

□ Procedure PS/00219/2021

## RESOLUTION OF PUNISHMENT PROCEDURE

In sanctioning procedure PS/00219/2021, instructed by the Spanish Agency for Data Protection, to the entity to the MINISTRY OF EDUCATION of the Principality de Asturias, owner and person in charge of the website, \*\*\*URL.1, (hereinafter, "the part claimed"), for alleged infringement of Regulation (EU) 2016/679, of the Parliament European and Council, of 04/27/16, regarding the Protection of Natural Persons regarding the Processing of Personal Data and the Free Circulation of these Data (GDPR); Organic Law 3/2018, of December 5, on the Protection of Personal data and guarantee of digital rights, (LOPDGDD) and the Law 34/2002, of July 11, on Services of the Information Society and Commerce Electronic (LSSI), and based on the following:

## BACKGROUND

FIRST: On 01/09/21, a written claim entered this Agency presented by D.A.A.A. (hereinafter, "the claimant party"), in which, among others, it was indicated:

"Administrative infractions typified in the General Data Protection Regulation ("RGPD") and in Law 34/2002, of 11 of July, services of the information society and electronic commerce, both in your privacy policy as well as in the cookie policy

On the other hand, when accessing the website \*\*\*URL.1 that is reported, it is verified that the address is accessed with the "http" security protocol, thus enabling other users can intercept the information that is transferred from the terminal from the client to the web server, since the information provided by users is not transferred securely (encrypted) (...)"

SECOND: On 02/24/21, this Agency sent a request

information to the claimed party, in accordance with the provisions of article 65.4 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights, ("LOPDGDD").

THIRD: On 03/15/21, this Agency received a written response from the MINISTRY OF EDUCATION of the Principality of Asturias (Integrated Center for Vocational Training of \*\*\*LOCATION.1), where it is indicated, among others, that:

1.- We have no record of the reported incident since \*\*\*URL.1 has a privacy policy section and a terms of use section as you can be checked at:

\*\*\*URL.2

\*\*\*URL.3

However, it is within the possible that due to web updates some link (links) had been broken momentarily or gave an error.

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2.- The privacy policies, conditions of use, etc. we think they are within current regulations. Even so, we have explained that the "Privacy Policy" is adapts to Regulation (EU) 2016/679 of the European Parliament and of the Council of 04/27/16.

However, the \*\*\*URL.1 website does not handle personal or sensitive user information of this, since it has a merely informative character for the users, of the activities developed by the Integrated Vocational Training Center \*\*\*LOCATION.1 or news

related to vocational training.

3.- The "cookies" used by \*\*\*URL.1 are not invasive or harmful, and do not contain

Personal data. However, the user who browses our website is informed

that are used and are asked for your approval, and that you can deactivate them by following

your browser's instructions.

4.- We have proceeded to review these sections of the website \*\*\*URL.1.

FOURTH: On 05/05/21, this Agency carried out the following

checks on the web page, \*\*\*URL.1:

a).- Regarding the processing of personal data:

1.- Through the existing link at the top of the main page,

<<contact>>, the web redirects to a new page \*\*\*URL.4, displaying a

form where you can enter personal data, such as name, email

email and the "subject" that you want to indicate. The form can be sent without

need to have "read and accepted" the privacy policy or legal notice. Does not exist

more than a button with the <<send>> message

2.- Personal data of users can be obtained through the tab <<order

prior appointment>>: (Virtual Headquarters ☐ Virtual Secretary ☐ Request an appointment), \*\*\*URL.5 , where

personal data such as name, surname, ID, email can be included

and phone number.

The form can be sent without the need to have "read and accepted" the privacy policy.

privacy or legal notice. There is only one button with the message <<send>>

3.- Personal data of web users can be obtained through the

<<work with us>> tab (Campus ☐ Employment Orientation ☐ Work with

us), \*\*\*URL.6, where personal data such as name,

Address Phone. You can also attach documents such as the "curriculum vitae".

It should be noted that in this form there is the following message: "Due to the

volume of work and the diversity of areas of action that we cover, we have our own employment exchange to respond to our needs. If you want collaborate with us, let us know”.

