

□ Procedure No.: PS/00288/2019

938-051119

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00288/2019, instructed by the Spanish Agency for Data Protection, to the entity MEDICINA PSICO-ORGÁNICA, S.L., with CIF: B48409759, (hereinafter "the entity claimed"), for alleged violation of the Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/2016, regarding the Protection of Natural Persons with regard to Data Processing Personal and the Free Circulation of these Data (RGPD), and based on the following,

BACKGROUND

FIRST: dated 05/23/19, D. A.A.A., (hereinafter, "the claimant"), presented this written before the Spanish Agency for Data Protection, in which, among others, denounced ciaba:

"In September 2018 I went to the Psychiatry Center in *** LOCATION.1 called "Medicina Psico-Orgánica, S.L.P. located at ***ADDRESS.1.

I was treated and, following his instructions, I carried out various tests, such as blood tests and a very personal test. in no moment, neither signed nor read me the rights that I possess in relation to the Law Data Protection".

SECOND: In view of the facts set forth in the claim and the documents provided by the claimant, the General Subdirectorate for Data Inspection proceeded to carry out actions for its clarification, under the investigative powers tion granted to the control authorities in article 57.1 of the Regulation (EU) 2016/679 (GDPR). Thus, with dates 07/04/19 and 07/15/19, an information request is addressed tive to the claimed entity.

THIRD: On 07/19/19, the entity claimed, sends to this Agency the

following documentation:

a).- Personal contact data collection sheet and consent for the data processing.

Said sheet specifies that: "the purpose is to prepare the clinical history, the diagnosis and monitoring of the evolution of their health status, and the consent expressly for health data in order to "offer you the best care and follow-up of your case".

A confidentiality clause is collected, and the transfer of data to third parties is reported.

zero collaborators or health professionals with the same purposes, with which have signed service provision clauses, but these third parties are not identified. zeros.

FOURTH: Checked the web page, ***URL.1, dated ***DATE.1, in its "Policy of Privacy", can be read:

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

2/5

a.- USE AND PROCESSING OF PERSONAL DATA.

PSYCHO-ORGANIC MEDICINE S.L. informs you that the personal data that could be provided, through the website, as well as those that could to facilitate in the future within the framework of its legal relationship with this entity, They will be incorporated into the files owned by PSYCHO-ORGANIC MEDICINE S.L., whose data appears in the header.

These files are intended to manage, administer, provide the services

services or provide you with the products you request, and where appropriate, for the fulfillment and execution of the contracts that could be concluded, to know better their tastes, adapt the services to your preferences, as well as being able to offer you new services.

vices or products and send you information related to the activities of MEDICINA PSICO-ORGÁNICA S.L., through any means, including the electronic. The recipients of the information collected will be, mainly, the employees of MEDICINA PSICO-ORGÁNICA S.L.

Except in the fields in which the contrary is expressly determined by of an asterisk (*), the answers to the questions about personal data are voluntary, without the lack of answers to said questions implying a decrease in the quality of the services you request. The lack of compliance tation of the fields determined as mandatory or the provision of data incorrect will make it impossible for MEDICINA PSICO-ORGÁNICA S.L. can pres- provide the services or provide the products you request.

The consent granted for the processing of your personal data may be revoked at any time, by contacting the MEDICINE address PSYCHO-ORGANIC S.L. or via email ***EMAIL.1.

Users guarantee and are responsible, in any case, for the accuracy, validity authenticity and authenticity of the personal data provided and undertake to maintain keep them properly updated.

b).- EXERCISE OF RIGHTS: ACCESS, RECTIFICATION, CANCELLATION AND OPPOSITION

Those individuals who have provided their data to MEDICINA PSYCHO-ORGANIC S.L. may freely exercise their rights of access, rectification cation, cancellation and opposition regarding the data included in the fi- files of MEDICINA PSICO-ORGÁNICA S.L.

Given the confidential nature of the information, you will not be able to exercise your rights
rights by telephone, you must request it by any means that records
of sending and receiving it and send a copy of your DNI or equivalent document.
brave.

The interested party may exercise their rights by written communication
addressed to MEDICINA PSICO-ORGÁNICA S.L. at the address indicated at the beginning
or to the email address ***EMAIL.1.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

3/5

c).- SECURITY MEASURES.

PSYCHO-ORGANIC MEDICINE S.L. informs you that you have implanted the measures
security measures of a technical and organizational nature necessary to guarantee
the security of your personal data and avoid its alteration, loss and
treatment and/or unauthorized access, taking into account the state of the technology
gy, the nature of the data stored and the risks to which they are exposed.
cough, whether they come from human action or from the physical or natural environment.

The user must be aware that security measures on the Internet do not
are impregnable and entirely reliable and that PSYCHO-ORGANIC MEDICINE
SL cannot guarantee the absence of viruses or other elements that could
ran produce alterations in computer systems (software and hardware)
of the user.

d).- MINORS.

