministry of Justice in terms of the expedition service

of various certificates. That the person in charge is called XXXXXXXXXX. That the content do of the web simulates that of the Ministry. They do not provide the service. Who requested the cancellation disclosure of your personal data without obtaining a response”.

TENTH: In view of the facts set forth in the claims and the information provided in the documents presented, both by the claimants and by the entity.

claimed, this Agency carried out, on 10/30/20, the following checks-

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

3/18

tions about the privacy policy and the cookie policy on the web pages denouncing ciadas:

A).- Regarding the website ***URL.1, the following aspects were verified:

a).- On the home page of this website, through the link <<request eu-health card ropea>>, the web redirects to a form where personal data can be collected of users such as name, ID, telephone, email, affiliation number gives the security social ity, domicile, etc.

b).- On said page there is a banner, at the bottom of it with the following information text:

“***URL.1 does not sell any products directly, but is a consistent service in facilitating the user in obtaining the services offered on the web. Pro-final product is the document or documents that are requested through this website, which they can also be obtained by the user directly by going to the organizations nisms of the corresponding state, regional or local administration and in a free or in some cases paying a fee or public price. administrations

offer citizens different ways of relating to it, presenting

via post, telematics (with or without digital certificate, through username and password)

or by phone). The user can choose any of them, but for this he must

have the necessary knowledge, free time to move around if you want

do it in person, do the process at the required time if you want to do it by phone.

telephone and the appropriate tools (such as computer equipment equipped with

do with the necessary applications and configuration). You can also use the services

services of an administrative management professional. ***URL.1 is a private entity and

independent of any body, limiting itself to acting as a facilitator of management

administrative purposes, such as administrative management. We specify the costs of

management for the service offered on this website: European Health Card (€59 taxes

included). ***URL.1 carries out all the procedures by qualified experts, administrative managers,

collegiate deals. XXXXXXXXXX is a trademark of online certified procedures.

line, all previous and subsequent communications will be made from the domain

***DOMAIN.1- According to article 1 of the current Organic Statute of the Profession of

Administrative Manager: "Administrative managers are professionals who, without prejudice to

tion of the power to act by means of representation that the interested parties or con-

referred to in article 24 of the Administrative Procedure Law, are dedicated in a ha-

and as long as it is professional and receives fees to be promoted,

request and carry out all kinds of procedures that do not require the application of the technique

reserved to the legal profession, relating to those matters that in the interest of individuals

natural or legal actions, and at their request, are followed before any body of the

Public Administration, informing its clients of the status and vicissitudes of the procedure

by which they develop". More information here: ***ADDRESS.1

c).- Through the link, <<Legal Notice>>, existing at the bottom of the page

main page, the web redirects to a new page: ***URL.5, which provides information,

on the identifying data of the owner of the same.

d).- Through the link <<Privacy Policy>>, existing at the bottom of the main page, the web redirects to a new page, whose address is: ***URL.6, which

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

4/18

provides information about the personal data that is collected; on how this personal data is obtained; about the purpose of data processing; on the legal basis of the processing of personal data; about deadlines or criteria data retention rivers; Automated decisions and the elaboration of profiles; the recipients; on the exercise of the rights of users on the processing of personal data and the possibility of contacting the AEPD;

e).- The "Cookies Policy" of the website has the following characteristics:

.- When entering the home page of the web, ***URL.1 (first layer) and, without accepting cookies or perform any action on the web, it has been verified that they are used

Non-necessary cookies: XXXXXXXXXX

.- There is a banner at the bottom of it with the following information:

“This Website uses its own and third-party cookies, to be able to access and use its information for the purposes indicated below. To accept its use you can click on the button I accept all cookies. If you do not agree with some of these, you will be able to customize your options through this panel. Nope-us and the companies that collaborate with us, we will use your information obtained nida through cookies. To know the collaborating companies that incorporate

poran their cookies on our website, you can access through the view button

our partners. You can set your preferences and/or revoke cookies by se-

standing for each of the partners mentioned. Additional information: access

to our Cookies Policy”.

