

□ Procedure No.: PS/00185/2020

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00185/2020, instructed by the Spanish Agency for

Data Protection, to entity MIGUEL IBÁÑEZ BEZANILLA S.L., with CIF.:

B39730973 owner of the website ***URL.1, (hereinafter, "the entity claimed"), in

by virtue of a complaint filed by D. A.A.A. (hereinafter, "the claimed person"), and

based on the following:

BACKGROUND

FIRST: On 05/01/19, he entered this Agency, filed a complaint

by the claimant in which it indicated, among others, the following:

"On April 20, I detected that the website lacked security measures to

protect personal data as (HTTPS). In addition, the website lacks information

regarding the processing of personal data and its purpose, as well as the period in which

which are stored. I have contacted the seller urging him to improve and adapt

the security of its website to current legislation and has not responded to any email.

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 06/26/19, 12/18/19 and 02/19/20, it is addressed

informative request to the claimed entity, resulting in:

According to a certificate from the Support of the Electronic Notifications Service and Address

Electronic Enabled, the request made to the claimed entity, dated

06/26/19, through the electronic notification service, the

07/07/19.

According to a certificate from the Postal Service, the request made to the entity claimed, dated 12/18/19, through the certified mail service (SICER), gave as a result: 1st Delivery Attempt on 06/02/20, Absent. 2nd delivery attempt on 02/11/20, Absent result.

According to a certificate from the Postal Service, the request made to the entity claimed, dated 02/19/20, through the certified mail service (SICER), gave as a result: delivery on 02/24/20, the recipient being: Ms. B.B.B. - ***NIF.1

THIRD: On 06/15/20, consulting the website ***URL.1, it was possible to verify have the following characteristics regarding its security protocols, its "policy privacy" and its "cookie policy":

"The reported website sells vehicle registration plates for sale online.

line. To purchase a set of license plates, users must enter their personal data on the order form: name and surname; ID; vehicle registration lo and even chassis number. In addition, they must scan and send in attached files.

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28001 – Madrid

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2/6

cough, the vehicle registration certificate; the DNI on both sides and proof of payment".

Regarding the security protocols used:

When accessing the reported web page, it is verified that the address is accessed:

***ADDRESS.1, with "http" security protocol, thus enabling other users to

users can intercept the information that is transferred from the client's terminal to the

web server, since the information provided by users is not transferred from secure (encrypted) form.

- Regarding the "Privacy Policy":

At the bottom of the home page of the website, through the link "Legal Notice", you can access gives way to the page: ***PAGE.1, which provides, among others, information about bre: the person in charge of the treatment, the collection, purpose, legitimacy of the data of a personal nature; general conditions and requirements for the use of the website and on the intellectual property rights of the website.

- On the protection of personal data, the page informs:

"In compliance with Law 15/1999 on the Protection of personal data, Miguel Ibáñez Bezanilla S.L., informs you that the data that has been collected through this website will be entered into an automated file, in order to manage online queries and requests for information related to one or more of the services offered by Miguel Ibáñez Bezanilla S.L. through its website, manage your dido, process your request for information for the course, as well as for sending in-business training.

You have the possibility to exercise your rights of access, rectification, cancellation and Opposition to the person responsible for the file, by letter or e-mail, together with the photocopy of your ID to the following address: ***ADDRESS.1

Miguel Ibáñez Bezanilla S.L. guarantees the custody of the data contained in this file, for which it will adopt the measures tending to avoid its alteration, loss and unauthorized access, always in accordance with the state of technology in each moment.

If you do not want to receive commercial communications, please send us a co-email to the address ***EMAIL.1 or if you prefer by mail to Miguel

Ibáñez Bezanilla S.L. C/ ***ADDRESS.2."

- Regarding the "Cookies Policy":

When accessing the web page (first layer), there is NO type of banner that informs me about the use of cookies on the reported website.

However, if you access the "Legal Notice" page, there is a section where informs about cookies, indicating that:

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28001 – Madrid

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3/6

“Miguel Ibáñez Bezanilla S.L. may use cookies when a user browses the web sites and pages. Cookies are files sent to a browser by means of gave of a Web server to record the user's activities on the Web.

