

□ Procedure No.: PS/00110/2020

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

In the sanctioning procedure PS/0110/2020, instructed by the Spanish Agency for Data Protection, to the entity, ADD EVENT STAFF, S.L. with CIF.: B85042737 (in hereinafter, "the entity claimed"), by virtue of the complaint filed by D. A.A.A., (hereinafter, "the claimant"), and based on the following,

BACKGROUND

FIRST: On 10/25/19, you had a written entry to this Agency, submitted by the claimant, in which he stated, among others, the following:

"These companies hold a free event called a job fair." When I I try to register, they force me to give my data so that they send me publicity both yours and third parties, and also force me to transfer my data to third parties. I commu- I contacted them through ***EMAIL.1 so that they could register me without having to give up my data and they tell me no, that if I don't want to, I shouldn't go, that since it's free I'm obliged to receive commercial information from their companies as well as companies that They will transfer my data. At no time do they give me the option of not sending me advertising. ity and not to give up my data".

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 (General Data Protection Regulation, hereinafter RGPD). So with dated 11/27/19, an information request is addressed to the claimed entity.

THIRD: On 12/23/19, you entered this Agency in writing, submitted by

the entity claimed, where it reports, among others, the following:

“A copy of the communication via email sent to the claimant is attached, in accordance with the that we consider, that no right concerning data would have been violated personal cough; because it is a legitimate exercise, based on the inappropriate consent equivocal, to treat certain personal data required to be able to attend and participate in the event Fair of Employment in the Digital Age (hereinafter, FEED) organized by ADD EVENT, and thus be able, in turn, to allow the participants to send them co-communications related to your activity.

To state that the communication provided to the AEPD by the claimant in his claim information, regarding the exchanged communications via email, is not completely complete, there, that now be provided by this party as Document No. 1, the full text both of the claimant as the response to their requests by ADD EVENT. When- to the content of the response by ADD EVENT, in short to say, as it is deduced from its text, that the collection of personal data required was necessary to be able to participate in FEED. In the complainant's case he intended to do so through the "FEED candidate contact" form on the website

***URL.1(**URL.2).

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That is, as a preliminary step to any communication of personal data - as as reflected in the privacy policy - it had to be accepted, and the user was warned interested, that it was a necessary requirement to be able to attend FEED, since that otherwise the consequence would be the impossibility of their participation. In this

In this sense, it must be taken into account that the purpose of FEED was to put communication to job seekers with participating companies (exhibitors) that at their professionals, hence the legitimate need to have the pertinent data. personnel necessary to be able to put both parties in contact.

The claimant's claim to want to attend FEED without providing the identity data notification that was requested for it, and its refusal not to receive communications from the participants in said event; Given his refusal, he was told in response to his request tud, that it was a free event that had to do with employment and networking, whose purpose was that whoever attended could be contacted by the exhibitors professionals (participating companies), so they were told that the purpose of attending was participate and that without facilitating contact, there was no point in attending. And as for receiving bir commercial communications from the participants, make mention of that, in the Privacy Policy texts, which could be accessed as a step prior to the provision of any personal data (see: ***URL.2 that links to the policy privacy policy ***URL.3, explained the possibility of receiving communications regarding the services of the exhibitors and/or the person in charge.

As indicated in the previous point, by the owner responsible for the web a series of measures were and have been arranged to avoid incidents such as the occurred, in fact, there is no record of having received any other to date. So:

1.- A Privacy Policy was available at the time informing previously to those interested in participating, in a clear way, and in accordance with the regulations of application in data protection, about: who was responsible for the treatment, the requested data, the purpose, the legitimacy, the transfer to third parties and how to obtain information on who these were, the rights of the interested party, etc., and also, therefore, concerning the present claim, it was reported that the communication of the personal data was a necessary requirement to be able to attend and participate in FEED, and

Otherwise, the consequence would be the impossibility of carrying out its participation.

participation in the event Via ***URL.2 link to ***URL.3

2.- A system of opposition to data processing was available at an ini-

cial, through the communication of an email address to which the

interested parties to exercise said right, according to the following text: You are informed that

You may exercise the rights of Access, Rectification, Deletion, Limitation,

Portability and Opposition, sending an e-mail to the address ***EMAIL.1 attaching

proof of identity and indicating in the communication the right you want

exercise. Via ***URL.2 to ***URL.3

3.- A text and a control system were available for sending communications

by ADD EVENT regarding commercial actions such as invitations to

new calls for FEED, with the following content:

“BASIC INFORMATION ON DATA PROTECTION. In accordance and in

compliance with the provisions of article 13 of Regulation (EU) 2016/679 and in art.

