

□ Procedure No.: PS/00277/2020

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00277/2020, instructed by the Spanish Agency for Data Protection, to Mrs. A.A.A., NIF.: ***NIF.1, owner of the website, ***URL.1, (hereinafter, "the person claimed"), by virtue of a complaint filed by D. B.- B.B., (hereinafter, "the claimant"), and based on the following:

BACKGROUND

FIRST: On 10/19/19, you have entered this Agency, filed a complaint by the claimant in which he indicated, among others, the following:

"I have found that on the web page ***URL.1, there is no information required from ID. The company name of the owner of the website, or address, or data of contact, nor the fiscal identification code CIF".

SECOND: In view of the facts set forth in the claim and the documents provided by the claimant, the Data Inspection SG proceeded to carry out tions for clarification, in accordance with article 65.4 of the Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of the rights digital codes (LOPDGDD). Thus, on 07/22/20, a written request was sent of information to the claimed entity.

THIRD: On 08/05/20, the requested person sends this Agency, in writing of response to the request, in which, among others, it indicates:

"The only point where personal data is collected is in the contact form of said website, and that in said form the user is explained in a way (Document indicated in the annex as Number 1) clear reference to the fi- its nature and a direct link to the informative section on "privacy policy".

city”.

Therefore, that the standard is complied with, by identifying the responsibility of MgGestion, by providing your contact information, both in postal address and email electronic and telephone. That the purpose is fulfilled, being something that the user of ma- explicitly and voluntarily provides, and in which it is clearly reflected that no will make no other use than to answer what is requested in said form.

The data that is collected is merely a reference name (which may even could provide any without being validated or true), an email, freely available User registration that does not "self-validate or verify", so there are no traces of the themselves, and a freely made message.

In said website, the legal requirement of explanation of the Privacy Policy applied, and that clarifies any other relevant questions that may would stay with such data collection.

We understand, then, that everything required by the standard is complied with, but always pre, focusing on good faith, the interest in complying with the rules, and the www.aepd.es

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2/5

desire for improvement, and taking into account that perhaps there could be doubt for some user in some matter that is unknown to us, about the natural person that supports MgGestion, even being a collegiate professional in the "Property Administrator Association of ***LOCA-LIDAD.1 con No. XXX", proceeds to include said information on the home page of the web, as well as in the "About" and in the contact form itself as "order-do of the treatment", which are collected in the attached document 3.

It has been placed in the hands of the computer services company A&A Sistemas (C.-DC ***NIF.2) that this Administration, "MgGestion", has at its disposal through service contract, so that this matter is studied with due attention and make as many improvements and corrections as necessary to provide the best service to your users, as well as the absolute compliance with current legislation, and among them the computer changes of the website previously mentioned and that have already been Updated as of July 27.

FOURTH: On 09/20/20, by this Agency, it is verified that the page

The reported website, ***URL.1, has the following characteristics, regarding its policy privacy policy:

- a).- In the <<contact>> tab, located at the top of the page, there is the possibility ability to collect personal data from customers, such as: name and email.
- b).- On said page ***URL.2, there is a banner informing that: "The sending of the The form implies express acceptance of our privacy policy, giving consent to the processing of your personal data: Responsible for the treatment treatment; purpose of the treatment and regulatory basis; data retention".
- c).- In addition, on the same page, there is contact information: C/ ***DIRECT-TION.1 and a link to the <<privacy policy>>, ***URL.3, where information is provided information about: what personal data they collect; purpose of treatment and rights that assist the user.

FIFTH: In view of the reported facts, the documentation provided by the parties and in accordance with the evidence available, on 10/08/20, the Director of the Spanish Agency for Data Protection agreed to initiate a procedure sanctioning the person claimed for infringement of article 13 of the RGPD, by not having Update the information in your "Privacy Policy", according to the new normative of the RGPD, with an initial sanction of "warning".

SIXTH: Once the initiation agreement has been notified, the person claimed, by means of a letter of faith on 10/14/20, made, in summary, the following allegations:

"It is proclaimed that the website in its policy makes indirect reference to the Organic Law nica 15/1999 for the reference to ARCO rights. This abbreviation was used by the simplicity in the reference to the concepts of Access, Rectification, Cancellation and Opposition, and in no case with the intention of undermining the importance or the ex-agencies of the current Data Protection Law, to which it is tried, at all times, comply. It is a mere loophole in the way of speaking through which one cannot another thing to ask for the humblest of apologies, and proceed to replace him.