The cookies used by Miguel Ibáñez Bezanilla S.L. are associated only with anonymous user and his computer, and do not provide the name and surname of the Username. Thanks to cookies, it is possible that Miguel Ibáñez Bezanilla S.L. reco- Get to know registered users after they have registered for the first time.

once, without having to register for each visit to access the areas, services, services, promotions or contests reserved exclusively for them. They are also used to measure audience and traffic parameters, monitor progress.

The user has the possibility of configuring his browser to be warned on the screen of receiving cookies and to prevent their installation on your hard drive. Please, consult the instructions and manuals of your browser for further information.

To use the Web it is not necessary for the user to allow the installation of the cookies sent by Miguel Ibáñez Bezanilla S.L., or the third party acting on its behalf.

bre, without prejudice to the need for the user to start a session as such in

each of the services whose provision requires prior registration or login.

The web servers of Miguel Ibáñez Bezanilla S.L. automatically detect the IP address and domain name used by the user. All this information is recorded in a server activity file that allows subsequent processing of the data in order to obtain statistical measurements that allow knowledge of the number of page impressions, the number of visits made to the services Web services.

FOURTH: On 06/24/20, 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 failing to comply with the provisions of current regulations and having the following sanctions: 1,000 euros (one thousand euros), for the infringement of article 32 of the RGPD, for the security policy carried out on the website of its ownership. 1,000 euros (one thousand euros), for the infringement of article 13 of the RGPD, for the policy of privacy made on the website of its ownership. 1,000 euros (one thousand euros), for the violation of article 22.2 of the LSSI, due to the cookie policy installed on the page Web.

FIFTH: Notification of the initiation of the file on 07/05/20, 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 do-documentation presented by the parties, the following have been accredited:

PROVEN FACTS

1º.- The denounced web page sells vehicle registration plates, for its online sale. To acquire a set of plates, users must enter their data personal in the order form: name and surnames; ID; vehicle registration and

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28001 – Madrid

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4/6

even frame number. In addition, they must scan and send in attached files, the

Vehicle registration certificate; the DNI on both sides and proof of payment.

2º.- Regarding the security protocols used:

When accessing the reported web page, it is verified that the address is accessed:

***ADDRESS.1, with “http” security protocol, thus enabling other users to

users can intercept the information that is transferred from the client's terminal to the

web server, since the information provided by users is not transferred from

secure (encrypted) form.

3º.- Regarding the “Privacy Policy”:

At the bottom of the home page of the website, through the link "Legal Notice", you can access

gives way to the page: ***PAGE.1, which provides, among others, information about

bre: the person in charge of the treatment, the collection, purpose, legitimacy of the data

of a personal nature; general conditions and requirements for the use of the website;

on the intellectual property rights of the website.

4º.- On the protection of personal data, the page informs by referring to the

“compliance with Law 15/1999 on the Protection of personal data

5º.- Regarding the “Cookies Policy”:

When accessing the web page (first layer), there is NO type of banner that informs

me about the use of cookies on the reported website. However, if you access

the "Legal Notice" page, there is a section where information is given on various aspects

of cookies.

FOUNDATIONS OF LAW

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Competition:

About the Privacy Policy:

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.

About the Cookies Policy:

The Director of the Spanish Agency is competent to resolve this procedure.

Data Protection, in accordance with the provisions of art. art. 43.1, paragraph second, from the LSSI.

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 gives in the facts declared proven above reported.

II

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5/6

a).- Of the actions carried out, in relation to the "Security Policy" of the denounced web page, it is verified that it collects personal data of the users using a security protocol "http//", lacking a minimum level of security.

b).- Of the actions carried out, in relation to the "Privacy Policy", of the denounced web page, it has been found that it still refers to the repealed LOPD, so it has not yet been adapted to the new regulations in force on protection of personal data.

c).- Of the actions carried out, in relation to the "Cookies Policy", in the web page denounces, it has been found that, in the first Layer, (initial page), NO there is no type of cookie banner that provides generic information about the installation of cookies in the terminal equipment and in the second Layer, through of the link: "legal notice", there is a section where certain information is provided generic information about cookies, but no information is provided about the identity and characteristics of own cookies that are installed, nor the time they remain active in the terminal equipment. Nor about third-party cookies. Also, in this second layer there is NO possibility to reject all cookies.

