

□ Procedure No.: PS/00196/2021

## RESOLUTION OF PUNISHMENT PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection and based on  
to the following

### BACKGROUND

FIRST: On 11/24/2020, it had entry in this Spanish Agency of

Data Protection a document presented by A.A.A. (hereinafter, the claimant),

through which he makes a claim against DOOR2DOOR SPAIN, S.L. with NIF

B01782739

the website

<https://www.door2doorspain.com/>, for an alleged violation of the regulations of

Data Protection.

the claimed one),

(onwards,

title of

The claim indicates the following, in relation to the matter of protection of

data:

“The domain [www.door2doorspain.com](http://www.door2doorspain.com) violates two regulations:

- We do not know to which entity or company or natural person the portal belongs.

- I don't know what they do with the different types of data that the forms collect  
of cookies and privacy policy.

- I don't know what they do with the cookies that are downloaded to my computer”.

Along with the claim, provide, among others, a copy of the following documents:

- A copy of

the Privacy Policy of

the Web

<https://www.door2doorspain.com/>.

- A copy of the contact page with which character data is collected

personal, because it says “If you have any questions about our

products or services, please fill out the following form and shortly we will

we will contact you. You can also call us by phone or

even come to visit us...”.

SECOND

: In view of the facts denounced, the General Subdirector of

Data Inspection verified that the website <https://www.door2doorspain.com/> a

date 12/17/2020 continued without adapting its Privacy and Cookies Policy. I know

they were limited to being a template that did not adapt to the person in charge and their treatments. Nope

However, with respect to the Cookies Policy, it was determined that they are not installed

Cookies not excepted, so the claimed one is not obliged to inform.

Prior to admitting this claim for processing, the Agency gave

transfer of it to the claimed one on 01/22/2021, in accordance with article

65.4 of Organic Law 3/2018, of December 5, on Data Protection

Personal and guarantee of digital rights (hereinafter LOPDGDD). Occurred

a first notification attempt through the Electronic Notification Service,

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being rejected on 02/02/2021 once the period of ten days has elapsed

established. However, on 02/10/2021 the respondent received notification through

of postal mail, as stated in the Receipt Notice issued by Correos.

On 03/09/2021, the respondent submitted a brief of allegations in which it indicates:

“1st.- That he was unaware that the website [www.door2doorspain.com](http://www.door2doorspain.com), the responsibility of DOOR2DOOR SPAIN S.L., did not have a privacy policy.

2º.- That the main reason is that said website has just been created and is being tested and that the Privacy and Cookies Policies have already been prepared, adapted to said Web.

3º.- That DOOR2DOOR SPAIN S.L., has contracted the services of an advisory specialized in data protection regulations, which has prepared the corresponding Privacy and Cookies Policies, which are already inserted in the web, and which are attached to this information request letter.

4º.- What is the intention of DOOR2DOOR SPAIN S.L. comply at all times rigorously in the development of its activity with the technical measures and mandatory organizational regulations established in the General Regulation for the Protection of Data 2016/679 and in Organic Law 3/2018, on the Protection of Personal Data and guarantee of digital rights, which are carried out effectively, also requiring any user of the company to comply with said instructions".

THIRD: On 07/26/2021, the Director of the Spanish Protection Agency of Data agreed to initiate a sanctioning procedure against the defendant, for the alleged violation of article 13 of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, regarding the protection of natural persons in relation to regarding the processing of personal data and the free circulation of these data (hereinafter, RGPD), typified in article 83.5 of the RGPD.

FOURTH: In compliance with the provision of article 14.2 of Law 39/2015, of 1 October, of the Common Administrative Procedure of the Public Administrations (in

hereinafter, LPACAP) the agreement to open the procedure was notified to the claimed electronically.

The certificate issued by the Electronic Notification Service Support service and Authorized Electronic address of the National Currency and Stamp Factory (in forward, FNMT), which is in the file, proves that the AEPD put the notification available to the recipient on 07/26/2021 and that the same day was accepted for the claimed

FIFTH: The respondent did not make any objections to the agreement to initiate the procedure.

Article 64.2.f) of the LPACAP -provision of which the one claimed was reported in the agreement to open the procedure- establishes that if no allegations are made within the term established on the content of the initiation agreement, when it

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contains a precise statement about the imputed responsibility, it may be considered a motion for a resolution.

In the present case, the agreement to initiate the disciplinary proceedings determined the facts in which the imputation was specified, the infraction of the RGPD attributed to the claimed and the sanction that could be imposed. Therefore, taking into account that the respondent has not made allegations to the agreement to initiate the file and in attention to what is established in article 64.2.f LPACAP, the aforementioned initial agreement is considered in this case proposed resolution.

SIXTH: The agreement to initiate the procedure agreed in the third point of the part dispositive “INCORPORATE to the disciplinary file, for the purposes of evidence, the

claims submitted by claimants and the information and documentation obtained by the Subdirector General for Data Inspection in the phase of information prior to the agreement of admission to processing of the claim.”

