

□ Procedure No.: PS/00426/2020

RESOLUTION OF PUNISHMENT PROCEDURE

In the sanctioning procedure PS/0426/2020, instructed by the Spanish Agency for Data Protection, to Ms. A.A.A., with NIF.: ***NIF.1, owner of the website www.acrashop.com, (hereinafter, "the claimed person"), and based on the following,

BACKGROUND

FIRST: Dated 06/16/20, you have entry in this Agency, written claim presented by Ms. B.B.B., (hereinafter, "the claimant"), in which she indicates, in- among others, the following:

"The website www.acrashop.com lacks legal notice as required by the current legislation. In addition, on the aforementioned website there is no information on the company name, address or contact telephone number of the owner company Of the same".

SECOND: In view of the facts set forth in the claim and the documents data provided by the claimant, the Data Inspection SG proceeded to carry out situations for its clarification, in accordance with article 65.4 of the Organic Law nica 3/2018, of December 5, on the Protection of Personal Data and guarantee of the digital rights (LOPDGDD). Thus, on 07/24/20, the website is accessed denounced, verifying that, in its "Privacy Policy", www.acbrandspain.com/pages/politica-de-privacidad there is, among other things, information about the purpose of the processing of personal data; how they obtain consent and transfer transfer of data to third parties.

Regarding the identification of the data controller of the website, it is indicated:

"Our store is hosted on Shopify Inc. They provide us with the online e-commerce platform that allows us to sell you our

products and services. Your data is stored through data storage of Shopify, databases, and the general Shopify application. Your data is stored on a secure server behind a firewall.

On how to withdraw the consent given for the processing of data, the page informs that: "If after having accepted you change your mind, you can withdraw your consent for us to contact you, for the collection, use or disclosure of your information, at any time, by contacting us at info@acrashop.com."

THIRD: On 10/07/20, the reported website is accessed again, verifying that it is "Under Construction", offering the following message: "ACRASHOP -Opening Soon". However, since, according to privacy policy, obtained from the website on 07/24/20, it is mentioned that it uses e-commerce platform SHOPIFY, from the company SHOPIFY

INTERNATIONAL INC, a request for information is made about the ownership of the claimed website, received on 10/08/20, reply from SHOPIFY identifying the owner of the website as the person claimed.

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FOURTH: On 01/04/21, the Director of the Spanish Agency for the Protection of Data agreed to initiate a sanctioning procedure against the person claimed, by virtue of the established powers, for the infringement of article 13) of the RGPD, regarding the lack of information in the privacy policy on its website.

FIFTH: Once the agreement to start the disciplinary proceedings has been notified, the person

The respondent, by means of a letter dated 01/21/21, formulated, in summary, the following allegations:

tions:

“(…)

The data of the person in charge of the treatment was not included at first in the Privacy Policy, however, in the terms and conditions it was included in- additional training, although, by mistake, not all that required in the regulations, indicating that the website belongs to Acrashop, commercial name of the Entity on the website analysed. gives.

ACRASHOP has collected in the Privacy Policy that users accept when place an order, the way in which they can exercise their rights in terms of data protection, indicating in clear and simple language, so that all users understand it, which they can do through the email info@acrashop.com The literal of the text was the following: “QUESTIONS AND INFORMATION OF CONTACT If you want: access, correct, amend or delete any information that we have about you, register a complaint, or simply want more information. information contact our Privacy Compliance Officer info@acrashop.com

” Likewise, in the part of the Privacy Policy in which the information is collected Regarding consent, it is indicated that “How can I withdraw my consent? Yes after having accepted you change your mind, you can withdraw your consent for us to contact you, for the collection, use or disclosure of your information, in any time, by contacting us at info@acrashop.com”, directing the user to same email to revoke, always and at any time, your consent.

I lie, in case you so wish.