Therefore, in accordance with the foregoing, by the Director of the Spanish Agency data protection law,

RESOLVE

FIRST: IMPOSE the entity MIGUEL IBÁÑEZ BEZANILLA S.L., with CIF.: B39730973 owner of the website ***URL.1 for violation of articles 32 and 13 of the RGPD regarding the security policy and regarding the privacy policy respectively and for the infringement of article 22.2) of the LSSI, regarding its Policy ca de Cookies, a penalty of 3,000 euros (three thousand euros = 1,000 euros (art. 32 RGPD) + 1,000 euros (art. 13 RGPD) + 1,000 euros (art. 22.2 LSSI).

SECOND: TO REQUEST the entity MIGUEL IBÁÑEZ BEZANILLA S.L., so that, in Within one month from this act of notification, take the appropriate measures to modify on the website of its ownership in the following points:

- Modify your security policy by installing security protocols security that guarantee the transmission of personal data in a secure way in-between the user's terminal and the web server.
- Adapt the website to current regulations on personal data protection.

(RGPD), including in it the information that article 13 of the ci-

tado Regulation stipulates.

Include the cookie banner from the first layer and include a second layer

the necessary information about cookies and a mechanism that allows refusal

czar all cookies.

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THIRD: NOTIFY this resolution to the entity, MIGUEL IBÁÑEZ BEZA-

NILLA S.L.

Warn the sanctioned party that the sanction imposed must be made effective once it is

enforce this resolution, in accordance with the provisions of article 98.1.b)

of Law 39/2015, of October 1, of the Common Administrative Procedure of the Ad-

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6/6

Public Administrations (LPACAP), within the voluntary payment period indicated in article

68 of the General Collection Regulations, approved by Royal Decree 939/2005,

of July 29, in relation to art. 62 of Law 58/2003, of December 17, me-

upon deposit in the restricted account number ES00 0000 0000 0000 0000 0000, opened

on behalf of the Spanish Agency for Data Protection at CAIXABANK Bank,

S.A. or otherwise, it will be collected in the executive period.

Received the notification and once executed, if the date of execution is

between the 1st and 15th of each month, both inclusive, the term to make the payment

will be until the 20th day of the following month or immediately after, and if

between the 16th and last day of each month, both inclusive, the payment term

It will be until the 5th of the second following month or immediately after.

In accordance with the provisions of article 82 of Law 62/2003, of December 30, bre, of fiscal, administrative and social order measures, this Resolution is will make public, once it has been notified to the interested parties. The publication is made will be in accordance with the provisions of Instruction 1/2004, of December 22, of the Agency Spanish Data Protection on the publication of its Resolutions.

Against this resolution, which puts an end to the administrative procedure, and in accordance with the established in articles 112 and 123 of the LPACAP, the interested parties may interpose have, optionally, an appeal for reconsideration before the Director of the Spanish Agency of Data Protection within a period of one month from the day following the notification fication of this resolution, or, directly contentious-administrative appeal before the Contentious-administrative Chamber of the National High Court, in accordance with the provisions placed in article 25 and in section 5 of the fourth additional provision of the Law 29/1998, of 07/13, regulating the Contentious-administrative Jurisdiction, in the two months from the day following the notification of this act, according to the provisions of article 46.1 of the aforementioned legal text.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP, may provisionally suspend the firm resolution in administrative proceedings if the interested party do states its intention to file a contentious-administrative appeal. Of being In this case, the interested party must formally communicate this fact in writing addressed to the Spanish Agency for Data Protection, presenting it through the Re-Electronic Registry of the Agency [<https://sedeagpd.gob.es/sede-electronicaweb/>], or to through any of the other registers provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. You must also transfer to the Agency the documentation that proves the effective filing of the contentious-administrative appeal. If the Agency was not aware of the filing of the contentious-administrative appeal tive within two months from the day following the notification of this

resolution, would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Agency for Data Protection.

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