In view of everything that has been done, by the Spanish Data Protection Agency

In this proceeding, the following are considered proven facts:

#### FACTS

FIRST: A claim is filed for non-compliance with the regulations of data protection on the website <https://www.door2doorspain.com/>.

SECOND: The defendant states that she has proceeded to correct the page web <https://www.door2doorspain.com/>, incorporating a Privacy Policy adequate to article 13 of the RGPD.

THIRD: Despite the allegations of the respondent in response to the transfer of the claim and request for information, it is verified that the Privacy Policy examined does not comply with the provisions of sections 13.1 f) and 13.2 c).

With regard to the first question, the Privacy Shields agreement to which mention in connection with the transfer of personal data to the United States and is not applicable because it was invalidated by the Schrems II Judgment of 07/16/2020.

Regarding section 13.2 c) of the RGPD, the Privacy Policy does not inform about the right to withdraw consent at any time, since the treatment is based on it.

FOURTH: The Spanish Data Protection Agency has notified the respondent of the agreement to initiate this sanctioning procedure, but it has not presented allegations or evidence that contradicts the reported facts.

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## FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, regarding the protection of individuals with regard to the processing of personal data and the free circulation of these data (hereinafter RGPD) recognizes each control authority, and according to the provisions of articles 47 and 48.1 of Organic Law 3/2018, of 5 December, of Protection of Personal Data and guarantee of digital rights (in hereinafter LOPDGDD), the Director of the Spanish Agency for Data Protection is competent to initiate this procedure.

Article 63.2 of the LOPDGDD determines that: "The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions of the Regulation (EU) 2016/679, in this organic law, by the provisions regulations issued in its development and, as long as they do not contradict them, with a subsidiary, by the general rules on administrative procedures.

## II

Article 4 of the GDPR, under the heading "Definitions", provides that:

"For the purposes of this Regulation, the following shall be understood as:

1) "personal data": any information about an identified natural person or identifiable ("the interested party"); An identifiable natural person shall be deemed to be any person whose identity can be determined, directly or indirectly, in particular by an identifier, such as a name, an identification number, location, an online identifier or one or more elements of the identity

physical, physiological, genetic, psychic, economic, cultural or social of said person;

2) "processing": any operation or set of operations carried out on

personal data or sets of personal data, whether by procedures

automated or not, such as the collection, registration, organization, structuring,

conservation, adaptation or modification, extraction, consultation, use,

communication by transmission, broadcast or any other form of enabling of

access, collation or interconnection, limitation, suppression or destruction;"

Therefore, in accordance with the above definitions, data collection

through forms included in a web page constitutes a

data processing, in respect of which the data controller must give

compliance with the provisions of article 13 of the RGPD.

In relation to this matter, it is observed that the Spanish Agency for the Protection of

Data is available to citizens, the Guide for the fulfillment of duty

to inform (<https://www.aepd.es/media/guias/guia-model-clausula-informativa.pdf>) and,

in case of carrying out low-risk data processing, the free tool

Facilitates (<https://www.aepd.es/herramientas/facilita.html>).

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III

Article 13 of the RGPD, a precept that determines the information that must be

provided to the interested party at the time of collecting their data, indicates that:

"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 person in charge and, where appropriate, of their representative.

tant;

b) the contact details of the data protection delegate, if any;

c) the purposes of the treatment to which the personal data is destined and the legal basis of the treatment;

d) when the treatment is based on article 6, paragraph 1, letter f), the legitimate interests swindles of the person in charge or of a third party;

e) the recipients or the categories of recipients of the personal data, in their case;

f) where appropriate, the intention of the controller to transfer personal data to a third party country or international organization and the existence or absence of a decision of adequacy Commission, or, in the case of transfers indicated in articles 46 or 47 or article 49, section 1, second paragraph, reference to the adequate guarantees adequate or appropriate and the means to obtain a copy of them or the fact of that have been borrowed.

2. In addition to the information mentioned in section 1, the data controller will provide the interested party, at the time the personal data is obtained, them, the following information necessary to guarantee fair data processing and transparent:

a) the period during which the personal data will be kept or, when this is not possible, ble, the criteria used to determine this term;

b) the existence of the right to request from the data controller access to the personal data relating 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 portability of the data;



c) when the treatment is based on article 6, paragraph 1, letter a), or article 9, paragraph 2, letter a), the existence of the right to withdraw consent in any any time, without affecting the legality of the treatment based on consent.

lien prior to withdrawal;

d) the right to file a claim with a supervisory authority;

e) if the communication of personal data is a legal or contractual requirement, or a re-

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necessary requirement to sign a contract, and if the interested party is obliged to provide personal data and is informed of the possible consequences of not providing tar such data;

f) the existence of automated decisions, including profiling, to which referred to in article 22, sections 1 and 4, and, at least in such cases, significant information tive on applied logic, as well as the importance and anticipated consequences of said treatment for the interested party.

3. When the data controller plans the further processing of personal data personal data for a purpose other than that for which they were collected, will provide the received, prior to such further processing, information about that other purpose and any additional relevant information pursuant to paragraph 2.