In the event that any of the services and products are aimed at minors

14 year old. PSYCHO-ORGANIC MEDICINE S.L. will request the consent of the parents or guardians for the collection of the personal data of the minor.

PSYCHO-ORGANIC MEDICINE S.L. does not respond to those minor data res that without being able to know MEDICINA PSICO-ORGÁNICA S.L. this fact is provided without the consent of the parents or guardians.

e).- MODIFICATION OF THE PRIVACY POLICY.

PSYCHO-ORGANIC MEDICINE S.L. reserves the right to modify its Policy Privacy Policy, according to its own criteria, or motivated by a change doctrinal of the competent Authority in Data Protection, legislative or jurisprudential. Any modification of the Privacy Policy will be published, before its actual application. The use of the Web after said changes, will imply the acceptance of these.

f).- APPLICABLE LEGISLATION

Any dispute arising from the use of this site will be governed, interpreted and submitted in accordance with the laws of Spain.

FOURTH: On 11/20/19, the Director of the Spanish Agency for the Protection of Data agreed to initiate sanctioning proceedings against the claimed entity, by virtue of the powers established in art. 58.2 of the RGD and in articles 47, 64.2 and 68.1 of the Organic Law 3/2018, of December 5, on the Protection of Personal Data and Guarantee of Digital Rights (LOPDGDD), for alleged infringement of article 13 of the RGD and considered very serious in 72.1.h) of the LOPDGDD for the purposes of prescription, setting an initial sanction of "Warning", without prejudice to what is will result in the course of the instruction of the procedure, and requiring the entity that: "Take the appropriate measures to adapt your privacy policy to the norm-current tax. Requirements contemplated in article 13 of the RGD, and must provide the users and/or patients, at the moment in which it collects the personal data of the

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

4/5

themselves, through the forms, the information required in the aforementioned precept, to which must take into account the provisions of article 6 of the RGPD in relation to the legality of the treatment.

FIFTH: On 12/02/19, the initiation of the file was notified to the claimant entity.

demand, who has not filed before this Agency, any brief or allegation, within the period granted for this purpose.

PROVEN FACTS

1.- In the text of the sheet sent by the claimed entity, as well as the information supplied, in relation to the privacy policy, through its website, it is noted that it is not adapted to the new RGPD, (we speak, for example, of file, of ARCO rights, etc.), but nothing is specified about: - the identity and data of contact of the person in charge and, where appropriate, of his representative; - the contact of the Delegate of Data Protection of the entity; - the legal basis of the treatment; the recipients of the data collected; - information on the period during which they will be kept the personal data or the criteria used to determine that period; - the rights to request from the person in charge access to the personal data related to the interested party, and its rectification or deletion, or the limitation of its treatment, or to oppose the treatment- as well as the right to data portability and the right to file a claim before the control authority or information on the existence of decisions automated operations (including profiling).

FOUNDATIONS OF LAW

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

Sections 1) and 2), of article 58 of the RGPD, list, respectively, the investigative and corrective powers that the supervisory authority may provide to the effect, mentioning in point 1.d), that of: "notifying the person in charge or in charge of the treatment of alleged infringements of these Regulations" and in 2.i), that of: "impose an administrative fine under article 83, in addition to or instead of the measures mentioned in this section, according to the circumstances of each case."

In the present case, it has been verified that, in the text of the sheet sent by the entity claimed to this agency, as well as the information provided, in relation with the privacy policy, through its website, it is verified that it is not adapted to the new RGPD.

All of the above could imply an infraction for violation of article 13) of the RGPD, considered in article 72.1.h), of the LOPDGDD as "very serious" for prescription cough.

Yo

II

III

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

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

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

In view of the aforementioned precepts and others of general application, the Director of the Agency

Spanish Data Protection

RESOLVE

APERCEBIR: to the entity MEDICINA PSICO-ORGÁNICA, SL with CIF: B48409759, by violation of article 13 of the RGPD, typified in Article 83.5 of the RGPD.

REQUEST: to the entity MEDICINA PSICO-ORGÁNICA, SL, so that, within the term of one month from this act of notification, proceed to take the appropriate measures to adapt its privacy policy to current regulations, (requirements contemplated in article 13 of the RGPD), and must provide users and/or patients, at the time in which it collects their personal data, through the forms, the information required in the aforementioned precept, for which you must take into account the provisions placed in article 6 of the RGPD in relation to the legality of the treatment.

NOTIFY this resolution to the entity MEDICINA PSICO-ORGÁNICA, SL

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

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

Against this resolution, which puts an end to the administrative procedure in accordance with art. 48.6 of the LOPDPGDD, and in accordance with the provisions of article 123 of the LPACAP, the

Interested parties may optionally file an appeal for reconsideration before the Director

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

Sea Spain Marti

Director of the Spanish Data Protection Agency

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es