

□ Procedure No.: PS/00428/2019

938-051119

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00428/2019, instructed by the Spanish Agency for Data Protection to Ms. A.A.A., owner of the websites: www.cursos.vivirsinansiedad.com ; www.agorawings.com/terapia-gratis blog.ataquedeansiedad.com; www.nessitaarauz.es and www.agorawings.com/cursos-vivirsinansiedad, (hereinafter, "the claimed person"), for alleged infringement of Regulation (EU) 2016/679, of the Parliament 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 (RGPD), based on the following:

BACKGROUND

FIRST: On 01/31/19, you had entry to this Agency in writing, submitted by D.B.B.B. (hereinafter, "the claimant"), in which he stated, among others, the following: "In relation to the Resolution issued by the AEPD with No. R/01140/2018, which I have received on 12/12/2018, report the following: 1- It is agreed to warn (A/00104/2018) to the defendant. 2- Require the accused to comply with the provided for in article 22.2 of the LSSI and with the information obligation provided for in art. 13 of the RGPD.3-Report to the AEPD of compliance with the requirements. After the notification of the obligations by the AEPD, dated 06/29/2018, the denounced changed the name of the domain and modified the structure and content of its websites, but without complying with the established and already informed LSSI and RGDP. As well, As you can see on the website www.nessitaarauz.es, the defendant has not complied with the requirement of the AEPD. Still not informing about cookies, no complies with Art. 22.2 of the LSSI or with Art. 13 of the RGPD. You do not have in your

contact form of the obligation to accept the privacy policy or notice

legal. Just use a little square of I'm not a robot with a recaptcha. Have a

privacy link and conditions, which direct only to google and not to your own

privacy policy and legal notice. Likewise, on the website analyzed by the resolution

mentioned, blog.ataquedeansiedad.com, only reports the cookie notice, which

even if you do not accept them, they are installed anyway. On this page, you have a

subscription, in which it does not report the purpose of the data collected or who is the

owner or recipient of such collected data.

Despite having been notified of the obligations, having been warned and required

to fulfill its obligations, not only has nothing changed, but

nor has it complied with what is required by the AEPD, to inform the AEPD within the period

one month to comply with the requirements. But this is not all, it has opened a new

web www.cursos.vivirsinansiedad.com/subscripciones, in which it does not fulfill any of

what is required by law. In this new website, it directs it to make online payments and the policy of

privacy and legal notice, directs them to a service provider www.podia.com/terms,

when, being the owner of that website, she should report both the legal notice and

privacy of the provider, such as that of the owner user of the web, in this case, the

reported. There is no cookie notice on this website".

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

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investigation granted to the control authorities in article 57.1 of the Regulation (EU) 2016/679 (GDPR). Thus, with dates 03/11/19 and 05/12/19, two separate information requirements to the requested person.

THIRD: On 07/12/19, the requested person submits in writing, in this Agency, providing, among others, the following information:

“Inform that he had not been aware of the previous communications issued by this Agency to date, including the aforementioned warning (AT/00104/2018) with the instructions required for regulatory compliance in the websites indicated, as well as the remission of the report.

Subsequently, the reasons why during the dates between 05/01/18 and 04/30/19 I have not resided in the one that had been my habitual domicile until then and that in addition his communications arrived at another housing that has been rented since 2017. Having knowledge now of their communications convey my full intention to collaborate with this Agency and to be able to fully comply with their requirements and with the regulations on the matter. Am willing to remove any content provided in the Facebook group by the complainant, and even cancel this group if necessary. For this I have tried to contact Facebook from the possible ways provided by this social network (attached communications) by not directly allowing me to do either of the two Actions. I had no record of this exercise of rights. According to the annexes of the request can observe that this communication was delivered at an address which is not and has never been my registered or postal address. It is the company of a family, as indicated in the proof of delivery of Correos: Real Estate Hispania, Avda Cayetano del Toro 10, receiver data: C.C.C., is one of the workers. This communication was never delivered to me. In any case, it is established from the beginning of this website for the reception of rights exercises

arch of any user the account: ***EMAIL.2, and has always been available, such

as you can see in the link below.

I have been doing a training in website creation and digital marketing

(Digital entrepreneurship and infoproduction), which is why I have been creating different

microsites, which in most have not had any type of traffic, access, or collection

any personal data, as they are not positioned in search engines, nor have a duration

over time, many of these have been changed and subsequently eliminated in

few days or weeks. My main website has always been:

<https://www.agorawings.com/terapia-gratis> in it, if there is a link to the

information on data protection:

<https://www.agorawings.com/politica-de->

data-privacy .

