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Procedure No.: PS/00164/2019

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00164/2019, instructed by the Agency

Spanish Data Protection Agency, to the entity SUR ESTE PRENSA EDITORIAL, SL.,

(***URL.1), for alleged infringement of Regulation (EU) 2016/679, of Parliament

European and Council, of 04/27/2016, regarding the Protection of Natural Persons

regarding the Processing of Personal Data and the Free Circulation of

this Data (RGPD), and based on the following

BACKGROUND

FIRST: On May 4, 2018, the Spanish Agency for

Data Protection a claim indicating the dissemination of possible data

of the victim of "La Manada" by members of forums and media

communication.

SECOND: In view of the facts denounced, by the Inspection Services of

this Agency, numerous actions have been carried out, aimed at verifying the

denounced facts and that the information was disappearing from the forums and

media. In relation to the means of communication, the

following actions:

1.

***MEDIA.1 is a digital communication medium. Made data public (name

and surnames, age, university in which he studies) and a photograph of the victim

in the edition of ***DATE.1, not stating said publication on the day

***DATE.2.

2. Information on the origin of the data has been requested by the data inspection.

published data and the regulations that protect said publication. The first

The request was notified through the electronic office, being rejected at

The maximum time elapses and it is notified again by postal mail. I know

requested, again, on two occasions by mail, being returned

both written by "Unknown".

3. On October 5, 2018, a telephone call was made to the number

that appears on the website ***URL.1 to carry out advertising contracts

(***TELEPHONE 1). The Acting Sub-Inspector, after identifying himself as such, requested

information about the postal address of the company SOUTH EAST COMPANY

EDITORIAL, S.L. – ***MEDIUM.1, stating the interlocutor that said

company has changed its headquarters to a business incubator in Cartagena.

4. On October 8, 2018, a telephone call was made to the nursery

of companies "FUENTE EL ALAMO" of Cartagena, stating the interlocutor

that among the companies housed in the incubator is not SOUTH EAST

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PUBLISHING COMPANY, S.L. – ***MEDIUM.1.

5. On October 8, 2018, a telephone call was made to the nursery

of companies "B.B.B." of Cartagena, stating the interlocutor that among the

companies housed in the incubator cannot be found SOUTH EAST COMPANY

EDITORIAL, S.L. – ***MEDIUM.1

6. On October 8, 2018, a telephone call was made to

City Council of Cartagena, indicating the interlocutor that the postal address which consists of SUR ESTE EMPRESA EDITORIAL, S.L. – ***MEDIUM.1 is ***ADDRESS 1.

7. On October 8, 2018, an email was sent from the inspection of data to the address published on the website of the medium ***EMAIL.1, requesting that a postal address be provided for the purposes of notifications with no response received.

8. On October 24, 2018, the data inspection required the owner of the line ***TELEPHONE.1 the contact information that they had of SUR ESTE EMPRESA EDITORIAL, S.L - ***MEDIO.1 and copy of the contract provision of services related to contracting advertising, without To date, no response has been received.

9. On November 20, 2018, Mr. A.A.A., president of the Board of Directors of SUR ESTE EMPRESA EDITORIAL, S.L. – ***MEDIUM.1 information on the origin of the personal data published and other issues, being delivered to its addressee on November 23, 2018, without the Spanish Agency, at the time of starting this procedure, there would be proof of having obtained a response.

THIRD: According to the documentation in the file, it is accredited that the Spanish Agency for Data Protection has addressed the entity person responsible for ***MEDIO.1 requesting information on the facts subject to inspection, without having received a response to the requirements, and that constitute the factual assumption of an alleged infringement of the regulations of Personal data protection.

FOURTH: On April 24, 2019, having not received any type of information to the requirement made within the framework of the previous actions of

investigation by the claimed entity, the Director of the Spanish Agency of Data Protection agreed to initiate sanctioning proceedings against SUR ESTE PUBLISHING COMPANY, S.L. – ***MEDIUM.1, by virtue of the powers established in the art. 58.2 of the RGPD and in articles 47, 64.2 and 68.1 of the Organic Law 3/2018, of 5 December, Protection of Personal Data and Guarantee of Digital Rights (LOPDGDD), for the infringement of article 83.5.e) of the RGPD and considered very serious in 72.1.m and ñ) of the LOPDGDD, for prescription purposes, setting a sanction initial payment of 40,000 euros (forty thousand euros).

FIFTH: The agreement to start the sanctioning procedure was sent by means of electronic notification, Notific@, dated April 24, 2014, resulting in Expired

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ten days later. A second service was attempted by certified mail, in

***ADDRESS.1, resulting in return.

SIXTH: On December 10, 2018, Mr. A.A.A. sent, by certified mail, response to the request made by the Inspector of the General Subdirectorate of Data Inspection; being received at this Agency on December 13, 2018.