The user allows the use of cookies for the following purposes:

Storage and access to information <<Reject>> <<Accept>>

Measurement

Personalization

Personalization

Selection, submission, content report

<<Reject>> <<Accept>>

<<Reject>> <<Accept>>

<<Reject>> <<Accept>>

<<Reject>> <<Accept>>

<<REJECT ALL>>

<<ACCEPT ALL>>

.- If any of the <<reject>> buttons, of any group of cookies or

you want to reject all cookies, there is no evidence that there is any reaction on the part

of the web page, appearing a new banner with the message: “Attention: the use of

this website is limited by the acceptance of cookies used to improve the

quality of service to our users. The non-acceptance of these supposes the disqualification

tation of this website”. <<Accept Cookies and Continue Browsing>>

.- From here, it is not allowed to continue browsing if all cookies are not accepted,

therefore, it is mandatory to accept all cookies if you wish to continue browsing no

allowing the option of rejecting them, without groups or all at once. Once accepted

all cookies, the web allows you to browse the page,

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

5/18

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

main page, the web redirects to a new page, ***URL.7, where information is provided.

training on the applicable legislation; what are cookies; or the types of cookies

existing, but no information is provided about the cookies used by the page

web, nor the time they remain active in the terminal equipment. Nor is there a

mechanism that allows rejecting all cookies in this second layer. On

how you can manage the elimination of cookies, the page refers the user to

configure the browser installed on your terminal equipment.

B).- Regarding the website ***URL.2

a).- On the home page, through the link, <<get your crime documentation

crimes online>> or through the link, <<obtain your documentation of sexual crimes

them online>>, the web redirects to a form where personal data of the users is collected.

users such as the name, the DNI, the nº. phone, email, no. of affiliation to the

social security or home.

b).- On said page there is a banner, at the bottom, with the following text:

"www.registrocivilpenales.com does not sell any product directly, but is a

service consisting of facilitating the user in obtaining the services offered

dine on the web. The final product is the document or documents that are requested by

through this website, which can also be obtained by the user directly

by going to the corresponding state, regional or local administration bodies.

and free of charge or in some cases by paying a fee or public price.

co. Public administrations offer citizens different forms of relationships
interact with it (face-to-face, by post, telematics, ...). The user can choose any
want of them, but for this you must have the necessary knowledge, the
free time to move and do the management in the required schedule and the tools
adequate liens (digital certificate or electronic signature, computer equipment equipped
with the necessary applications and configuration, ...). You can also use the services
services of an administrative management professional. XXXXXXXXXX is a private entity
private and independent of any official body, limiting itself to acting as a facilitator
dor of administrative procedures as an administrative agency. We specify the
Management expenses for the service offered on this website: Documentation of Criminal Offenses
(€49 taxes included) Documentation of Sexual Offenses (€49 taxes included)
all included) being able to select the type of shipment desired. registrycivilpenales.com
carries out all the procedures by qualified experts, collegiate administrative managers.
Registrocivilpenales.com is a trademark of Registrocivilpenal.com, all
Prior and subsequent communications will be made from the Registrocivilpe domain.
nal.com According to article 1 of the current Organic Statute of the Management Profession
Administrative: "Administrative Managers are professionals who, without prejudice to the
power to act by means of representation conferred on the interested parties by article
Article 24 of the Administrative Procedure Law, are dedicated regularly and with
such character of professionalism and perception of fees to promote, request and carry out
carry out all kinds of procedures that do not require the application of the reserved legal technique
gives to the legal profession, related to those matters that in the interest of natural persons or
legal, and at their request, are followed before any body of the Public Administration.
public, informing its clients of the status and vicissitudes of the procedure by which
are developed" More information here: XXXXXXXXXX.

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

6/18

c).- Through the link <<Legal Notice>>, existing at the bottom of the page main page, you are redirected to a new page, ***URL.8 , which provides information about on the identifying data of the owner of the same.

d).- Through the link, <<Privacy Policy>>, existing at the bottom of the main page, the web redirects to page ***URL.9 , where information is provided information about the person responsible for the page; the terms or criteria of conservation of the data, automated decisions and profiling, recipients; the not international data transfer, the rights of users and the possibility of file a claim with the AEPD.

e).- The "Cookies Policy" of the website has the following characteristics:

.- When entering the web and, without accepting cookies or performing any action on the web, cookies are loaded in the browser: _ga, _gid, associated with Google Analytics.

.- There is NO banner on the main page of the website that informs about the use zation of cookies.