In this privacy policy appears an email in which users can exercise

Your rights regarding data protection: ***EMAIL.2.

This website will not be deleted so that they can verify the information it collects. In

my training activity I have used an internationally recognized platform for the

delivery of these courses that is Podía, a platform that has its own policy of

privacy. I have contacted them and they inform me that they do not allow modifications.

In any case, my Podía students had to previously register in

<https://www.agorawings.com/terapia-gratis> where they accept their privacy policy.

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In any case, I inform that the complainant's data was not collected through

of these websites, therefore, has not been directly affected by any

non-compliance with them. The complainant first contacted me at

through Facebook without ever having used the indicated websites

FOURTH: On 10/31/19, on the website www.cursos.vivirsinansiedad.com,

checks the existence of a privacy policy accessible from a link with

the name "Privacy" with statements in the English language. In addition, it checks

that the website www.nessitaarauz.es has been suspended, not being able to access the

same and that the web www.agorawings.com/cursos-vivirsinansiedad, is redirected to the

page of: www.agorawings.com/free-therapy

and that it redirects to the web

www.cursos.vivirsinansiedad.com, through the link, "Go to the Course Platform".

FIFTH: On 11/01/19, within the framework of the actions carried out by the

Subdirector General for Data Inspection in order to clarify certain facts of

which this Spanish Agency for Data Protection has been aware of, and in

use of the powers conferred in the RGPD, information is required from the 1&1 entity

IONOS ESPAÑA, S.L., in the sense that it provides this Agency with information

about, the identification and contact data, including postal address, of the owner of the

domain vivesinansiedad.com and subdomain courses.vivirsinansiedad.com, as well as

their corresponding accommodation.

SIXTH: On 11/11/19, the entity 1&1 IONOS ESPAÑA, SL., sends this

Agency in writing informing that: In the present case, the domain vivesinansiedad.com

and subdomain courses.vivirsinansiedad.com is the same client, being Ms.

A.A.A., NIF:***NIF.1; ***ADDRESS.1 Email: ***EMAIL.1

SEVENTH: In view of the reported facts, the documentation provided by

the parties and in accordance with the evidence available, the Inspection of

Data from this Spanish Data Protection Agency considered that the action

of the claimed entity did not meet the conditions imposed by the regulations in force,

Therefore, the opening of a sanctioning procedure proceeds. Thus, with date

01/31/20, the Director of the Spanish Data Protection Agency agreed to initiate

sanctioning procedure for the person claimed for infraction of article 13 of the

GDPR.

EIGHTH: Once the initiation agreement has been notified, the person claimed, by means of a written

dated 02/25/20, made, in summary, the following allegations:

“The different websites to which your communication refers, I created as

practices of a training on digital marketing strategies and info production

(To create Internet courses and Conversion Funnels) but I never got to use them

professionally so they have not generated any type of economic income.

These websites were not positioned, since they were in the beta phase of

production and could only be accessed by users who had the exact URLs in the

that were found, which were also subdomains.

As part of the training provided by the company OlsanaMind S.L., which I enclose certifies

(Annex 1), they taught us to use different production and control tools,

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having to do practices with the platforms: I could [https: //](https://) for form creation-

tions online and ClickFunnels umm www.clickfunnels.com for creation and management of

funnels. All content on the websites is created and managed within these

platforms, which guaranteed us that they met all the requirements of the current

European regulations on data protection. (Appendix 2). In fact I have

confirmed, on the websites that are created with these tools, that they do not allow have modification of the Privacy Policy displayed, which is a text that they include yen, and do not allow the inclusion of any tool to control cookies.

About the cookies generated on these websites, I have not had any access to that information that could be collected from users, since, although the domains are in my name, really all the management was done through the platforms that manage these tools. I thought that this training and the websites created in the practices could become a business for my activity in the future, and I invested a lot of time and resources, but after learning of the complaint before this

Agenda I abandoned the idea of using these tools.

I stopped paying the platforms (Annex 3) a few months ago and deactivated in your panel of control the websites that it managed. Still, after receiving the communications this month by this Agency, I have been able to verify surprising way for me, that some subdomains had continued to work, although only in some supports (in mobile devices no, but in browser of pc) something totally illogical, since the tool with which it was used was no longer being paid for.