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3/5

If we consult the web world, in general, through any search engine, we see

We will see that there are countless references to said nomenclature, even on pages of the governmental establishment itself that welcomes us all.

The page offers sufficient information to the user, always in the maximum transparency.

possible, and in order to guarantee a legitimate use of the data collected. is procured

that the treatment of the data is fair and transparent, the term of use is determined

of said data, the criteria for the same, and the possibility of dealing with access,

rectification or deletion. Not least important is the non-transfer to third parties. is recognized

in the proposal of the sanctioning procedure, which in compliance with the obligations

nes the page shows sufficient information to exercise the right of users.

For the sake of the search for improvement, in everything that is possible, and always under the protection of

the greatest possible discipline towards legal obligations, the page has been modified

na of "Privacy Policy" contained on the web, and thus remove the obsolete diction of the word ARCO, and position as clearly as possible the legitimacy of the collection.

gives data and its treatment. Said update occurred on October 12.

October 2020. Attached Documents 1 and 2".

SEVENTH: On 10/23/20, by this Agency, it is verified that the page

A reported website, ***URL.3, provides, among others, the following information, res-

aspect of its privacy policy: a).- the identity and contact details of the respon-

saber; b).- the purposes for which the data is used and the legal basis of the treatment;

c).- the non-transfer of personal data to third parties; d).- the period during which the

will retain personal data; e).- Information on the right to request the

data controller access to personal data relating to the interested party, and

its rectification or deletion and the right to file a claim with the AEPD.

EIGHTH: On 10/25/20, the Resolution Proposal is notified to the person

called in which, it was proposed that, by the Director of the Spanish Agency of Pro-

tection of Data, the sanction that proceeded in the present case would be that of "warning

ment, as there was initially a possible violation of the RGPD, corrected in

the course of this proceeding".

NINTH: Once the proposed resolution has been notified, this Agency has not received

no brief of allegations to the same, in the period granted for it.

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 09/20/20, it has been verified that on the reported website,

Through the <<contact>> tab, ***URL.2, personal data is collected from the

clients, such as: name and email.

It is also verified that the information collected in the "privacy policy" of

the denounced web page, ***URL.3, continues to refer to the repealed Law

Organic 15/1999, of December 13, Protection of Personal Data,

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4/5

such as the fact of referring to the “ARCO” rights, included in said norm repealed.

2º.- On 10/14/20, the requested person states, among others, that: “(...)

has modified the "Privacy Policy" page contained on the web, and thus withdraw the obsolete diction of the word ARCO, and position as clearly as possible the legitimacy of the data collection and its treatment. This update has been produced on October 12, 2020. Attached Documents 1 and 2”.

3º.- On 10/23/20, by this Agency, it is verified that on the page

web, ***URL.3, information is provided on the identity and contact details of the person in charge; the purposes for which the personal data is used and the legal basis of the treatment; the non-transfer of personal data to third parties; the period during which personal data will be kept; information on the right to request the data controller access to personal data relating to the interested party, and its rectification or deletion and the right to file a claim with the AEPD.

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 RGPD in

the art. 47 of LOPDGDD.

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 related.

Article 13 of the RGPD establishes the information that must be provided to the interested party. sado at the time of collection of your personal data.

Well, regarding the information provided on the reported website, to exercise citing the rights of data subjects, it was initially noted that, although the page offered sufficient information regarding the exercise of the same and how to withdraw the consent. However, said information referred to ARCO rights, regulated sides in the repealed Organic Law 15/1999, on Data Protection (LOPD).

Sanctioning file initiated against the person, owner of the web page, this, in the es-brief of allegations at the opening of the file, indicated that he had proceeded to modify Check the existing information in the "privacy policy" of the web, adapting it to the current regulations on data protection.

Said adaptation occurred, according to indications of the one claimed on 10/12/20, verifying this fact, by this Agency, on 10/23/20.

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

RESOLVE

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5/5

APERCEIVE: to Mrs. A.A.A., NIF.: ***NIF.1, owner of the website, ***URL.1 for the in-

fraction committed, of article 13 of the RGPD, with regard to the information that should provide users of the website, at the time of collecting their personal information.

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

LODPGDD, 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.

Sea Spain Marti

Director of the Spanish Agency for Data Protection.

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