The form can be sent without the need to have "read and accepted" the privacy policy. privacy or legal notice. There is only one button with the message <<send>>

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b).- About the “Privacy Policy”:

1.- Through the link, <<Privacy Policy

, existing at the bottom of the

main page, the web redirects to a new page, \*\*\*URL.2, where it is reported that the processing of personal data complies with current regulations. Also I know provides the following information:

>>

“(…) 2. FILES:

By Resolution of May 28, 2003, of the Ministry of Education and Culture,

BOPA N° 137 - Saturday, June 14, 2003, the automated file "Base de

data from the Unified Administration System for Educational Centers (SAUCE)",

dependent on the current General Directorate of Planning, Centers and

Infrastructures of the Ministry of Education and Science, in the terms and

conditions established in Organic Law 15/1999, of December 13, on the Protection of Personal data.

By Resolution of April 11, 2003, of the Ministry of Education and Culture,

BOPA N° 113 - Saturday, May 17, 2003, treatment files are regulated

automated personal data existing in the Ministry, including the

Integrated Personnel Management System (SIGP), dependent on the current Directorate

General of Human Resources, in the terms and conditions established in the Law

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

The purpose of the aforementioned files is to collect all the necessary information regarding

students and staff dependent on educational centers for the management

administrative and educational of schools, ensure reliability and allow its

use by information systems to facilitate effective management.

Cipfcerdeno.com may require knowledge of data contained in said

files to extend its services and resources to the students who attend

official studies in educational centers and the personnel dependent on said

centers.

Cipfcerdeno.com does not have automated files of users and/or personal character, and

therefore, it does not manage or market any type of sensitive information.

By accepting this Privacy Policy you consent to the

sending, by traditional and electronic means, information about the services

of the Ministry of Education of the Principality of Asturias, currently and in the future.

If you wish to revoke this consent, you must communicate it to the following address:

email \*\*\*EMAIL.1.

### 3.- EXERCISE OF RIGHTS

In compliance with the provisions of Organic Law 15/1999, of December 13, of

Protection of Personal Data, the User of Cipfcerdeno.com may in

at all times to exercise the different rights that the law recognizes: access,

rectification, cancellation or opposition to the transfer of your data, contained in the

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File registered with the Data Protection Agency. The aforementioned rights are may exercise by contacting the email address:\*\*\*EMAIL.1.

The acceptance of the User so that their data can be processed in the manner established in this paragraph, is always revocable, without retroactive effects, in accordance with the provisions of articles 6 and 11 of Organic Law 15/1999 of 13 december. (...)"

b.1.- Privacy Policy in the Ministry of Education of the Principality of Asturias:

For its part, the information offered by the Ministry of Education of the Principality of Asturias on its website, \*\*\*URL.7, on the processing of personal data is

The next:

"The Administration of the Principality of Asturias respects the current legislation on of protection of personal data, the privacy of the interested parties and the secrecy and security of personal data, in accordance with the provisions of the legislation applicable in terms of data protection, specifically, the Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, adopting for this, the necessary technical and organizational measures to avoid the loss, bad use, alteration, unauthorized access and theft of personal data provided, taking into account the state of the technology, the nature of the data and the risks.

Users of this portal are informed that their personal data is only may be obtained for your treatment when appropriate, relevant and not excessive in relation to the scope and the specific, explicit and

legitimate.

When personal data is collected through any portal of the Administration of the Principality of Asturias, the user will be previously informed, clearly and unequivocal, of the following extremes: Existence of data processing of personal character. The identity and contact details of the person responsible for the treatment.

The contact details of the Data Protection delegate. The purposes of the treatment to which the personal data is used and the legal basis of the treatment. The recipients or categories of recipients of the personal data, if any. In where appropriate, the intention of the data controller to transfer personal data to a third country.

The term or criteria for preserving the information. The existence of the right to request the person responsible for the treatment access to the personal data related to the interested, and its rectification or deletion, or the limitation of its treatment, the right to the portability of the data, or to oppose the treatment. Also, the way to exercise the indicated rights.

