

□ Procedure No.: PS/00375/2019

938-051119

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00375/2019, instructed by the Spanish Agency for

Data Protection, to the entity INMOVA, owner of the website www.inmova.es

(hereinafter, "the entity claimed"), for alleged violation of Regulation (EU)

2016/679, of the European Parliament and of the Council, of 04/27/2016, regarding the Protection

tion of Natural Persons with regard to the Processing of Personal Data and

to the Free Circulation of these Data (RGPD), and based on the following,

BACKGROUND

FIRST: dated 06/26/19, Ms. A.A.A. (hereinafter, "the claimant"), presented

written before the Spanish Agency for Data Protection, in which, among others, denounced

ciaba:

"After placing a rental ad on the real estate portal "idealista.es" where

publishes its telephone number so that possible interested parties can contact

have it, he receives an SMS message offering insurance for the possible impor-

go rental, referring to the website "inmova.es". He states that he has not requested

have received this service, that you have not consented to these shipments, and that

There is no way to exercise your rights regarding the processing of your personal data.

nals. On the website of the real estate agency www.inmova.es, there is no reference

reference to any company or CIF".

SECOND: Dated 07/02/19, in view of the facts set forth in the claim

and the documents provided by the claimant, the Subdirector General for Inspection

tion of Data proceeded to carry out actions for its clarification, under the protection of

the powers of investigation granted to the control authorities in article 57.1

of Regulation (EU) 2016/679 (General Data Protection Regulation, (GDPR). Thus, on 08/19/19 and 08/20/19, an information request is addressed to the claimed entity.

THIRD: According to a certificate from the Postal Service, the requirements sent to the claimed entity, to the address c/ Ribera del Loira 46; 28042 Madrid, turned out returned to origin by "Unknown".

FOURTH: Consulting the website, www.inmova.es, dated 10/21/19, it is observed that it does not contain Legal Notice or other equivalent information where can find the person in charge of the website, its property, or the CIF with which the mercantile operates; does not have a Privacy Policy document; at the bottom of the page appears a link with the name, "Terms and Conditions", which does not links to any document and has a "Contact" page where a form appears.

data collection form, but does not have the acceptance check box the Privacy Policy.

FIFTH: On 11/04/19, 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 RGPD 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 www.aepd.es

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23

13 of the RGPD 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 necessary measures contemplated in article 13 of the RGPD, in order to do facilitate the users of the portal, at the moment in which the personal data is collected them through the forms on their page, the information required in the aforementioned precept, for which it must take into account the provisions of art. Article 6 of the RGPD in relation to the legality of the treatment".

SIXTH: On 11/29/19, the initiation of the file was notified to the claimant entity. demanded, who has not filed before this Agency, any brief or allegation, within the the period granted for this purpose.

PROVEN FACTS

1.- Consulting the website, www.inmova.es, dated 10/21/19, it is observed that the It does not contain Legal Notice or other equivalent information where it can be found. against the person in charge of the website, its property, or the CIF with which the company operates. trade; does not have a Privacy Policy document; at the bottom of the page na appears a link with the name, "Terms and Conditions", which does not link with no documents and has a "Contact" page where a form appears of data collection, but it does not have the acceptance check box of the Policy. privacy ca.

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 found that, on the website www.inmova.es

To place an order for the products you advertise, you must enter the data of the interested party, lacking any type of banner or link to the "policy privacy" on the page.

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.

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3/3

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

NOTICE: to the entity INMOVA, owner of the website www.inmova.es, for infringement of article 13 of the RGD, typified in Article 83.5 of the RGD.

REQUEST: to the entity INMOVA, so that, within a month from this act of notification, proceed to take the appropriate measures to adapt your policy of privacy to the current regulations, (requirements contemplated in article 13 of the RGD), and must provide users and/or patients, at the time they collect their personal data, through the forms, the required information in the aforementioned precept, for which you must take into account the provisions of article 6 of the RGD in relation to the legality of the treatment.

NOTIFY: this resolution to the entity to the INMOVA entity,

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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