

□ Procedure No.: PS/00223/2020

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00223/2020, instructed by the Spanish Agency for Data Protection, to the entity, GRANJA AVENTURA, S.L. with CIF.: B65841603; owner of the website, ***URL.1, (hereinafter, "the claimed entity"), by virtue of complaint filed by D. A.A.A., (hereinafter, "the claimant"), and having as base the following:

BACKGROUND

FIRST: On 01/03/20, you have entered this Agency, filed a complaint by the claimant in which he indicated, among others, the following:

"The page ***URL.1 has an obsolete Privacy Policy, which does not comply with the information obligation imposed by the LOPDGDD of the year 2018 and by the GDPR. At the same time, your contact form does not force you to accept the policy of privacy - that is, to give consent for the processing of data - by time that a pre-marked box appears to subscribe to a newsletter, in clear contravention of current regulations. Copies of the main page, the contact form and the privacy policy (which is part of the Legal Notice and which is not accessible separately).

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 02/07/20, an informative request is addressed to the claimed entity.

THIRD

Agency, in which, among others, it indicates:

: On 03/06/20, the entity claimed, submits a written document to this

“The claimant states that the website ***URL.1 could be violating art.

13 of Regulation (EU) 2016/679, General Data Protection (RGPD) by not

have it with adequate Privacy Policies where it is provided to the

user clear and complete information about the processing of their personal data and

the rights that assist you. Reviewed this fact by the systems area, it has been

concluded that the web page visited by the complainant was in a state of

provisionally, having determined the need to implement a new

corporate website in this entity. When the complainant visited the page, the

entity GRANJA AVENTURA S.L. was finalizing design details and

projection of the new web page, under the same domain, adapted to the

provisions of the regulations, specifically, the provisions of Regulation (EU) 2016/679

and Organic Law 3/2018 of December 5, on the Protection of Personal Data and

Guarantee of Digital Rights. This entity has commissioned the drafting and review

of the Privacy Policies to a Consultancy specialized in Data Protection,

with which the texts have been worked together. For the design and writing of the

new Privacy Policy, the Decalogue has been taken into account in order to

the adaptation to the RGPD of the internet privacy policies published by this

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Control Authority. The current content of the Privacy Policy is as follows: •

Identification of the Data Controller and contact details. •

Exact determination of the purpose of the treatment and the legal basis. • Within

conservation of personal data. • The recipients of the personal data. •

The rights that attend the interested parties. • The possibility of presenting a

claim before this Control Authority.

Additional training actions on data protection have been planned

personal, through online platforms, aimed at the global staff

structure of the organization, especially the systems personnel, focused on

following content: - Basic notions - The duty to inform - Responsible for

Treatment and Treatment Manager - Rights of the interested parties - Measures of

physical security

-This entity has sent a written communication to all workers,

reminding them that they must notify the Data Controller of any use or

purpose that is intended with the personal data responsibility of this. Between the

that includes the data collected through the website.

With this communication, this entity intends to keep updated the Policies of

Privacy and avoid unauthorized processing of personal data.

As a result of the incident that occurred with the website, comprehensive audits will be scheduled

periodically, which will be carried out by a consultancy specialized in Data Protection, to

supervise the correct implementation of the data protection regime established by

Regulation (EU) 2016/679 and Organic Law 3/2018 of December 5, of

Protection of Personal Data and Guarantee of Digital Rights. Through these

audits, it will be possible to verify the regulatory compliance of each department of

this entity, especially the digital environment.

The website ***URL.1 has been adapted and the first audit has been scheduled

to supervise the due fulfillment of all the departments of the

entity".

FOURTH: On 07/19/20, this Agency consulted the website

in question, checking the following aspects of your privacy policy:

When accessing the main page of the website ***URL.1, it is verified that there is a section, with the title: "LEGAL", at the bottom of the page, which contains two links, one to the "Privacy Policy" and another to "Legal Notice".

A).- About the "Privacy Policy":

Through the link ***LINK.1, you are redirected to a page that contains information on:

who is responsible for processing your data; the identification data of the data controller; what is the legal basis for data processing; the purposes of data processing; it is reported that they will not be carried out automated evaluations, nor user profiles will be created; the time of conservation of personal data; to which recipients the data will be communicated;

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what are the rights of users who provide their data; the right to file a claim with the AEPD.