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Article 11 of Organic Law 3/2018, on the Protection of Personal Data and guarantee of

digital rights, we inform you that the contact data used for the pre-

present communication, as well as those necessary for the exercise of the pro-

professional, will be processed by ADD EVENT STAFF S.L. and/or of

ADD TRADE SHOW SYSTEMS S.L. and/or VIVE FUTURA SYSTEMS S.L. with the final

maintenance and fulfillment of the professional relationship and provision of services

services derived from it, including the sending of informative communications, co-

commercial or courtesy. Notwithstanding this, you are informed that you may exercise the rights of Access, Rectification, Deletion, Limitation, Portability, and Opposition tion, and not to be subject to automated individual decisions, by sending an e-mail to the address ***EMAIL.1 attaching proof of identity and indicating in the co-communication the right you wish to exercise.

Likewise, we inform you that, in accordance with the provisions of Law 34/2002 on Services of the Information Society and Electronic Commerce, if you do not want receive future commercial communications again simply reply to this co-email, writing in the subject of the same the word "Low" and your email address.

mail and other data will be excluded from our database for this purpose.

This message and its attachments are addressed exclusively to its recipient, may contain confidential information subject to professional secrecy. No this

Its reproduction or distribution is permitted without the express authorization of ADD EVENT STAFF S.L. and ADD TRADE SHOW SYSTEMS S.L. and/or VIVE FUTURA SYSTEMS

SL If you are not the recipient of this information, please notify us at sender's address for removal of your email address, not copying

nor by delivering this message to anyone else and destroying it. can con-

See the additional and detailed information on Data Protection on our page.

on the web: ***URL.3. In other words, the possibility of opposing the treatment of data is offered.

for promotional purposes through a simple and free procedure, both in the time of data collection as in each of the commercial communications that is sent to the interested party".

No damage has been caused to the claimant, since no claims were even reached.

bar the only data that was requested in the "candidate contact" section, name and email address, and did not receive any commercial communication by ADD EVENT or the participants in the FEED event".

FOURTH: On 06/10/20, the Director of the Spanish Agency for the Protection of Data agreed to initiate sanctioning proceedings against the claimed entity, by virtue of the established powers, for failing to comply with the provisions of article 7.4 of the RGPD, by oblige, the claimed entity, the people interested in attending the job fair that organizes, to give consent so that their data is not only processed by it for sending advertising, but also may be transferred to third parties outside companies for the same purpose, (sending advertising), punishable in accordance with provided in art. 83 of the aforementioned RGPD, with an initial sanction of WARNING.

FIFTH: Once the initiation agreement has been notified, the entity claimed, by means of a document of faith on 06/18/20, made, in summary, the following allegations:

"The execution of the contract is being made subject (attendance at the event, "employer fair" employment"), to the claimant consenting to the processing of personal data for financing

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ties that are not related to the development or control of the event, you must consent that third-party companies send you publicity once the event has finished-

In short, if consent is not given to transfer the data to third-party companies, outside companies to send you commercial advertising, the provision of the service is denied main, which is to attend the organized event on employment".

Without the intention of reiterating what has already been stated and proven in the brief of pre-arguments, seated at the time, but it is for clarification, so it is important for the may have, we would like to reiterate a fact that contradicts what is indicated in said

Resolution, since it is precisely the opposite of what is indicated:

1. Attendance at the event was related - solely and exclusively - to a finality, which was that the attendees could communicate - who are employer applicants- employment - with the participating companies (exhibitors), which in turn are looking for professionals them. Therefore, the purpose was only one, it was a job fair and networking.

2. Hence the legitimate need to have the personal data necessary to be able to access the event and be able to give the companies the data of the people participating parties so that they could contact, with that sole and exclusive purpose and with a consent, we understand, sufficiently informed and free.

Apart from the foregoing, the AEPD is informed that ADD EVENT STAFF, S.L. is taking the appropriate measures, with the intention of reviewing and adapting user data collection protocols.