Attached as DOCUMENT NUMBER 2, a copy of the Privacy Policy included da on the web while it was operational. After receiving notification of the start of the present Sanctioning Procedure, ACRASHOP has verified if it had received

some exercise of right by the claimant, without any record of request about. Fourth.- Measures adopted When the request for information was received information, ACRASHOP contacted different consultants on the protection of data, to carry out an audit of the website www.acrashop.com, in order to that it fully complies with the applicable regulations. However, due to the situation of health emergency generated by Covid-19, ACRASHOP could not maintain have their activity, as a result of delays in shipments. Therefore, after informing the Inspector of this Agency, ACRASHOP decided to close definitively the Web. Attached as DOCUMENT NUMBER 3, a copy of the closing justification from the ACRASHOP website requested from Shopify. Therefore, and by virtue of the foregoing, I PRAY TO THE SPANISH DATA PROTECTION AGENCY, to serve as ad-submit this document together with the documentation that accompanies it, taken care of timely and properly the Sanctioning Procedure under the reference

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PS/00426/2020, and given that ACRASHOP has always intended to comply with the regulations and when he was going to make the indicated modifications, he saw obliged to proceed to the closure of the website www.acrashop.com, so that it is no longer as personal data of any interested party. Likewise, I APPEAL TO THE AGENCY PAÑOLA OF DATA PROTECTION, be responsible and owner of the website to the Entity LA CASITA DE LA COSTURERA, S.L. and not A.A.A.” SIXTH: On 02/22/21, this Agency has accessed the indicated website, verifying that it no longer exists. Instead, the following message is provided:

saje: "This domain has expired. If you were the owner of this domain, please contact

Contact your domain registration service provider for further assistance.

SEVENTH: On 03/23/21, the requested person is notified of the proposal for re-

solution in which it is proposed that, by the Director of the Spanish Agency for

Data Protection is sanctioned with "warning", to the person claimed,

as the owner of the website www.acrashop.com, for the infringement of article 13) of the

RGPD, regarding the lack of information in the privacy policy on your page

web, during the time it was active.

EIGHTH: Notification of the proposed resolution to the person claimed, no pre-

No writing of allegations to the same, in the period granted for this purpose.

PROVEN FACTS

1º.- According to the claim filed with this Agency, the website,

acrashop.com

lacks legal notice as required by current legislation,

Nor is the company name, address or telephone number reported.

contact of the owner of the same.

2.- On behalf of this Agency, it was verified that, on the page of the "Privacy Policy"

city", www.acbrandspain.com/pages/politica-de-privacidad, of the web, existed, among

other information about the purpose of processing personal data; how ob-

they had the consent and transfer of data to third parties. However,

proved that information on the identity of the person responsible for the traffic was not provided.

Treatment of personal data obtained through the web.

3.- Notified of the initiation agreement, the person claimed, alleged among others that, The owner

home of the web www.acrashop.com, is the Society "LA CASITA DE LA COSTURERA,

S.L." and not the person claimed as indicated by the AEPD; The data of the Responsible

of the treatment were not included at first in the Privacy Policy,

by mistake and that ACRASHOP had decided to permanently close the website.

4.- After the presentation of the indicated arguments, this Agency has agreed to the indicated web page, verifying that it no longer exists. Instead,

The following message is displayed: "This domain has expired. If you owned this domain, contact your domain registration service provider for more aid" .

FOUNDATIONS OF LAW

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It is competent to resolve this procedure, regarding the privacy policy and the treatment of the personal data of the users of the websites, the Director of the Spanish Agency for Data Protection, in accordance with the provisions of art. 58.2 of the RGPD in art. 47 of LOPDGDD.

II

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 re-reflected in the facts declared proven above reported, however, it should be indicated car the following:

On the part of this Agency, on 07/24/20, it was verified that, in the policy of primemptiness of its website, www.acbrandspain.com/pages/politica-de-privacidad existed information on the purpose of processing personal data, how they obtained consent and informed about the transfer of data to third parties, but not

There was no information about the data controller.

Regarding the allegations presented, in the sense that the ownership of the page

On the website www.acrashop.com, it was the company "LA CASITA DE LA COSTURERA, S.L." Y

not the person claimed as claimed by this AEPD, indicate that, in order to

request information from SHOPIFY, the platform on which "Acrashop" had been installed,

to identify the person responsible for the website, it reported that, according to its databases,

the owner of the website was: A.A.A.. ***EMAIL.1; ***ADDRESS 1.

However, consulting the website, on 12/02/20 and once again, after having

received the allegations to the initiation of the file, it has been possible to verify, in the

twice that it no longer exists. Instead, the following message appears: "This

domain has expired. If you were the owner of this domain, please contact your owner.

domain registration service provider for further assistance"

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

Data Protection Law

:

RESOLVE

NOTICE: Ms. A.A.A., with NIF.: ***NIF.1, owner of the website www.acrashop.com.

com, for the infringement of article 13) of the RGPD, regarding the lack of information in

the privacy policy on its website, during the time it was active.

NOTIFY: this resolution to Ms. A.A.A..

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-

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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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