Erroneously, this answer was linked to another file, for which reason sanctioning actions were initiated, there was no record of their receipt.

The representative of SUR ESTE EMPRESA EDITORIAL, S.L. – ***MEDIUM.1 indicated that the published data was collected from social networks and web pages published on the network (***URL.2, ***URL.3 and ***URL.4), whose origin was a leak produced by a decision of the Provincial Court of Navarra. Accompany copies of

existing publications that the newspaper picked up.

SCAM: Formally notified of the start agreement, the one claimed at the time of the SEP

This resolution has not submitted a brief of arguments, so it is application of what is stated in article 64 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations, which in its section f) establishes that in the event of not making allegations within the stipulated period on the content of the initiation agreement, it may be considered a proposal for resolution when it contains a precise statement about the responsibility imputed, reason why a Resolution is issued.

FACTS

FIRST: On November 20, 2018, an Inspector of the Subdirectorate General of Data Inspection requested Mr. A.A.A., president of the Council of Administration of SUR ESTE EMPRESA EDITORIAL, S.L. – ***MEDIUM.1 information about the origin of the personal data published, in the newspaper of ***DATE.1 referring to personal data of the victim of La Manada, and other issues, being delivered to its recipient on November 23, 2018, without having proof of the response at the time of initiating this procedure.

SECOND: On January 16, 2019, the Data Inspector responsible for the prior investigation actions signs the report containing the results of these actions, indicating that on the day the report was signed, no information had been received response to the request for information made to Mr. A.A.A., president of the Board of Directors of SUR ESTE EMPRESA EDITORIAL, S.L. – ***MEDIUM.1.

THIRD: On April 24, 2019, this sanctioning procedure was initiated for not responding to the request for information made to Mr. A.A.A., president of the Board of Directors of SUR ESTE EMPRESA EDITORIAL, S.L. – ***MEDIUM.1,

by not having proof of receipt of the response to the information request.

FOURTH: By continuing the processing of this procedure, the error has been noticed in the link to another file of the brief answering the request for

Information made to Mr. A.A.A., Chairman of the Board of Directors of SUR

THIS PUBLISHING COMPANY, S.L. – ***MEDIUM.1.

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FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of the RGPD recognizes to each control authority, and as established in arts. 47 and 48.1 of the LOPDPGDD, the Director of the Spanish Data Protection Agency is competent to resolve this procedure.

Article 58 of the RGPD, “Powers of Attorney”, says:

II

“2 Each supervisory authority shall have all of the following powers corrections listed below:

(...)

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

(...)

d) order the person in charge or in charge of the 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 under article 83, in addition to or instead of
the measures mentioned in this section, depending on the circumstances of the case
particular.

Section 1.a) of the same article provides:

"1. Each supervisory authority will have all investigative powers
listed below:

a) order the person in charge and the person in charge of the treatment and, where appropriate, the
representative of the person in charge or the person in charge, who provide any information
required for the performance of their duties

III

The documentation in the file offers evidence that SUR

THIS PUBLISHING COMPANY, S.L. – ***MEDIUM.1, did not violate article 58.1.a) of the
RGPD, whenever, after receiving the request for information made from the Agency
Spanish Data Protection, within the framework of the previous actions tending to
verify the facts denounced, it was addressed; although an error occurred and was
linked to another file.

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Therefore, in accordance with the applicable legislation and having assessed the criteria for
graduation of sanctions whose existence has been proven,

The Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ARCHIVE sanctioning procedure PS/00164/2019, instructed SUR

ESTE PRENSA EDITORIAL, S.L.([**URL.1](#)), as there has been no infringement of the article 58.1 of the RGPD.

SECOND: NOTIFY this resolution to Mr. A.A.A., on behalf of

SOUTH EAST PRESS EDITORIAL, S.L.([**URL.1](#)).

In accordance with the provisions of article 50 of the LOPDPGDD, the

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 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 period of

month 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.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the

LPACAP, the firm resolution may be provisionally suspended in administrative proceedings

if the interested party expresses his intention to file a contentious appeal-

administrative. If this is the case, the interested party must formally communicate this

made by writing to the Spanish Agency for Data Protection,

introducing him to

the agency

[<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other

records provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. Also

must transfer to the Agency the documentation that proves the effective filing

of the contentious-administrative appeal. If the Agency were not aware of the

filing of the contentious-administrative appeal within two months from the

day following the notification of this resolution, it would end the

precautionary suspension.

Electronic Registration of

through the

Sea Spain Marti

Director of the Spanish Data Protection Agency

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