SIXTH: The website ***URL.3 was consulted on 06/23/20, and it was verified that it offers information training on:

- The data controller
- Regarding the purpose of the treatment and conservation, it is indicated that:

“The proper organization and management of events and the service of the Employer Fair Employment in the Digital Age F.E.E.D. The communication of information and contact of entrepreneurs or professionals with potential employees. Marketing actions ting by direct email for services similar to those contracted by you.

unless you have objected to such processing initially or jointly.
subsequent communications, to achieve the legitimate interests of promoting production products and services in which you may be reasonably interested.

Have images (videos and/or photographs) of the events that take place in the Employment Fair Era Digital F.E.E.D. The personal data provided is confidential. They will serve as long as the owner of the same remains linked to us by reference.

contractual term, for a period of 2 years from the last confirmation

consenting to the processing of your data. Subsequently, the data will be deleted

in accordance with the provisions of the data protection regulations, which implies their

blockade, being available only at the request of Judges and Courts, Defender

of the People, Public Prosecutor or the competent Public Administrations, during

the limitation period of the actions that could derive and, after this,

will proceed to its complete elimination.

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- Regarding the legitimacy of the treatment, it is indicated that:

“The basis for processing your personal data is the execution of the contract and

the services provided by ADD EVENT STAFF S.L., as well as the compliance

with a legal obligation. Also processing for marketing purposes is

necessary to achieve the legitimate purpose of the person responsible for the treatment of their products.

commercial stalls. You can always oppose the treatment by communicating it

via email. Providing personal data for these purposes is optional

but failure to provide such data would make it impossible to activate the

Requested services”.

- Regarding the recipients of assignments or transfers, it is indicated that:

“The personal data necessary to provide the service will be shared by

our suppliers when the activity so requires, in which case you will be

informed of the recipients, the purpose and the time of conservation of your data;

and when it is required in compliance with a legal obligation by the Ad-

Ministry of Justice and the Spanish Data Protection Agency”.

The rights of the interested persons

The provenance of the data

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- Privacy Policy

- Regarding the information and consent of the interested party, it is indicated that:

“By reading this Privacy Policy, the client, contact,

user of our website or any third party (hereinafter, the interested party) of

who ADD EVENT STAFF S.L. has your personal data is

informed of how we collect, treat and protect what you provide to us through

via: The existing contact form on our website ***URL.1

By any other means enabled by us to keep with you any-

any of the purposes described below. Depending on the

specific purpose for which the treatment is intended and when required in compliance with

compliance with the applicable regulations (RGPD), we will request your prior and unequivocal

I give consent. For example, the contact form on our website

allows explicit consent to be given, as required by article 7 of the

GDPR”.

- Regarding the obligation to provide personal data, it is indicated that:

“The data requested in the contact form that we provide in our

another website or by the various means enabled, in general, are the

necessary to be able to fulfill the purposes of our services

(eg: attendance or participation in our events such as the Job Fair in

the Digital Age, sending promotional communications, advertising about

our services, events, or subscription to our news letter). Therefore, if

they are not provided or it is not done correctly, your requests cannot be attended to.

titions.

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- Regarding the purpose of processing personal data, it is indicated that:

“The personal data collected will be processed by ADD EVENT STAFF S.L. with-

for the following purposes: Management and organization of events, conferences and

fairs. The proper organization and management of the Employment Fair service in

the Digital Age F.E.E.D. Communication of information and communication of

entrepreneurs or professionals with potential employees. dispose of images

(videos and/or photographs) of the events that take place at the Era Employment Fair

Digital F.E.E.D. Sending of communications, through electronic means and/or

with the aim of: Providing information on possible changes in the

service, quality or security systems for the user. Send billing co-

corresponding to our products or services purchased. Send information,

advertising on conferences, campaigns, events and other activities carried out by ADD

EVENT STAFF S.L. or in which you collaborate. Whenever any communication is made

cation of this type will be addressed exclusively to those interested who have

previously authorized its reception. Management of conducting surveys, opinion

tions and/or evaluations regarding your satisfaction with the products,

services and in general the relationship with ADD EVENT STAFF S.L. cum-

fulfillment of obligations that correspond to ADD EVENT STAFF S.L. by

legal mandate. In certain circumstances we will need to process your data

to comply with certain legally established obligations.