When the treatment is based on the consent of the interested party. Existence the right to withdraw consent at any time, without affecting the legality of the treatment based on the consent prior to its withdrawal. If he processing is not based on consent, your right to object to the treatment.

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The right to file a claim with a supervisory authority.

The existence, if any, of automated decisions, including the preparation of profiles and the exercise of rights associated with such treatment.

The user will be solely responsible for completing the forms with false, inaccurate, incomplete or outdated data.

Responsible for the treatment: The personal data that could be collected directly from the interested party will be treated confidentially and will be incorporated into the corresponding treatment activity owned by the Administration of the Principality of Asturias.

The updated list of the treatment activities that the Administration of the Principality of Asturias carries out, it is available in the electronic office at through the following link \*\*\*URL.8.

Purpose: The purpose of data processing corresponds to each of the treatment activities carried out by the Administration of the Principality of Asturias and that are accessible in the electronic office through the following link \*\*\*URL.8.

Legitimation: The treatment of your data is carried out for the fulfillment of legal obligations on the part of the Administration of the Principality of Asturias, for the fulfillment of missions carried out in the public interest or in the exercise of powers public conferred to the Administration of the Principality of Asturias, as well as when the purpose of the treatment requires your consent, which must be given through clear affirmative action.

You can consult the legal basis for each of the treatment activities that carried out by the Administration of the Principality of Asturias in the following link \*\*\*URL.8.

Data conservation: The personal data provided will be kept during the time necessary to fulfill the purpose for which they are collected and



to determine the possible responsibilities that could derive from the purpose,  
in addition to the periods established in the archives and documentation regulations.

Communication of data: In general, the data will not be communicated  
to third parties, except legal obligation, among which may be the  
communications to the Ombudsman, Judges and Courts, interested in the  
procedures related to the claims filed.

You can consult the recipients for each of the treatment activities that  
carried out by the Administration of the Principality of Asturias in the following  
link: \*\*\*URL.8

Rights of the interested parties: Any person has the right to obtain  
confirmation about the treatments of your data that are carried out by the  
Administration of the Principality of Asturias. You can exercise your access rights,  
rectification, deletion and portability of your data, limitation and opposition to your  
treatment, as well as not to be subject to decisions based solely on the

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automated processing of your data, when appropriate, through the Service of  
Citizen Attention (SAC) of the Administration of the Principality of Asturias,  
submitting the standard form, available at \*\*\*URL.8, which you can locate  
entering the code 201200088 in the header search engine (located in the  
top right of the page), electronically or in person through the  
General Central Registry of the Administration of the Principality of Asturias or by  
any of the means established in the Law of Administrative Procedure.

Without prejudice to any other administrative recourse or judicial action, all interested parties

You will have the right to file a claim with a Control Authority regarding  
of competent Data Protection, if you consider that the treatment of data  
that concerns you violates the regulations on data protection  
personal”.

c).- About the Cookies Policy:

1.- Upon entering the home page of the web, (first layer), it is verified that without  
perform any action or accept cookies, non-necessary cookies are used, both  
own as well as third party whose identifiers; domain, description and time  
activation are:

\_ga:\*\*\*URL.1. Used to identify users (permanence 2 years).

\_gid: \*\*\*URL.1. Used to identify users (permanence 2 years).

The following cookies are also used that have not been able to identify whether or not they are  
required: \*\*\*COOKIE.1; \*\*\*COOKIE.2; \*\*\*COOKIE.3.

2.- The banner about cookies that appears on the main page provides the following  
information:

“The cookies used by cifpcerdeno.com are not invasive or harmful, and do not  
contain personal data. However, if you wish, you can disable them.

following the instructions of your browser. <<I accept>>

There is no possibility in this banner to reject unnecessary cookies and  
nor any type of link to the second layer or configuration panel of the  
cookies.

3.- If you access the "Privacy Policy", through the existing link in the part  
bottom of the main page, <<privacy policy>>, the web redirects to a new  
page, \*\*\*URL.2, where information is provided, in the cookies section, about:  
what are cookies and the types of cookies that exist but are not provided

information nor are the cookies used by the page identified.