Regarding the purposes for which they collect personal data, it is indicated:

"On this website, only data provided by Users is processed. The data that can be collected from the user will be treated with the purposes of: Management of your contact information to solve doubts or suggestions, being the legal basis your consent. Management of your data for the purchase of tickets, being the basis consent, as well as the execution of a pre-contractual relationship.

Send you, where appropriate, notifications that may be of interest to you, being the legal basis

Your consent".

B).- About the information contained in the "Legal Notice":

Through the link ***LINK.1, you are redirected to a page that contains information

on the following aspects:

"GRANJA AVENTURA S.L., holder of CIF B65841603, acts as owner,

promoter and content manager of this website. The entity informs the

Users who comply with current data protection regulations, and with a

special, with Regulation (EU) 2016/679 of the European Parliament and of the Council of

April 27, 2016 on the protection of natural persons with regard to

to the processing of personal data and the free circulation of these data and for which

Directive 95/46/EC (General Data Protection Regulation), the Law

Organic 3/2018 of December 5, Protection of Personal Data and guarantee of

digital rights and with the Law of the Society of Information Services and

Electronic Commerce, Law 34/2002, of July 11.

Company Name or Name of the Company CIF.- GRANJA AVENTURA S.L. B65841603

Address: ***ADDRESS.1

City: Postal Code: ***POBLACIÓN.1 - ***C.P.1.

C).- Contact Page, ("Join the Club"):

To register as a user of the page, there is a box that must be checked

before sending the form with the name and email, to give the

consent: "☐ I accept the Privacy Policy".

If you click on the link, "privacy policy", you will be redirected to the page

***LINK.1, listed above.

FIFTH: On 08/12/20, 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 violation of article 7 of the RGPD, punishable

Under the provisions of art. 83 of the aforementioned rule, regarding the collection of the consent of the partners, with an initial sanction of “warning”.

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SIXTH: Notified of the initiation of the file on 08/23/20, as of today, no

There is evidence that no response has been given to the initiation of the file within, of the period granted for this, for the appropriate legal purposes by the claimed entity.

Of the actions carried out in this procedure, of the information and

documentation presented by the parties, the following have been accredited:

PROVEN FACTS

1.- It has been found that, in the privacy policy of the website

reported, there are three purposes of processing based on consent,

such as: the management of contact data to resolve doubts or suggestions; the

management of the data for the purchase of tickets and the management of the data to send,

in his case, notifications, but there is no possibility for the user to give his

consent individually to each of them separately, there being only one

generic acceptance box “_ I accept the Privacy Policy“, when you want to

sign up as a club member.

FOUNDATIONS OF LAW

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.

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The joint assessment of the documentary evidence in the procedure brings to knowledge of the AEPD a vision of the denounced action that has been reflected in the facts declared proven above reported.

II

Of the actions carried out, in relation to the consent given by the user, has been able to verify that there are three purposes of the treatment based on the consent, but there is no possibility for the user to give consent individually to each one of them separately, existing only one box of generic acceptance for the three purposes.

The known facts constitute an infraction, attributable to the defendant, for violation of article 7 of the RGPD, when collecting consent through a single and generic action for the three purposes for which they are collected the personal data of users.

For its part, article 72.1.c) of the LOPDGDD considers it very serious, for the purposes of prescription, "Breach of the requirements of article 7 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.

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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 sanction that could

to correspond would be a warning, without prejudice to what results from the instruction

of this file.

The balance of the circumstances contemplated in article 83.2 of the RGPD, with

Regarding the infraction committed by violating the provisions of article 7 of the RGPD,

Allows you to set a "Warning" sanction.

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

Spanish Data Protection,

RESOLVE

NOTICE: to the entity, GRANJA AVENTURA, S.L. with CIF.: B65841603; title of

the web page, ***URL.1 for the infringement of article 7 of the RGPD in what

regarding the collection of user consent.

REQUEST: to the entity GRANJA AVENTURA, S.L. so that, within a month,

counting from the notification of this resolution, adapt the web page of your

ownership to include a mechanism that allows collecting the consent of the

users, for each of the purposes, to which their data will be used.

NOTIFY: this resolution to the entity GRANJA AVENTURA, S.L.

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

Sea Spain Marti

Director of the Spanish Agency for Data Protection.

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