

□ Procedure No.: PS/00294/2019

938-051119

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00294/2019, instructed by the Spanish Agency for Data Protection, to the entity ASOCIACIÓN ESPAÑOLA DE COMMUNITY MANAGERS, with CIF.: G-88320890, owner of the website <https://www.congresoderedes-social.com>, (hereinafter "the entity claimed"), for alleged violation of the Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/2016, regarding to the Protection of Natural Persons with regard to Data Processing Personal and the Free Circulation of these Data (RGPD), and based on the following,

BACKGROUND

FIRST: dated 05/14/19, Association of Consumers and Users in Action (FACUA), (hereinafter, "the claimant"), filed a document with the Spanish Agency for Data Protection, in which, among others, it denounced: "From FACUA we have been able to do check how on the website <https://www.congresoderedessociales.com>, where registration for a series of conferences is offered, any kind of reference is omitted. reference to the possible exercise of the rights of access, rectification, cancellation, and opposition by those consumers who provide their personal data for the registration of said data. Nor is it reported who is the person responsible in matter of data protection or how and where to direct communications".

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 granted to the control authorities in article 57.1 of the Regulation (EU) 2016/679 (GDPR). Thus, with dates 06/13/19 and 07/11/19, an information request is addressed

tive to the claimed entity.

THIRD: According to a certificate from the Postal Service, the request sent to the entity claimed, dated 06/13/19, to the address, ***ADDRESS.1, resulted in- returned to origin due to "wrong direction". According to a certificate from the Notification Service Electronic Information and Authorized Electronic Address, the request sent to the entity claim, dated 07/11/19, through the Notific@ service, was rejected.

C, dated 07/22/19.

FOURTH: The web page consulted, www.congresoderedessociales.com, dated 10/28/19, it is observed that, on its home page, it does not contain any "Legal Notice", nor "Privacy Policy", only the information: "ASOCIACIÓN ESPAÑOLA DE COMMUNITY MANAGERS, with CIF G-88320890; ***ADDRESS 1".

To register for the events organized by the entity, there is a questionnaire where Personal data is requested, which is accessed through a link, by clicking in "Register for Free" (<https://www.congresoderedessociales.com/checkout/>). In this page, there is a link to an alleged "Privacy Policy" document, with the mention message "Your personal data will be used to process your order, improve your experience, cia on this website and other purposes described in our privacy policy. When

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If you try to access said page of the "Privacy Policy", the website emits a message error message indicating that the "page does not exist".

FIFTH: On 11/19/19, the Director of the Spanish Agency for the Protection of Data agreed to initiate sanctioning proceedings against the claimed entity, by virtue of

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 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 12/02/19, 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.- Checked the website, www.congresoderedessociales.com, dated 10/28/19, it is observed that its home page does not contain any "Legal Notice", nor "Policy". Privacy Policy". However, on said page there is a link in the option: "Registration get Free", (<https://www.congresoderedessociales.com/checkout/>, where there is a presumed "Privacy Policy" document, with the message "Your personal data They will be used to process your order, improve your experience on this website and other pro- purposes described in our privacy policy", but when trying to access it, the page emits an error message with the expression "the page does not exist".

FOUNDATIONS OF LAW

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II

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."

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In the present case, it has been verified that, in the text of the sheet sent by the entity claimed to this agency, as well as the information provided, in relation with the privacy policy, through its website, it is verified that it is not adapted to the new RGPD.

All of the above supposes an infraction for violation of article 13) of the RGPD, considered rada in art 72.1.h), of the LOPDGDD as "very serious" for the purposes of prescription.

III

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 in 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. Seen the aforementioned precepts and others of general application, the Director of the Spanish Agency for Data Protection

RESOLVE

NOTICE: to the entity SPANISH ASSOCIATION OF COMMUNITY MANAGERS, for violation of article 13 of the RGPD, typified in Article 83.5 of the RGPD.

REQUEST: to the entity SPANISH ASSOCIATION OF COMMUNITY MANAGERS, so that, within a period of one month from this act of notification, proceed to take the adequate measures to adapt its privacy policy to current regulations, (requirements contemplated in article 13 of the RGPD), and must provide users with and/or patients, at the time you collect their personal data, to through the forms, the information required in the aforementioned precept, for which must take into account the provisions of article 6 of the RGPD in relation to the legality of the treatment.

NOTIFY this resolution to the entity ASOCIACIÓN ESPAÑOLA DE COMMUNITY MANAGERS.

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.

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