

□ Procedure No.: PS/00306/2020

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

In the sanctioning procedure PS/00306/2020, instructed by the Spanish Agency for Data Protection before D. A.A.A., with NIF: ***NIF.1, owner of the website, www.torosdelidia.es, (hereinafter, "the person claimed"), by virtue of a preliminary complaint sat by D. B.B.B., (hereinafter, "the claimant"), and based on the following following:

BACKGROUND

FIRST: On 11/13/19, you have entered this Agency, filed a complaint by the claimant in which he indicated, among others, the following:

"On the web www.torosdelidia.es, no legal notice has been published, contravening this is stipulated in the LSSI. Likewise, the aforementioned website lacks a policy of privacy and cookie policy".

SECOND: In view of the facts set forth in the claim and the documents provided by the claimant, the General Subdirectorate for Data Inspection proceeded to carry out actions for its clarification, under the powers of investigation granted to the control authorities in article 57.1 of the Regulation (EU) 2016/679 (GDPR). Thus, on 07/08/20 an informative request is addressed to the PUBLIC BUSINESS ENTITY RED.ES and the LOADING SYSTEMS GROUP SL so that it could provide this Agency with the identification data of the owner of the domain www.torosdelidia.es, answering both entities that the ownership of said domain belongs to the claimed person.

THIRD

: On 09/20/20, by this Agency, the website is consulted

reported, checking the following aspects of the privacy policy and

the cookie policy implemented on said page:

A).- Regarding the Privacy Policy:

It has been verified that, on the website www.torosdelidia.es, in the

<<create an account>>, located at the top of the page, collects personal data

registrants, such as name and email, as well as the option

tion to subscribe to the Newsletter, where you must enter the email.

There is NO link that redirects to the "privacy policy". It only exists in the

<<contact>> tab the following information: Email: info@torosdelidia.es

B).- Regarding the Cookies Policy:

b.1.- When accessing the main web page, www.torosdelidia.es, (first layer),

it is verified that, without accepting cookies or performing any action on the web,

They use, among others, the following persistent cookies:

_ga, expiring on July 8, 2022 and for performance purposes according to

<https://cookiepedia.co.uk>. According to <https://cookiepedia.co.uk>, associated with Google

Analytics.

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_gid, expiring on July 9, 2020 and for performance purposes according to

<https://cookiepedia.co.uk>. According to <https://cookiepedia.co.uk>, associated with Google

Analytics.

b.2.- There is NO banner or information on the use on this initial page

of cookies by the website.

b.3.- There is NO link on this home page that redirects to the "privacy policy".

city".

FOURTH: In view of the reported facts of the verifications carried out by this Agency, the Director of the Spanish Data Protection Agency, dated 10/07/20, agreed to initiate a sanctioning procedure against the person claimed, under tude of the established powers, for failing to comply with the provisions of article 22.2 of the LSSI, regarding the cookie policy of its website and 13 of the RGPD, regarding the non-existence of a privacy policy on its website, verifying that there is a treatment of personal data of users.

FIFTH: Notification of the initiation of the file, as of today, there is no evidence that res- any objection has been given to the initiation of the file within the period granted do for it.

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

PROVEN FACTS

1.- Regarding the Privacy Policy, it has been verified that, on the website, collect personal data, but there is no link that redirects to the "privacy policy". privacy". There is only the following information in the <<contact>> tab:

Email: info@torosdelidia.es

2.- Regarding the Cookies Policy, it has been verified that, when accessing the page main web, (first layer) and without accepting cookies or performing any action on On the web, unnecessary ones like "_ga" and "_gid" are used.

There is no banner on this home page about the use of cookies and there is no co there is no link that redirects to the "privacy policy".

FOUNDATIONS OF LAW

Yo

Competition:

About the Privacy Policy:

By virtue of the powers that article 58.2 of Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/16, regarding the Protection of Natural Persons with regard to the Processing of Personal Data and the Free Circulation of these Data (RGPD) recognizes each Control Authority and, as established in arts. 47, 64.2 and 68.1 of Organic Law 3/2018, of December 5,

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Protection of Personal Data and Guarantee of Digital Rights (LOPDGDD),

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

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.