These microsites have been generated and managed and have been deactivated.

In compliance with the requirements of this Agenda, I have proceeded to contact contact with the platforms and also with domain service providers and accommodations so that it is confirmed that none of these websites remain in functioning. (Annex 5)

Therefore, please bear in mind that there has been no intention of fail to comply with the reference regulations, that there has been no economic profit, that corrective measures have been taken to put an end to possible breaches and that also as a result of the reported facts, I understand that neither; no harm has been caused to the complainant or to other potentially affected parties. Throughout

case, I also understand that with the suppression of the websites, the right of the potentially affected is fully guaranteed through the application of the measures required by this Agency.

NINTH: On 04/01/20, the existence of the following was verified:

reported websites, resulting in the following messages:

- This website cannot be accessed. Address could not be found

IP of the www.cursos.vivirsinansiedad.com server.

- This website cannot be accessed. Address could not be found

IP of the server of www.agorawings.com/terapia-gratis.

- This website cannot be accessed. Address could not be found

IP of the www.nessitaarauz.es server.

- This website cannot be accessed. Address could not be found

IP of the server of www.agorawings.com/cursos-vivirsinansiedad.

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TENTH: On 06/16/20, a resolution proposal is issued with the indication of that, by the Director of the Spanish Agency for Data Protection, proceed to the ARCHIVING of this sanctioning procedure as there is no violation of the polished in the LSSI.

ELEVENTH: The proposed resolution was notified on 07/30/20, as of today, there is no evidence that any response has been given within the period granted for this by the person claimed.

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.- On 11/15/19, in the verification that was carried out on the web pages denouncing
ciated, the following was found:

a) That the website cannot be viewed: blog.ataquedeansiedad.com, since the access
so to it is only with prior invitation from the author of the blog.

b) That the website www.nessitaarauz.es has been suspended, it no longer exists.

c) That the website www.agorawings.com/cursos-vivirsinansiedad is redirected to
www.agorawings.com/free-therapy.

d) From the web www.agorawings.com/terapia-gratis you can access the web
www.cursos.vivirsinansiedad.com, through the link "Go to the Platform of
Courses".

2º.- On 04/01/20, after receiving the allegations to initiate the file, by
part of the claimed person, it has been found that:

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The IP of the server of the reported web pages does not exist: [www.cursos.vivir-
sinansiedad.com](http://www.cursos.vivir-
sinansiedad.com) ; www.agorawings.com/free-therapy ; www.nessitaarauz.es
; www.agorawings.com/cursos-vivirsinansiedad.

FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of the RGPD recognizes to each Authority of
Control and, as established 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 Rights
chos Digitales (hereinafter LOPDGDD), the Director of the Spanish Agency for
Data Protection is competent to initiate this procedure.

Sections 1) and 2), of article 58 of the RGPD, list, respectively, the powers

investigative and corrective measures that the supervisory authority may order for this purpose, mentioning in point 1.d), that of: “notifying the person in charge or in charge of the treatment to the presumed infractions of this Regulation” and in 2.i), that of: “imposing a

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administrative fine under article 83, in addition to or instead of the measures mentioned mentioned in this section, according to the circumstances of each case.”

II

In the present case, on 10/31/19, it was verified by this Agency that, on the reported websites there was a form that could collect personal data from customers, but the privacy policy was written in English.

Notified to the claimed person, owner of the web pages, the initiation of an expending sanction for violating the provisions of current legislation in relation to with the privacy policy, it alleged that the denounced websites were created as practices of a training on digital marketing strategies and info production, but he never got to use them professionally. It further indicates that those websites they were not positioned, since they were in beta phase of production. No ob- However, in compliance with the requirements of this Agenda, I proceeded to contact contact with the platforms and also with domain service providers and lodgings to remove functioning websites.

On 04/01/20, by this Agency, it was found that the IPs no longer existed of the server of the reported web pages.

Therefore, in the present case, after analyzing the information, the

documents provided and the concurrent circumstances, it is not possible to evidence a possible violation of current legislation on privacy policy as there is no longer the denounced web pages, so in view of the above, we proceed to issue

The next:

RESOLVE

FILE: procedure PS/00428/2019, initiated against Ms. A.A.A., for alleged in-section to article 13 of the RGPD.

NOTIFY: this Agreement to Ms. A.A.A.

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.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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