On how to manage cookies, the page refers the user to configuring the

browser installed on your terminal equipment, not existing, on this page, any

mechanism that allows you to reject all cookies or manage them in a granular way.

FIFTH: On 05/07/21, by the Director of the Spanish Agency for

Data Protection agreement is issued to admit the processing of the complaint

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filed by the claimant, in accordance with article 65 of the Law

LPDGDD, when appreciating possible rational indications of a violation of the norms in

the scope of the powers of the Spanish Data Protection Agency.

SIXTH: In view of the facts denounced and the evidence observed in the

website, dated 06/22/21, by the Board of Directors of the Spanish Agency for

Data Protection, it is agreed to initiate a sanctioning procedure against the party

claimed, directing a warning for:

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Violation of article 32.1) of the RGPD, punishable in accordance with the provisions of

the art. 83 of the aforementioned standard, due to the lack of adoption of the technical and

organizational measures that are appropriate to guarantee a level of security

appropriate to the risk of processing personal data.

Violation of article 13) of the RGPD, punishable in accordance with the provisions of the

art. 83 of the aforementioned rule, due to the lack of information that must be offered to users of the website when their personal data is obtained.

Violation of article 22.2) of the LSSI, punishable in accordance with the provisions of the art. 39) and 40) of the aforementioned Law, regarding its "Cookies Policy".

SEVENTH: Notification of the initiation agreement to the claimed party, the latter in writing dated 07/06/21, made, in summary, the following allegations:

Given the exposed facts, the considerations and actions that the effect has been carried out by the Integrated Center for Vocational Training of

\*\*\*LOCATION.1:

1.- Through the existing link at the top of the main page, <<contact>> a form was displayed where data could be entered personal, such as the name, email and the "subject" that you want to indicate.

The form has been withdrawn.

2.- Personal data of web users can be obtained through the tab <<work with us>>. The form has been withdrawn.

3.- About the Privacy Policy and the Cookies Policy. - adaptation to the new regulations.- A quote has been requested from a specialized company Responsible: DATAPLUS CONSULTING S.L CIF: 887536728; Vallehermoso Street No. 40, 28015 Madrid; for : . Adaptation Phase (RGPD-LOPDGDD) (Adaptation-updating of the CLIENT to the European regulations on data protection).

The educational center has been informed of the need to accommodate its behavior to the prescriptions contained in Chapter IV of Decree 37/2018. of July 18, organization and development of the instruments of operation of the technologies of information and communications and information security of the Administration of the Principality of Asturias and its public sector (BOPA 07/27/2018)".

EIGHTH: On 10/13/21, the respondent is notified of the proposed

resolution, in which it is proposed that, by the Director of the Agency

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Spanish Data Protection Agency proceeds to "ADDRESS A WARNING" to the

MINISTRY OF EDUCATION OF THE PRINCIPALITY OF ASTURIAS, responsible for the

page \*\*\*URL.1, by:

-

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Violation of article 32.1) of the RGPD, punishable in accordance with the provisions of

the art. 83 of the aforementioned standard, regarding the lack of security on the page

Web.

Violation of article 13) of the RGPD, punishable in accordance with the provisions of the

art. 83 of the aforementioned rule, regarding its "Privacy Policy", as it is not

adapted to the new regulations in force.

- FILE this sanctioning procedure, due to violation of article

22.2) of the LSSI, regarding its "Cookies Policy", when the

condition of "Service Provider of the Information Society", to the

have been modified the web page, eliminating the tab <<works with

us>>.

NINTH: Notified the proposed resolution, dated 10/26/21, the part

The respondent presented a written statement of allegations to the proposed resolution, in which,

among others, it indicated the following:

1.- With regard to infringement of article 32.1) of the RGPD, punishable in accordance with the

provided in art. 83 of the aforementioned rule, regarding the lack of security in the web page: We have acquired a Secure Connection Certificate: Implementation of a Wildcard SSL certificate. SSL Security Certificates encrypt communications between the web server and your visitors' browser, keeping secure data exchange.