.- If there is a link, <<Cookies Policy>>, at the bottom of the main page, pal, which redirects to the page, ***URL.10 ,where information is provided on, what are the cookies or what types of cookies this website uses (own: asp.net_SessionID and Google Analytics: _ga, _gat, _gid);

.- Regarding the consent to use cookies, the website refers to the configuration of the browser-charger installed in the terminal equipment

C).- Regarding the website, ***URL.3

a).- On the home page of ***URL.3 through the "certificates" tab you can access

to several links, whose objective is to obtain official certificates such as birth,

death, marriage, work life, criminal, etc. In each one, a formula is displayed.

where it is possible to obtain personal data from users, such as the name

name, ID, phone number, email or address.

b).- On said main page there is a banner, at the bottom of it with the

following text:

“***URL.3 does not sell any products directly, but is a consistent service

in facilitating the user in obtaining the services offered on the web. Pro-

final product is the document or documents that are requested through this website, which

they can also be obtained by the user directly by going to the organizations

nisms of the corresponding state, regional or local administration and in a

free or in some cases paying a fee or public price. administrations

public institutions offer citizens different ways of relating to them (presentation

social, postal, telematic, ...). The user can choose any of them, but for

This must have the necessary knowledge, free time to move-

and carry out the management at the required time and with the appropriate tools (certificate

digital stamp or electronic signature, computer equipment equipped with the applications and

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

7/18

necessary configuration, ...). You can also use the services of a professional

of administrative management. ***URL.3 is a private entity and independent of any

any official body, limiting itself to acting as a facilitator of administrative procedures.

You go as an administrative manager. We specify the management fees for each

service offered on the web: European Health Card (€59 taxes included), Certificate of Labor Life (€29 plus taxes), Certificate of Criminal Offenses (taxes included), Birth Certificate (€30 taxes included), Marriage certificate (€40 taxes included), Registration Certificate (€29 taxes included), Certificate of Last Wills (€40 taxes included), Certificate of Death (€40 taxes included). Additionally, in some documents, the

The user will be able to select the number of certificates that he wishes to obtain, he will be able to select

If you wish to apostille the documentation, legalize it in Maec or carry out a translation sworn statement Each of these additional services has a management cost due to mind specified on the web at the time prior to contracting. At the management cost

tion, shipping costs must be added based on the selected rate and the corresponding taxes ***URL.3 carries out all the procedures by qualified experts, collegiate administrative managers. According to article 1 of the current Organic Statute of the Administrative Manager Profession: "Administrative Managers are professionals that, without prejudice to the power to act by means of representation that the interested parties confers article 24 of the Law of Administrative Procedure, it is dedicated can in a habitual way and with such a character of professionalism and perception of fees to promote, request and carry out all kinds of procedures that do not require the application of the legal technique reserved for the legal profession, relating to those matters that in the interest natural or legal persons, and at their request, are brought before any body of the Public Administration, informing its clients of the state and vicissitudes of the procedure by which they are developed" More information here: ***ADDRESS.1"

c).- Through the link, <<Legal Notice>>, existing at the bottom of the page main page, the web redirects to a new page, ***URL.11, which provides information, about the holder this: CANARYCLICK CONSULTING SL, B76323666 and domiciled in ***ADDRESS.2.

d).- Through the link, <<Privacy Policy>>, existing at the bottom of the main page, the web redirects to a new page whose address is: ***URL.12, which provides information about the identification of the person responsible for the page; the plans or criteria for data conservation; automated decisions and elaboration of profiles, the purposes of the treatment, the legal basis; the recipients of the data; the non-international transfer of data; the rights of users and the ability to file a claim with the AEPD.

e).- About the "Cookies Policy", when entering the home page of the website (primary layer), the following aspects are checked:

.- When entering the web and, without accepting cookies or performing any action on the web, use unnecessary cookies: XXXXXXXXXX.

.- There is NO banner on the main page of the website that informs about the use of cookies.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

8/18

.- If there is, on the contrary, a link to the <<Cookies Policy>>, at the bottom of the main page that redirects to the page, ***URL.13, where information is provided information about, what cookies are or what types of cookies this website uses and why how long they are used, (own: asp.net_SessionID and Google Analytics: _ga, _gat, _gid).

.- On how to block, revoke or eliminate the cookies used, the page refers to the configuration of the browser installed on the terminal equipment.

D).- Regarding the website, ***URL.4

a).- On the home page of the website, through the <<request online>> tabs, you can access yields to several links to obtain official birth certificates, death certificates, marriage, work life, criminal.... In each of these links, a form, where personal data of the users is collected, such as the name, the DNI, telephone number, email, social security affiliation number, etc.

b).- On said page there is a banner, at the bottom of it with the following text:

"This website belongs to a Private Company belonging to an Administrative Agency.

informative that helps the user in obtaining the services offered in the itself, without the need to travel in most cases and facilitating in price and procedures for obtaining

Requesting information through ***URL.4 does not require having any software installed additional for access to any of the services offered on this website

***URL.4 does not sell any products directly, rather it is a consistent service to facilitate the user in obtaining the services offered.