- Regarding the transfer of images, it is indicated that:

“By participating in the events, congresses and fairs of ADD Event Staff SL, you can

to be photographed or recorded for the realization of a photo report, video report,

Let them be spread on ADD Event Staff social media. You for so-

to, assign their rights to ADD Event Staff SL. in these events organized by

ADD Event Staff SL For all of which, expressly AUTHORIZES ADD Event Staff

SL to the use of their personal image resulting from said photographic session

for the aforementioned purpose, under the provisions of the Organic Law

1/1982, of May 5, on Civil Protection of the Right to Honour, to Personal Privacy

Personal and Family and to the Image itself, without said authorization being subject to

no time period nor is it restricted to the national scope of any country. Bliss

session is free of charge. You may revoke this assignment at any-

any time by sending an e-mail to: ***EMAIL.1 attaching a photocopy of your

DNI. Contact information: postal address, mobile or landline, and email address

electronic.

Academic training data. (Resume); Professional experience data. (Cu-

riculum); Other information: Languages, driving license. If the interested party provides data

personal information of third parties (representative, others), declares to have their prior consent

feeling and undertakes to transfer the information contained in this

Privacy Policy, exempting ADD EVENT STAFF S.L. of any responsibility

reliability in this regard. However, we can carry out the verifications

that we deem appropriate to verify this fact, adopting the measures of

corresponding due diligence, in accordance with data protection regulations.

cough of a personal nature”.

- The time your personal data will be kept

- What is the legitimacy for the treatment of your personal data

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- To which recipients your personal data will be communicated

- Responsibility of the interested party

- Security measures.

SEVENTH: On 06/24/20, the period of practice tests began, according to

dosing: a).- consider reproduced for evidentiary purposes the complaint filed by the de-
advertiser and its documentation, the documents obtained and generated that form
part of the file and b).- consider reproduced for evidentiary purposes, the allegations
to the initiation agreement of PS/00110/2020, presented by the denounced entity.

EIGHTH: On 08/06/20, the requested person is notified of the proposal for re-
solution in which it is proposed that, by the Director of the Spanish Agency for Protection
tion of Data is sanctioned with "WARNING" for an infraction of article 7)
of the RGPD, in accordance with the provisions of article 58.2) of the aforementioned RGPD.

NINTH: After notification of the proposed resolution, no document has been received
type of allegations to the proposed resolution, in the time granted for this purpose.

PROVEN FACTS

1º.- As reported, to access the job fair organized by the entity
claimed, attendees are obliged to give their personal data so that they can send them
then publicity, both of the claimed entity and of the other participating companies.
parties at the event or even third party companies.

2º.- The entity claimed indicated, in its first allegations, sent to this Agency

on 12/23/19 that:

“(…) as a preliminary step to any communication of personal data - as

reflected in the privacy policy - it had to be accepted, and the interested party was warned,

that it was a necessary requirement to be able to attend FEED, since otherwise

On the contrary, the consequence would be the impossibility of their participation. In this sense it has

taking into account that the purpose of FEED was to put in communication

job seekers with participating companies (exhibitors) who in turn seek

professionals, hence the legitimate need to have the necessary personal data.

sary to be able to put both parties in contact.”

(…) And in terms of receiving commercial communications from the participants

tes, mention that in the Privacy Policy texts, which could be

access as a step prior to the provision of any personal data (see: ***URL.2 that

links to the privacy policy ***URL.3, the possibility of receiving co-

communications regarding the services of the exhibitors and/or the person in charge (...).’

3º.- Once this file has been opened, in the allegations phase, the claimant entity

mada, in writing addressed to this Agency on 06/18/20, indicates, among others, that:

"(...) Attendance at the event was related - solely and exclusively - to a fine-

ity, which was that the attendees - who are job seekers - could communicate

employment - with the participating companies (exhibitors), which in turn are looking for professionals

them. Therefore, the purpose was only one, it was a job fair and netwo-

rking.

Hence the legitimate need to have the personal data necessary to

be able to access the event and be able to give companies the data of the people participating.

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parties so that they could contact, with that sole and exclusive purpose and with a consent, we understand, sufficiently informed and free”.

Apart from the foregoing, the AEPD is informed that ADD EVENT STA-

FF, S.L. is taking the appropriate measures, with the intention of reviewing and adapting user data collection protocols.