The characteristics of the Instant55L Wildcard Certificate are: Validation Certificate of the company. SSL for the entire domain and subdomains. Issuance time: 1.2 days. Complies with the GDPR regulation. Company Certification. SHA encryption, 256. Renewal Reminders.

2.- Regarding infringement of article 13) of the RGPD, punishable in accordance with the provided in art. 83 of the aforementioned rule, regarding its "Privacy Policy", does not be adapted to the new regulations in force We have proceeded to review these sections of the cipcerdeno.com website and correct the normative references

TENTH: On 11/02/21, this Agency carried out the following checks on the web page, \*\*\*URL.1 :

a) On the processing of personal data  
:

1.- Personal data of users can be obtained through the tab

<<request an appointment>>:\*\*\*URL.9, where personal data such as the name, surnames, ID, email and telephone.

Before sending the form, you must check the box: “ \_ I have read and accepted <<the privacy policy>>”.

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b) About the "Privacy Policy":

1.- Through the link, <<Privacy Policy>>, existing at the top of the main page, the web redirects to a new page, \*\*\*URL.2, where it is reported that the processing of personal data complies with current regulations. Also I know provides the following information about who is responsible for the treatment of Personal information; the purpose of data processing according to the form used; the recipients of the data transfer; the legitimacy of the treatment of the data and on the rights that assist users in terms of protection data and where to go to exercise them.

c) About the "https" security protocol used in data transfer:

When accessing the web page, the Chrome browser warns that the page is secure, because it uses the protocol (\*\*\*URL.1), for its communications, offering the following message: "THE CONNECTION IS SECURE: Your information, for example, your passwords or your credit card number, is private when submitted on this website."

Of the actions carried out in this procedure, of the information and documentation presented by the parties, the following have been accredited facts:

PROVEN FACTS

1º.- According to the claimant, the website \*\*\*URL.1 contains administrative infractions typified in the General Data Protection Regulation ("RGPD") and in the Law 34/2002, of July 11, on services of the information society and commerce email, both in its privacy policy and in the cookie policy.

2º.- According to the checks made by this Agency on the website reported, on 05/05/21, by this Agency the following were carried out checks on the web page, \*\*\*URL.1:

a) Regarding the processing of personal data:

1.- Users' personal data could be obtained through the tab,

<<request an appointment>> or through the <<contact>> link. The form could send without the need to have "read and accepted" the privacy policy or legal notice.

There was only one button with the <<send>> message in the forms.

2.- Personal data of web users could also be obtained through

the tab, <<work with us>> where the "job bank" of the

Teaching Institute. The form could be sent without the need to have "read and accepted" the privacy policy or legal notice.

b) About the "Privacy Policy":

, existing at the bottom of the

1.- Through the link, <<Privacy Policy

main page, the web redirects to a new page, where it was reported that the

processing of personal data complies with current regulations. Nevertheless,

was still referring to the repealed LOPD "(...) In compliance with the

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provided for in Organic Law 15/1999, of December 13, on Data Protection of

Personal Character, the User of Cipfcerdeno.com may (...)".

c) About the "http" security protocol used in data transfer:

When accessing the web page, the Chrome browser warned that the page was not

secure, since it uses the http:// protocol for its communications, offering the



following message: "It is not secure: We recommend that you do not enter information personal or private on this page. If possible, please do not use this website. It is not safe: be careful. The connection of this website has some serious problem of privacy. It is possible that another user can see the information you send or receive through this site. You may see the message "Login not secure" or "Payment not secure". Dangerous: Avoid this website. If you see a warning screen of red color that occupies the entire page, it means that the Safe Browsing function has marked the website as not secure. It is very likely that your private information be in danger by using it." HTTP code is a communication protocol that allows the transfer of information on the Internet, but totally insecure and being subject to attacks that allow to easily obtain the information that is transferring from one website to another.

d) About the Cookies Policy:

1.- Upon entering the home page of the web, (first layer), it was found that without perform any action or accept cookies, unnecessary cookies were used, both their own and those of third parties.