The final product is the document or documents that are requested through this website, that can also be obtained by the user directly by going to the bodies of the corresponding state, regional or local administration and free or in some cases paying a fee or public price.

Public administrations offer citizens different ways of relating be with her (face-to-face, by post, telematics, ...). User can choose any of them, but for this you must have the necessary knowledge, the time free to move and do the management at the required time and of the tools adequate (digital certificate or electronic signature, computer equipment equipped with the applications and necessary configuration, ...). You can also use the services of an administrative management professional. ***URL.4 is a private and independent entity.

pending from any official body, limiting itself to acting as a facilitator of management

Administrative matters such as administrative management.

We specify the management fees for each service offered on the web: Card

European Sanitary (€59 taxes included), Work Life Certificate (€29 plus im-

posts), Certificate of Criminal Offenses (taxes included), Birth Certificate

ment (€30 taxes included), Marriage Certificate (€40 taxes included),

Certificate of Registration (€29 taxes included), Certificate of Last Votes

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

9/18

Death Certificate (€89 taxes included), Death Certificate (€40 taxes included).

two). Additionally, in some documents, the user will be able to select the number

of certificates you want to obtain, you can select if you want to apostille the documentation

tion, legalize in Maec or make a sworn translation. Each of these services

Additional services have a management cost duly specified on the web at the time

prior to hiring. To the cost of management, must be added the expenses of

shipping based on the selected rate and the corresponding taxes ***URL.4

carries out all the procedures by qualified experts, collegiate administrative managers.

According to article 1 of the current Organic Statute of the Profession of Administrative Manager

tive: "Administrative Managers are professionals who, without prejudice to the facul-

right to act by means of representation conferred on interested parties by article 24

of the Law of Administrative Procedure, are dedicated in a habitual way and with such capacity

character of professionalism and perception of fees to promote, request and carry out

all kinds of procedures that do not require the application of the legal technique reserved for

the legal profession, related to those matters that in the interest of natural or legal persons cases, and at their request, are followed before any body of the Public Administration, informing its clients of the status and vicissitudes of the procedure by which develop” More information here: ***ADDRESS.1.

c).- Through the link, <<Legal Notice>>, existing at the bottom of the page main page, the web redirects to a new page, ***URL.14, which provides information, about the title of the page: ***ADDRESS.1.

d).- Through the link <<Privacy Policy>>, existing at the bottom of the main page, the web redirects to a new page whose address is: ***URL.15, that provides information on the purposes of processing personal data final, the legal basis of the treatment; about consent; the purposes; the negative; about the terms or criteria for data conservation; self-decisions nuanced and the elaboration of profiles, the recipients, the non-transfer nal of the data, the rights of the users and the possibility of presenting a claim before the AEPD.

e).- About the "Cookies Policy", when entering the home page of the website (primary layer), the following aspects are checked

.- When entering the web and, without accepting cookies or performing any action on the web, check that they use unnecessary cookies: MUID, _uetsid,

.- There is NO banner on the main page of the website that informs about the use zation of cookies.

.- If there is, on the contrary, a link to the <<Cookies Policy>>, at the bottom of the main page that redirects to the page, ***URL.16, where information is provided information on: what are cookies or what types of cookies does the website use: proprias (asp.net_SessionID) and third-party (Google Analytics: _ga, _gat, _gid).

.- Regarding the management of cookies, the website refers to the configuration of the browser ins-

felled at the terminal equipment.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

10/18

ELEVEN: In view of the facts denounced, the Director of the Spanish Agency the Data Protection, dated 11/03/20, agreed to initiate sanctioning procedure dor to the claimed entity, by virtue of the powers established, for non-compliance of what is stipulated in the articles:

.- Warning, for the infringement of article 7) of the RGPD, regarding the collection of the consent of customers for the processing of their personal data when di-

Such treatment is for purposes other than the execution of the contract.

.- 8,000 euros (eight thousand euros), for the infringement of article 22.2) of the LSSI, regarding of the "Cookies Policy" on the web pages of its ownership, ***URL.1; ***URL.2; ***URL.3 and ***URL.4

TWELFTH: Notification of the initiation agreement to the person claimed, has not been received in this Agency, no written of allegations to the initiation of the file, in the pe-
period granted for this purpose.