Regarding the privacy policy, article 13 of the RGPD, establishes the information that must be provided to the interested party at the time of collecting their data personal:

II

1. When personal data relating to him is obtained from an interested party, the responsible for the treatment, at the time these are obtained, will provide

all the information indicated below: a) the identity and contact details of the responsible and, where appropriate, his representative; b) the contact details of the delegate data protection, where appropriate; c) the purposes of the treatment to which the data is intended. personal data and the legal basis of the treatment; d) when the treatment is based in article 6, paragraph 1, letter f), the legitimate interests of the person in charge or of a third; e) the recipients or categories of recipients of the personal data, in your case; f) where appropriate, the intention of the controller to transfer personal data to a third country or international organization and the existence or absence of a decision adequacy of the Commission, or, in the case of transfers indicated in the Articles 46 or 47 or Article 49, paragraph 1, second paragraph, reference to the adequate or appropriate warranties and the means to obtain a copy of these or to the fact that they have been borrowed.

2. In addition to the information mentioned in section 1, the person in charge of the treatment will facilitate the interested party, at the moment in which the data is obtained personal, the following information necessary to guarantee data processing fair and transparent: a) the period during which the personal data will be kept or, when this is not possible, the criteria used to determine this period; b) the existence of the right to request access to data from the data controller 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 the portability of the data; c) when the treatment is based on article 6, paragraph 1, letter a), or the Article 9, paragraph 2, letter a), the existence of the right to withdraw consent in any time, without affecting the legality of the treatment based on the consent prior to its withdrawal; d) the right to file a claim with a control authority; e) if the communication of personal data is a requirement legal or contractual, or a necessary requirement to enter into a contract, and if the

The interested party is obliged to provide personal data and is informed of the possible consequences of not providing such data; f) the existence of decisions you automate, including profiling, referred to in article 22, paragraphs 1 and 4, and, at least in such cases, significant information about the logic

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applied, as well as the importance and expected consequences of said treatment for the interested party.

Therefore, the known facts constitute an infraction, attributable to the claimed, for violation of article 13 of the RGPD.

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

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

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

sanction any person responsible or in charge of the treatment with a warning when treatment operations have violated the provisions of this

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

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

circumstances of each particular case”, therefore, the corresponding sanction would be of "warning",

In relation to the "Cookies Policy" of the claimed website, the facts exposed suppose, on the part of the claimed entity, the commission of the infraction of the article 22.2 of the LSSI, according to which:

III

“Service providers may use storage devices and recovery of data in terminal equipment of the recipients, provided that they have given their consent after they have been provided clear and complete information on its use, in particular, on the purposes of the data processing, in accordance with the provisions of Organic Law 15/1999, of 13 December, on the 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 a service of the information society expressly requested by the addressee".

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

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sanctioned with a fine of up to €30,000, in accordance with article 39 of the aforementioned LSSI.

In accordance with these criteria, and considering that the person responsible for the website is a natural person, it is deemed appropriate to impose a “warning” sanction, for the infringement of article 22.2 of the LSSI, regarding the cookie policy.

Therefore, in accordance with the foregoing, by the Director of the Agency

Spanish Data Protection,

RESOLVE

NOTICE: to D. A.A.A., with NIF: ***NIF.1, owner of the website, www.torosdelidia.es, due to infringement of articles 13 of the RGPD and 22.2 of the LSSI.

REQUEST: D. A.A.A., so that, within one month from this act of notification, proceed to take the necessary measures to:

- Adapt the privacy policy of the web page of its ownership to the stipulations side in article 13 of the RGPD.
- Adapt the cookie policy of the website of its ownership to what is stipulated in article 22.2 of the LSSI.

NOTIFY: this resolution to D. A.A.A..

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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