2.- The banner about cookies that appears on the main page provides the following information: "The cookies used by cifpcerdeno.com are not invasive or harmful, and do not contain personal data. However, if you wish, you can deactivate them by following the instructions of your browser". <<I accept>>

There was no possibility in the banner to reject cookies that were not necessary or nor any link to the second layer or cookie configuration panel.

3.- If the "Privacy Policy" was accessed, the web redirected to a new page, where information was provided, in the cookies section, about: what cookies are cookies and the types of cookies that exist, but no information is provided or identify the cookies used by the page.

3º.- During this sanctioning procedure, the person in charge of the website in question has been conveniently modifying it. In this sense, the verification carried out on the page on 11/02/21, has resulted in the following:

a) Regarding the processing of personal data:

1.- Personal data of users can be obtained through the tab

<<request an appointment>>: where you can include personal data such as name, surnames, ID, email and phone number. Before submitting the form, the box must be checked: “\_ I have read and accepted <<the privacy policy privacy>>”.

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b) About the “Privacy Policy”:

1.- Through the link, <<Privacy Policy>>, existing at the top of the main page, the web redirects to a new page, where it is reported that the processing of personal data complies with current regulations. Also I know provides information on who is responsible for data processing personal; the purpose of data processing according to the form used; the data transfer recipients; the legitimacy of data processing and on the rights that assist users in terms of data protection and Where to go to exercise?

c) About the “https” security protocol used in data transfer:

1.- When accessing the web page, the Chrome browser warns that the page is secure, since it uses the \*\*\*URL.1 protocol for its communications, offering the

following message: "THE CONNECTION IS SECURE: Your information, for example, your passwords or your credit card number, is private when submitted on this site Web".

d) About the Cookies Policy:

After receiving the allegations made by the Ministry of Education of the Principality of Asturias where it was indicated that it was going to proceed to adapt the website to current regulations on "organization and development of the instruments of operation of information and communication technologies and the security of the information of the Administration of the Principality of Asturias and its public sector (BOPA 07/27/2018)", it has been possible to verify, by this Agency that, the link, <<works with us>> (Campus ☐ Employment Orientation ☐ Work with us), has been removed. Therefore, as established in article 2.1 of the LSSI, the Ministry of Education of the Principality of Asturias, (CIFP \*\*\*LOCALIDAD.1), would no longer fit within the scope of application of the LSSI.

## FOUNDATIONS OF LAW

I.- Competition:

- a). - With respect to the infraction committed to the RGPD, it is competent to resolve this procedure the Director of the Spanish Agency for Data Protection, of in accordance with the provisions of its art. 58.2 of the RGPD and in art. 47 of LOPDGDD.
- b). - With respect to the infraction committed to the LSSI, it is competent to resolve this procedure the Director of the Spanish Agency for Data Protection, of in accordance with the provisions of its art. 43.1, second paragraph.

II.- On the "http" security protocol used in the transfer of data in the Web page:

Checking the web page on 05/05/21, it was observed that, when accessing it, the Chrome browser warned that the page was not secure, because it uses the protocol

<http://> for your communications.

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This sanctioning procedure has been initiated for infraction of article 32.1) of the RGPD, regarding the lack of security on the website, the person responsible for this notified this Agency that a Secure Connection Certificate had been acquired, implemented a Wildcard SSL certificate.

This aspect was checked by this Agency on 11/02/21, it was found that, when accessing the web page, the Chrome browser warns that the page is secure, since it uses the \*\*\*URL.1 protocol for its communications, offering the following message: "THE CONNECTION IS SECURE: Your information, for example, your passwords or your credit card number, is private when submitted on this site Web".

In this sense, article 32 of the RGPD indicates, on the security of the treatment of personal data, which:

1. Taking into account the state of the art, the application costs, and the nature, the scope, context and purposes of the treatment, as well as risks of probability and variable seriousness for the rights and freedoms of natural persons, the responsible and the person in charge of the treatment will apply technical and organizational measures appropriate to guarantee a level of security appropriate to the risk, which in its case include, among others: a) pseudonymization and encryption of personal data; b) the ability to ensure confidentiality, integrity, availability and resiliency permanent treatment systems and services; c) the ability to restore

availability and access to personal data quickly in case of

physical or technical incident; d) a process of verification, evaluation and assessment

of the effectiveness of the technical and organizational measures to guarantee the

treatment safety.