PROVEN FACTS

A).- About the consent given by the users of the website ***URL.1:

In the "Privacy Policy" of the reported website, ***URL.6, it is indicated that:

“The personal data that is collected is strictly necessary.

aries for (...) such as those necessary for sending newsletters

and own commercial offers”. Also, in the section that reports on the fi-

nality of the treatment it is indicated that: “We will treat your personal data

provided through our web forms for "(...) sending co-

mercial communications related to the goods or services that make up

our activity, and/or news or bulletins related to our sector".

B).- About the "Cookies Policy" of the complaint web pages:

- Regarding the web, ***URL.1 :

.- When accessing the main page of the web, it has been possible to verify that they are used

non-necessary cookies, without taking any prior action.

.- Although there is the option to reject all cookies on the home page or even

the option to manage cookies granularly, if the user performs this action

there is no evidence that the website executes it because the same banner appears again with the option

tion, <<Accept Cookies and Continue Browsing>> and does not allow you to continue browsing if you do not

all cookies are accepted, so everything indicates that the option to reject

cookies or to manage them in a granular way is not activated.

.- In the second layer (Cookies Policy), information is provided on the legislation

applicable term; what are cookies; or the types of existing cookies, but it is not

provides information about the cookies used by the website, nor the time that

they remain active. On how you can manage the elimination of cookies, the

page refers the user to configure the browser installed on their terminal equipment.

- Regarding the website, ***URL.2:

.- When accessing the main page of the web, it has been possible to verify that they are used

non-necessary cookies, without taking any prior action.

.- There is NO banner on the main page of the website that informs about the use

zation of cookies.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

.- There is a link to the "Cookies Policy", where information is provided on, what cookies are or what types of cookies this website uses, but there is no mechanism that allows you to reject all cookies on this page. about how to You can manage the elimination of cookies, the page refers the user to configure the browser installed on your terminal equipment.

- Regarding the website, ***URL.3:

.- When accessing the main page of the web, it has been possible to verify that they are used non-necessary cookies, without taking any prior action.

.- There is NO banner on the main page of the website that informs about the use zation of cookies.

.- There is a link to the "Cookies Policy", where information is provided on, what cookies are or what types of cookies this website uses, but there is no mechanism that allows you to reject all cookies on this page. about how to You can manage the elimination of cookies, the page refers the user to configure the browser installed on your terminal equipment.

- Regarding the website, ***URL.4:

.- When accessing the main page of the web, it has been possible to verify that they are used non-necessary cookies, without taking any prior action.

.- There is NO banner on the main page of the website that informs about the use zation of cookies.

.- There is a link to the "Cookies Policy", where information is provided on, what cookies are or what types of cookies this website uses, but there is no mechanism that allows you to reject all cookies on this page. about how to You can manage the elimination of cookies, the page refers the user to configure

the browser installed on your terminal equipment.

FOUNDATIONS OF LAW

Yo

Competition:

- About the Privacy Policy and consent:

By virtue of the powers that article 58.2 of Regulation (EU) 2016/679, of the Parliament-European Act and of the Council, of 04/27/16, regarding the Protection of Natural Persons regarding the Processing of Personal Data and the Free Movement of es-Data (RGPD) recognizes each Control Authority and, as established in the art. 47, 64.2 and 68.1 of Organic Law 3/2018, of December 5, on the Protection of Personal Data and Guarantee of Digital Rights (LOPDGDD), the Director of the Spanish Data Protection Agency is competent to resolve this procedure.

I lie.

- About the Cookies Policy:

In accordance with the provisions of art. 43.1, second paragraph, of the Law 34/2002, of July 11, on Services of the Information Society and Commerce Electronic System (LSSI), is competent to resolve this Sanctioning Procedure, the Director of the Spanish Agency for Data Protection.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

12/18

A).- Regarding the consent given by the users of the website, ***URL.1:

II

As indicated on the website, the purpose for which the data is processed is to manage

nar obtaining the European Health Card or renewing it.

However, in its Privacy Policy, [***URL.6](#), it is indicated, among others, that: “the

personal data that is collected is strictly necessary for the

sending newsletters and own commercial offers (...)”. Later, it

continues indicating: “(...) we will treat your personal data provided through

our web forms for sending commercial communications related to the

goods or services that make up our activity, and/or news or bulletins related to

two with our sector (...)”.

Article 6.1.b) of the RGPD establishes that the processing of personal data will be

lawful if necessary for the execution of a contract in which the interested party is a party.

tea. In the present case, the processing of personal data by the controller

ble will be lawful as long as the purpose for which they are used is related to obtaining

tion of the European Health Card.