4º.- According to the information published on the website of the claimed entity

***URL.3, consulted by this Agency on 07/27/20, indicates that:

“the purpose of the treatment and conservation of the personal data obtained from the participants will be allocated to the proper organization and management of events and the service of the Employment Fair in the Digital Age F.E.E.D., and to the contact of employers or professionals with potential employees. But it also indicates that the data of Personal donations from those attending the job fairs will be used for: “Actions of direct email marketing for services similar to those contracted by you, unless you have objected to such processing initially or in communication subsequent cations, to achieve the legitimate interests of promoting products and services in which you may be reasonably interested and to have images (videos and/or photographs) of the events that take place at the Entrepreneurship Fair full Digital Age.

FOUNDATIONS OF LAW

Yo

The Director of the Spanish Agency is competent to resolve this procedure.

Data Protection, in accordance with the provisions of art. 58.2 of the RGPD in the art. 47 of LOPDGDD.

The joint assessment of the documentary evidence in the procedure brings to awareness of the AEPD, a vision of the denounced action that has been reflected gives in the facts declared proven above reported. However, on the allegations tions presented by the entity claimed at the initiation of the file, indicate what

Next:

As can be deduced from both the complaint filed by the claimant and the allegations presented by the claimed entity and above all, for what is indicated by this, in the "privacy policy", of its web page, ***URL.3, in relation to the finality of the treatment and conservation of the personal data obtained from the participants. participants in the job fairs organized, in principle, the personal data of the participants are allocated to the organization and management of the event, as well as to facilitating contact between businessmen and professionals attending with potential entrepreneurs pleads.

Regarding this purpose, and based on the provisions of article 6.1.b) of the RGPD, the treatment of the data obtained from the attendees is considered lawful, as it is necessary ary for the execution of the contract in which the interested party is a party, as it is in this case, attendance at the event (employment fair), in exchange for contacting employers and that they know you.

However, from the information provided by the claimed entity on its page web, ***URL.3, the personal data obtained from the participants in the fairs of employment, will also be allocated to: "marketing actions by email direct-

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unless you have objected to such processing initially or in communication subsequent tions, to achieve the legitimate interests of promoting products and services in which you may be reasonably interested” and to “have access to images (videos and/or photographs) of the events that take place at business fairs plea”.

These purposes, which have nothing to do with the search for employment, must have the explicit consent of the interested party, applying in this case, the provisions of the article 6.1.a) of the RGPD, where it is indicated that the processing of the data only will be lawful, if it is obtained from the free, specific and informed consent of the interested party. do, accepted by clear affirmative action.

This affirmative action could be by checking a box on the website or in the form that must be filled out when registering for the event or any other declaration ration or conduct that clearly indicates that the interested party accepts the proposal of processing of your personal data, in this case for sending advertising, recording tion of images or any other act unrelated to the ultimate objective of the job fair.

This consent must be given for each and every one of the activities outside the main act, object of the event,

Finally, as indicated in article 6.3 of the LOPDGDD: "It may not be subordinated the execution of the contract to which the affected party consents to the processing of personal data for purposes that are not related to the maintenance, development or control of the contractual relationship.

Therefore, if a person is interested in attending an event, a job fair in our case, where applicants are put in contact with job offers and you do not want to give your personal data, it is lawful that the organizer does not allow your attendance. possession, since these data, whose legal basis is the execution of a contract, will be used created for the purpose for which the event is held. Another thing is if the data obtained

They are also used for another purpose that is not the main one, as in this case, for the commercial advertising of the participating companies or the recording of images of the act for promotional or other external purposes, in which case the consent is needed. free, express and affirmative consent of the interested party.

In view of the foregoing, the following is issued:

:

RESOLVE

NOTICE: to the entity ADD EVENT STAFF, S.L. with CIF.: B85042737 for infringement of article 7 of the RGPD.

REQUEST: to the entity ADD EVENT STAFF, S.L. so that, within a month, counting from the notification of this resolution, adapt your data collection protocols data that allow users to give free consent for their data to be later treated for purposes other than always attending the events organized two, in accordance with the provisions of the RGPD.

NOTIFY: this resolution to ADD EVENT STAFF, S.L.

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

Sea Spain Marti

Director of the Spanish Agency for Data Protection.

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