4. The provisions of sections 1, 2 and 3 shall not apply when and to the extent measure in which the interested party already has the information.”

For its part, article 11 of the LOPDGDD, provides the following:

"1. When the personal data is obtained from the affected party, the data controller

ment may comply with the duty of information established in article 13

of Regulation (EU) 2016/679, providing the affected party with the basic information to which refers to the following section and indicating an electronic address or other means that allows easy and immediate access to the rest of the information.

2. The basic information referred to in the previous section must contain, at less:

- a) The identity of the data controller and his representative, if any.
- b) The purpose of the treatment.
- c) The possibility of exercising the rights established in articles 15 to 22 of the Regulation (EU) 2016/679.

If the data obtained from the affected person were to be processed for the elaboration of them, the basic information will also include this circumstance. In this case, the concerned shall be informed of their right to oppose the adoption of decisions automated individuals that produce legal effects on him or affect him significantly. similarly, when this right concurs in accordance with the pre- seen in article 22 of Regulation (EU) 2016/679.”

#### IV

By virtue of the provisions of article 58.2 of the RGPD, the Spanish Agency for Data Protection, as a control authority, has a set of corrective powers in the event of an infraction of the precepts of the GDPR.

Article 58.2 of the RGPD provides the following:

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"two. Each supervisory authority will have all of the following corrective powers

listed below:

a) (...)

b) send a warning to any person responsible or in charge of treatment when the treatment operations have violated the provisions of this Regulation;

c) (...)

d) order the person responsible or in charge of treatment that the operations of treatment comply with the provisions of this Regulation, where appropriate, in a certain way and within a specified period;

(...)

i) impose an administrative fine in accordance with article 83, in addition to or instead of the measures mentioned in this section, according to the circumstances of each case particular".

Article 83.5 b) of the RGPD establishes that:

"The infractions of the following dispositions will be sanctioned, in accordance with the section 2, with administrative fines of a maximum of EUR 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 largest amount:

b) the rights of the interested parties pursuant to articles 12 to 22;"

In turn, article 74 a) of the LOPDGDD, under the heading "Infringements considered mild" provides:

"The remaining formal infractions are considered minor and will prescribe after a year. of the articles mentioned in paragraphs 4 and 5 of article 83 of the Regulation

(EU) 2016/679 and, in particular, the following:

a) Failure to comply with the principle of transparency of information or the right to information of the affected party for not providing all the information required by articles 13 and 14 of Regulation (EU) 2016/679.”

v

In this case, the respondent has not presented arguments or evidence that contradicts the facts denounced within the term for it.

This Agency has verified that the conduct of the respondent is not in accordance with the data protection regulations,

since your website

<https://www.door2doorspain.com/> does not contain all the information required in the article 13 of the RGPD, indicated in the legal basis III.

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Thus, the exposed facts constitute, on the part of the claimed, a infringement of the provisions of article 13 of the RGPD.

SAW

In accordance with article 58.2 b), for the commission of this infraction, it is appropriate address a warning when collecting personal data from users to through forms and consider that the administrative fine that could fall with in accordance with the provisions of article 83.5 b) of the RGPD would constitute a burden disproportionate to the one claimed, since there is no record of the commission of any previous breach of data protection.

Likewise, in accordance with the provisions of the aforementioned article 58.2.d) of the RGPD, in the

resolution is required to the claimed, as responsible for the treatment, the adequacy of the information offered to users whose personal data is collect from them the requirements contemplated in article 13 of the RGPD, as well as such as the provision of means of proof accrediting compliance with the required

Therefore, in accordance with the applicable legislation,  
the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ADDRESS DOOR2DOOR SPAIN, S.L., with NIF B01782739, for a infringement of article 13 of the RGPD, typified in article 83.5 of the RGPD, a warning.

SECOND: REQUEST DOOR2DOOR SPAIN, S.L., with NIF B01782739, under of the provisions of article 58.2 d) of the RGPD, so that within ten days working days from this act of notification proves before this body the adoption of measures to provide information to the people whose personal data you collect, in accordance with the provisions of article 13 of the RGPD.

THIRD: NOTIFY this resolution to DOOR2DOOR SPAIN, S.L.

In accordance with the provisions of article 50 of the LOPDGDD, this  
Resolution 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 LOPDGDD, 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 counting from the day following the notification of this resolution or directly contentious-administrative appeal before the Contentious-Administrative Chamber of the National Court, in accordance with the provisions of article 25 and section 5 of the fourth additional provision of Law 29/1998, of July 13, regulating the

Contentious-administrative jurisdiction, within a period of two months from the day following the notification of this act, as provided in article 46.1 of the aforementioned Law.

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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

The interested party expresses his intention to file a contentious-administrative appeal.

If this is the case, the interested party must formally communicate this fact by

writing addressed to the Spanish Agency for Data Protection, presenting it through

Electronic Register of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or 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 proving the effective filing of the contentious appeal-

administrative. If the Agency was not aware of the filing of the appeal

contentious-administrative within a period of two months from the day following the

notification of this resolution would end the precautionary suspension.

Sea Spain Marti

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