For any other data processing, the person in charge must carry it out in a

lawful, in accordance with the provisions of article 6.1 of the RGPD, that is: “a) the interested party

gave your consent to the processing of your personal data for one or more

specific purposes; b) the treatment is necessary for the execution of a contract in the

that the interested party is a party or for the application at the request of the latter of measures

pre-contractual; c) the treatment is necessary for the fulfillment of a

legal obligation applicable to the data controller; d) the treatment is necessary

to protect the vital interests of the data subject or another natural person; e) treatment

is necessary for the fulfillment of a mission carried out in the public interest or in the

exercise of public powers conferred on the data controller; f) the

treatment is necessary for the satisfaction of legitimate interests pursued by the

responsible for the treatment or by a third party, provided that said interests are not

the interests or the fundamental rights and freedoms of the interested party prevail

that require the protection of personal data, in particular when the interested party

be a child

If the person in charge chooses to base the legality of the treatment on the consent, (6.1.a),

It will only be lawful if the interested party gave their consent for the processing of their data

personal for each of the different purposes. It is not valid, therefore, to mark the

checkbox of acceptance of the privacy policy, thereby consenting, in a generic way.

ca, all purposes of data processing.

For its part, article 7 of the GDPR indicates, regarding consent, that:

"1. When the treatment is based on the consent of the interested party, the person in charge

You must be able to demonstrate that you consented to the processing of your personal data.

nals. 2. If the data subject's consent is given in the context of a statement

written that also refers to other matters, the request for consent is pre-

will be laid out in such a way that it is clearly distinguished from other matters, in an intelligent way.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

13/18

legible and easily accessible and using clear and simple language. It will not be binding

any part of the declaration that constitutes an infringement of these Regulations. 3. The

Interested party shall have the right to withdraw their consent at any time. the withdrawal-

The consent will not affect the legality of the treatment based on the consent.

lien prior to withdrawal. Before giving their consent, the interested party will be informed

made of it. It will be as easy to withdraw consent as it is to give it. 4. In assessing whether the

consent has been freely given, it will be taken into account to the greatest extent possible.

whether, among other things, the performance of a contract, including the provision

of a service, is subject to consent to the processing of personal data that are not necessary for the execution of said contract”.

Likewise, article 6.2 of the LOPDGDD indicates, on the treatment based on the consent feeling, that: “2. When it is intended to base the treatment of the data on the sentiment of the affected party for a plurality of purposes, it will be necessary to include specific and unequivocal way that said consent is granted for all of them.

Therefore, the known facts constitute an infringement, attributable to the claimant. mado, for violation of art. 7 of the aforementioned RGPD, when collecting the consent sentiment of the users, by means of a generic action for all purposes of the treatment of personal data.

For its part, article 72.1.c) of the LOPDGDD considers it very serious, for the purposes of prescription, "Breach of the requirements of article 7 of the RGPD".

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 overall annual total turnover of the previous financial year, opting for the greater amount, in accordance with article 83.5.b) of the RGPD.

However, Article 58.2) of the RGPD provides that: "Each control authority dis- will have all the following corrective powers indicated below: b) sanction warn any person responsible or in charge of the treatment when the treatment operations have violated the provisions of this Regulation; (...); i) impose an administrative fine under article 83, in addition to or instead of of the measures mentioned in this section, depending on the circumstances of each particular case, therefore, the sanction that could correspond would be conduct, without prejudice to what results from the investigation of this file, since in this case, it has not been verified that the claimed entity has sent communications other than the end of the contract.

In accordance with these criteria, it is considered appropriate to impose a sanction on the defendant of "warning", for the infringement of article 7 of the RGPD, on the website of your ownership ***URL.1.

B).- About the "Cookies Policy" of the complaint web pages:

II

- Regarding the website, ***URL.1:

.- When accessing the main page of the web, it has been possible to verify that they are used non-necessary cookies, without taking any prior action.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

14/18

.- Although there is the option to reject all cookies on the home page or even the option to manage cookies granularly, if the user performs this action there is no evidence that the website executes it because the same banner appears again with the option tion, <<Accept Cookies and Continue Browsing>> and does not allow you to continue browsing if you do not all cookies are accepted, so everything indicates that the option to reject cookies or to manage them in a granular way is not activated.

