

□ Procedure No.: PS/00103/2020

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

In the sanctioning procedure PS/0103/2020, instructed by the Spanish Agency for

Data Protection, to the entity, BABYISLIFE CONSULTING, S.L. with CIF.:

B55709984, (hereinafter, "the entity claimed"), by virtue of a complaint filed

by D^a A.A.A. (hereinafter, "the claimant") and based on the following,

BACKGROUND

FIRST: On 05/08/19, you had a written entry to this Agency, submitted by

the claimant, in which she stated, among others, the following:

"Information has been received by email, we have requested access to the data and we have not received a response from the person who provided it. This company has contacted us several times by email, without, after several attempts, and request my right of access in writing, it has not been deigned to respond to the request":

On 06/06/19, the claimant sends this Agency a new document providing the documents: - Original mail received, - Internet headers of the mail and Mail from exercise of the right of access and request for information on the origin of the data.

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 investigative powers tion granted to the control authorities in article 57.1 of the Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter RGPD), proceeding the following:

It is noted that the address used to contact the claimant is

“***EMAIL.1”.

The website of “***URL.1” gives the appearance of responding to a company from the United States.

United States of America, where a mailing address appears on its contact page.

San Diego and a telephone corresponding to the United States of the AT+T company. A

Through the internet tool "whois", it is found that this domain is registered.

brought by the Spanish company SITEGROUND SPAIN, S.L.

THIRD: - On 08/01/19, this Agency receives written documents sent

by VODAFONE ESPAÑA S.A.U. reporting that the owner of the telephone numbers

telephone ***TELEPHONE.1 and ***TELEPHONE.2, which appear in the documentation presented

in the claim, is: o Holder: BABYISLIFE o CIF: B55709984 Address:*** ADDRESS-

TION.1

FOURTH: On 08/06/19, this Agency received a letter sent by SITE-

GROUND SPAIN, S.L. reporting that the domain “***URL.1” corresponding to the sender

content of the claimed advertising mail is registered to Baby is Life Content.

sulting S.L CIF: B55709984 and Address: ***ADDRESS.1, with Email: ***EMAIL.2

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FIFTH: On 09/03/19, a request for information is made via the service

cio Notify the company BABYISLIFE requesting the causes that have motivated the non

attention to the rights of the claimant and the origin of their data. The notification re-

It expired on 09/14/19, reiterating on 09/17/19, through the postal services

resulting in "returned to origin due to absence" on 10/01/19 after two attempts

delivery and leave notice in the mailbox.

SIXTH: After notification of the initiation of the file, through the edictal board only, on 07/08/20, this Agency has not received any written of allegations to said initiation.

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

In this proceeding, the following are considered proven facts:

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of Regulation (EU) 2016/679, of the Parla-

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

Physical with regard to the Processing of Personal Data and Free Circulation

of these Data (General Data Protection Regulation, hereinafter RGPD) re-

knows each Control Authority and, as established in articles 47, 64.2 and

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

Personal Rights and Guarantee of Digital Rights (hereinafter LOPDGDD), the Directorate

tora of the Spanish Agency for Data Protection is competent to initiate this

process.

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."

II

In the present case, the claimant alleges that she has received emails from

a company with which he has no relationship. He has applied in several

occasions, the access to your data that your company has, but they have not received

no response on any of the attempts.

Article 15 of the RGPD, corresponding to the "right of access of the interested party", indicates

that: 1. The interested party shall have the right to obtain from the data controller

confirmation of whether or not personal data concerning you is being processed and, in such

case, right of access to personal data (...)"

On the other hand, article 13 of the RGPD indicates that, when they are obtained from a

interested personal data related to him, the person in charge of the treatment, in the

At the time these are obtained, it will provide you with the indicated information:

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a). the identity and contact details of the person in charge and, where appropriate, of their

representative; b). the contact details of the data protection officer, in his

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

legal treatment; d). when the treatment is based on article 6, paragraph 1,

letter f), the legitimate interests of the person in charge or of a third party; and). the recipients or

the categories of recipients of personal data, if any; (...)

2. In addition to the information mentioned in section 1, the person responsible for 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 it is not

possible, the criteria used to determine this period; b) the existence of the right

to request the data controller access to personal data relating to the interested, and its rectification or deletion, or the limitation of its treatment, or to oppose the treatment, as well as the right to data portability; 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 at any moment, without affecting the legality of the treatment based on the consent prior to its withdrawal; d) the right to lodge a complaint with a law enforcement authority control; e) if the communication of personal data is a legal or contractual requirement, or a 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 provide such data; f) the existence of automated decisions, including the profiling, referred to in article 22, sections 1 and 4, and, at least in such cases, significant information about the applied logic, as well as the importance and the foreseen consequences of said treatment for the interested party (...)"

As evidenced by all of the above, on the one hand, the claimed entity has not provided the information, which establishes article 13 of the RGPD, when you obtained the personal data of the claimant and on the other hand, when the claimant attempts to exercise right of access to know the personal data, that the claimed entity possesses of it, does not receive any kind of response.

In view of the foregoing, the following is issued:

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RESOLVE

NOTICE: to the entity BABYISLIFE CONSULTING, S.L. with CIF.: B55709984 by violation of articles 15 and 13 of the RGPD.

REQUEST: to the entity BABYISLIFE CONSULTING, S.L., so that, within the term of one month from this act of notification of the resolution, proceed to provide the

person claimed access to the personal data that he possesses of it and include legend-
given in the documents provided to customers, for the purpose of complying with
with the duty of information of article 13 of the RGPD.

NOTIFY: this resolution to the entity BABYISLIFE CONSULTING, S.L.

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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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