

□ Procedure No.: PS/00456/2020

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: MADRID MUNICIPAL CONSUMER INSTITUTE (hereinafter, the
claimant) dated June 26, 2020 filed a claim with the Agency
Spanish Data Protection.

The claim is directed against MALAGON ELECTRICA S.L. with NIF B81154023 (in
later, the claimed one).

The reasons on which the claim is based are the breach of the web
<https://www.malagonelectrica.com/> as it lacks a Privacy Policy.

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5
December, of Protection of Personal Data and guarantee of digital rights (in
hereinafter LOPDGDD), with reference number E/06542/2020, transfer of
said claim to the claimed, on August 13, 2020, to proceed to
its analysis and inform this Agency within a month of the actions carried out
carried out to adapt to the requirements set forth in the regulations for the protection of
data.

THIRD: On December 1, 2020, the Director of the Spanish Agency for
Data Protection agreed to admit for processing the claim presented by the
claimant.

FOURTH: On February 11, 2021, an initiation agreement is issued by the Director
of the Spanish Agency for Data Protection in accordance with the provisions of the
article 58.2.b) of the RGPD, for the alleged infringement of article 13 of the RGPD,

typified in article 83.5.b) of the RGPD

WHO

TO: Notification of the aforementioned agreement to initiate this procedure

sanctioning party is given a hearing period of TEN WORKING DAYS to formulate

the allegations and present the evidence it deems appropriate, in accordance with the

stipulated in articles 73 and 76 of Law 39/2015 on Administrative Procedure

Common of Public Administrations.

SIXTH: Not having made allegations or presented evidence within the given period,

by the claimed party, in accordance with articles 64.2.f) and 85 of the Law

39/2015, this resolution is issued taking into account the following:

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FACTS

FIRST: It is reported that the website <https://www.malagonelectrica.com/> lacks

Privacy Policy appropriate to current data protection regulations.

SECOND: On February 22, 2021, the claimant is notified of the settlement agreement

beginning of this procedure, becoming the same in resolution proposal of

in accordance with articles 64.2.f) and 85 of Law 39/2015, of October 1, of the

Common Administrative Procedure of Public Administrations (LPACAP), to the

not make the claimed allegations within the indicated period.

THIRD: It has been found that the website <https://www.malagonelectrica.com/>,

It lacks a privacy policy. It has been verified that on the aforementioned website

no personal data is collected.

FOUNDATIONS OF LAW

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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 GDPR and in the art. 47 and 48.1 of LOPDGDD.

II

The defendant was charged with the commission of an infraction for violation of article 13 of the RGPD, considering you the owner of the website <https://www.malagonelectrica.com/>, which breached the data protection regulations by not having a privacy policy, which entailed the infringement of article 83.5 b) of the RGPD.

III

Although it has been found that the website <https://www.malagonelectrica.com/>, does not has a Privacy Policy or equivalent document, it has been found that the reported facts do not imply a violation of article 13 of the RGPD because in This website does not collect personal data.

Therefore, after learning of these facts, the Director of the Agency

Spanish Data Protection RESOLVES:

FIRST: PROCEED TO FILE these proceedings.

SECOND: NOTIFY this resolution to the claimant and claimed.

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 as prescribed by

the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common to Public Administrations, and in accordance with the provisions of the

art. 112 and 123 of the aforementioned Law 39/2015, of October 1, interested parties may

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file, optionally, an appeal for reconsideration before the Director of the Agency

Spanish Data Protection Authority within a month from 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 paragraph 5 of the provision

additional fourth of Law 29/1998, of July 13, regulating the Jurisdiction

Contentious-Administrative, within two months from the day after

to the notification of this act, as provided in article 46.1 of the aforementioned Law.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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