.- In the second layer (Cookies Policy), information is provided on the legislation applicable term; what are cookies; or the types of existing cookies, but it is not provides information about the cookies used by the website, nor the time that they remain active. On how you can manage the elimination of cookies, the page refers the user to configure the browser installed on their terminal equipment.

- Regarding the website, ***URL.2:

.- When accessing the main page of the web, it has been possible to verify that they are used

non-necessary cookies, without taking any prior action.

.- There is NO banner on the main page of the website that informs about the use
zation of cookies.

.- There is a link to the "Cookies Policy", where information is provided on,
what cookies are or what types of cookies this website uses, but there is no
mechanism that allows you to reject all cookies on this page. about how to
You can manage the elimination of cookies, the page refers the user to configure
the browser installed on your terminal equipment.

- Regarding the website, ***URL.3:

.- When accessing the main page of the web, it has been possible to verify that they are used
non-necessary cookies, without taking any prior action.

.- There is NO banner on the main page of the website that informs about the use
zation of cookies.

.- There is a link to the "Cookies Policy", where information is provided on,
what cookies are or what types of cookies this website uses, but there is no
mechanism that allows you to reject all cookies on this page. about how to
You can manage the elimination of cookies, the page refers the user to configure
the browser installed on your terminal equipment.

- Regarding the website, ***URL.4:

.- When accessing the main page of the web, it has been possible to verify that they are used
non-necessary cookies, without taking any prior action.

.- There is NO banner on the main page of the website that informs about the use
zation of cookies.

.- There is a link to the "Cookies Policy", where information is provided on,
what cookies are or what types of cookies this website uses, but there is no
mechanism that allows you to reject all cookies on this page. about how to

You can manage the elimination of cookies, the page refers the user to configure the browser installed on your terminal equipment.

The exposed facts could suppose on the part of the claimed entity the commission of the infringement of article 22.2 of the LSSI, according to which:

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

15/18

“Service providers may use storage and retrieval devices

ration of data in terminal equipment of the recipients, provided that the same

we have given their consent after information has been provided to them

clear and complete about its use, in particular, about the purposes of the treatment of

the data, in accordance with the provisions of Organic Law 15/1999, of December 13,

protection of personal data.

Where technically possible and effective, the recipient's consent to

Accepting the processing of the data may be facilitated through the use of the parameters

from the browser or other applications.

The foregoing will not prevent the possible storage or access of a technical nature to the sole

purpose of effecting the transmission of a communication over a communications network

electronic or, to the extent that is strictly necessary, for the provision of

an information society service expressly requested by the recipient

river”.

This Infraction is typified as "minor" in article 38.4 g), of the aforementioned Law, which

considers as such: “Use data storage and retrieval devices

when the information has not been provided or the consent of the recipient has not been obtained.

user of the service in the terms required by article 22.2.”, and may be sanctioned

nothing with a fine of up to €30,000, in accordance with article 39 of the aforementioned LSSI.

After the evidence obtained in the preliminary investigation phase, and without prejudice to whatever results from the investigation, it is considered appropriate to graduate the sanction to impose in accordance with the following aggravating criteria, established by art. 40 of the LSSI:

-

The existence of intentionality, an expression that must be interpreted as equivalent to degree of guilt according to the Judgment of the Court

National of 11/12/07 relapse in Appeal no. 351/2006, corresponding to the denounced entity the determination of a system for obtaining consent informed consent that is in accordance with the mandate of the LSSI.

- Period of time during which the infraction has been committed, as it is the first mere claim of April 2019, (section b).

Pursuant to these criteria, it is considered appropriate to impose on the defendant entity a penalty of:

-

-

2,000 euros (two thousand euros), for the infringement of article 22.2 of the LSSI, respect of the cookie policy made on the website ***URL.1, under its title larity.

2,000 euros (two thousand euros), for the infringement of article 22.2 of the LSSI, respect of the cookie policy made on the website ***URL.2, under its title larity

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

16/18

-

-

2,000 euros (two thousand euros), for the infringement of article 22.2 of the LSSI, res-
aspect of the cookie policy made on the website ***URL.3 of its title.

larity,

2,000 euros (two thousand euros), for the infringement of article 22.2 of the LSSI, res-
aspect of the cookie policy made on the website ***URL.4 of its title.

larity,

Therefore, the total sanction to be imposed, for infractions in the cookies policy in
the four web pages owned by him, would be 8,000 euros (eight thousand euros).

In view of the foregoing, the following is issued:

RESOLVES:

FIRST: IMPOSE the entity, CANARYCLICK CONSULTING SL with CIF.:

B76323666, owner of the web pages: ***URL.1; ***URL.2 ; ***URL.3 and ***URL.4:

- A sanction of "warning", for the infringement of article 7 of the RGD, res-

aspect of the website owned by you ***URL.1, when collecting the

consent of the users, by means of a generic action, for all

purposes of processing personal data.

- A penalty of 8,000 euros (eight thousand euros) for infraction of article 22.2) of

the LSSI, regarding the "Cookies Policy" on the web pages of its ownership-

dad.

SECOND: REQUEST: the entity CANARYCLICK CONSULTING SL., so that,

within a month, counting from the notification of this resolution, adapt the page

web page of its ownership, ***URL.1 to the provisions of article 6 of the RGPD and in addition
Check, where appropriate, the cookie policies of your web pages as stipulated in the norm
current LSSI requirement.

THIRD: NOTIFY this resolution to the entity CANARYCLICK CONSUL-
TING SL and the claimant about the result of the claim.

Warn the sanctioned party that the sanction imposed must be made effective once it is
enforce this resolution, in accordance with the provisions of article 98.1.b)
of Law 39/2015, of October 1, of the Common Administrative Procedure of the Ad-
Public Administrations (LPACAP), within the voluntary payment period indicated in article
68 of the General Collection Regulations, approved by Royal Decree 939/2005,
of July 29, in relation to art. 62 of Law 58/2003, of December 17, me-
upon deposit in the restricted account N° ES00 0000 0000 0000 0000 0000, opened
on behalf of the Spanish Agency for Data Protection at CAIXABANK Bank,
S.A. or otherwise, it will be collected in the executive period.

Received the notification and once executed, if the date of execution is
between the 1st and 15th of each month, both inclusive, the term to make the payment
will be until the 20th day of the following month or immediately after, and if

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

17/18

between the 16th and last day of each month, both inclusive, the payment term

It will be until the 5th of the second following month or immediately after.

In accordance with the provisions of article 82 of Law 62/2003, of December 30,

bre, of fiscal, administrative and social order measures, this Resolution is

will make public, once it has been notified to the interested parties. The publication is made will be in accordance with the provisions of Instruction 1/2004, of December 22, of the Agency Spanish Data Protection on the publication of its Resolutions.

Against this resolution, which puts an end to the administrative procedure, and in accordance with the established in articles 112 and 123 of the LPACAP, the interested parties may interpose have, optionally, an appeal for reconsideration before the Director of the Spanish Agency of Data Protection within a period of one month from the day following the notification fication of this resolution, or, directly contentious-administrative appeal before the Contentious-administrative Chamber of the National High Court, in accordance with the provisions placed in article 25 and in section 5 of the fourth additional provision of the Law 29/1998, of 07/13, regulating the Contentious-administrative Jurisdiction, in the two months from the day following the notification of this act, according to the provisions of article 46.1 of the aforementioned legal text.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP, may provisionally suspend the firm resolution in administrative proceedings if the interested party do states its intention to file a contentious-administrative appeal. Of being

In this case, the interested party must formally communicate this fact in writing addressed to the Spanish Agency for Data Protection, presenting it through the Re-Electronic Registry of the Agency [<https://sedeagpd.gob.es/sede-electronicaweb/>], or to through any of the other registers provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. You must also transfer to the Agency the documentation that proves the effective filing of the contentious-administrative appeal. If the Agency was not aware of the filing of the contentious-administrative appeal tive within two months from the day following the notification of this resolution, would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Agency for Data Protection.

Claimants are identified by a number. This Annex provides the personal data - name, surnames and NIF- of each claimant and the reference of the file opened by the AEPD to each of the claims presented:

ANNEX I

Complainant 1.- E/06959/2019 M. OF HEALTH, CONSUMPTION AND SOCIAL WELFARE,

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

18/18

Complainant 2.- E/11744/2019 A.A.A. - ***NIE.1

Claimant 3.- E/11798/2019 B.B.B. - ***NIF.1

Complainant 4.- E/05495/2020 C.C.C. - ***NIF.2

Claimant 5.- E/06303/2020 D.D.D. - ***NIF.3

Claimant 6.- E/06305/2020 E.E.E. - ***NIF.4

Claimant 7.- E/07018/2020 F.F.F. - ***NIF.5

Claimant 8.- E/07821/2020 G.G.G. - ***NIF.6

Claimant 9.- E/07825/2020 H.H.H. - ***NIF.7

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es