2. When evaluating the adequacy of the security level, particular account shall be taken of

takes into account the risks presented by the processing of data, in particular as

consequence of the accidental or unlawful destruction, loss or alteration of data

data transmitted, stored or otherwise processed, or the communication or

unauthorized access to said data.

3. Adherence to an approved code of conduct under article 40 or to a

certification mechanism approved under article 42 may serve as an element

to demonstrate compliance with the requirements established in section 1 of the

present article.

4. The person in charge and the person in charge of the treatment will take measures to guarantee that

any person acting under the authority of the person in charge or the person in charge and

has access to personal data can only process said data following

instructions of the person in charge, unless it is obliged to do so by virtue of the Right of

the Union or the Member States.

According to the evidence available at this time of resolution of the

sanctioning procedure, it is considered that the technical and organizational measures implemented

mentioned on the website do not contradict the provisions of article 32.1 of the

GDPR.

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III.- Regarding the processing of personal data and the "Privacy Policy" of the website:

The website in question was consulted on 05/05/21, by this Agency it was possible to verify that personal data of users could be obtained through the tab, <<request an appointment>> or through the <<contact>> link. The form is could send without the need to have "read and accepted" the privacy policy or notice legal. There was only one button with the <<send>> message in the forms.

Personal data of web users could also be obtained through the tab, <<work with us>> where the "job bank" of the

Teaching Institute. The form could be sent without the need to have "read and accepted" the privacy policy or legal notice.

For its part, the "Privacy Policy" informed that the processing of data personnel complied with current regulations. However, he was still doing reference to the repealed LOPD.

Initiated the present sanctioning procedure for infraction of article 13) of the RGPD, regarding the lack of adaptation of the website to the new regulations in force in matter of data protection, the person in charge of this notified this Agency that had proceeded to review these sections of the web and correct the errors detected.

This aspect was checked by this Agency on 11/02/21, it was found that, at present, personal data of users can be obtained through the <<request an appointment>> tab but now, before being able to send the form, You must check the box: "\_ I have read and accepted <<the privacy policy privacy>>".

On the "Privacy Policy", information is currently provided on who is responsible for the processing of personal data; the purpose of

data processing according to the form used; the recipients of the data transfer; the legitimacy of data processing and the rights that assist users in terms of data protection and where go to exercise them. All this, referring to the current regulations, that is, to the RGPD and the LOPDGDD.

In this sense, article 13 of the RGPD establishes the information that must be provided.

inform the interested party at the time of collecting their personal data:

“1. When personal data relating to him/her is obtained from an interested party, the person responsible of the treatment, at the moment in which these are obtained, will facilitate: a) the identity identity and contact details of the person in charge and, where appropriate, of their representative; b) the contact details of the data protection delegate, where appropriate; c) the purposes of the treatment to which the personal data is destined and the legal basis of the treatment; d) when the treatment is based on article 6, paragraph 1, letter f), the legitimate interests mos of the person in charge or of a third party; e) recipients or recipient categories recipients of personal data, where appropriate; f) if applicable, the intention of the controller to transfer personal data to a third country or international organization and the existence presence or absence of an adequacy decision by the Commission, or, in the case of

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transfers indicated in articles 46 or 47 or article 49, paragraph 1, paragraph second, reference to the adequate or appropriate guarantees and the means to obtain have a copy of these or the fact that they have been loaned.

2. In addition to the information mentioned in section 1, the data controller

will provide the interested party, at the time the personal data is obtained, them, the following information necessary to guarantee fair data processing and transparent: a) the period during which the personal data will be kept or, when where this is not possible, the criteria used to determine this term; b) existence the right to request access to personal data from the data controller relating to the interested party, and its rectification or deletion, or the limitation of its treatment, or to oppose the treatment, as well as the right to data portability; c) when the treatment is based on article 6, paragraph 1, letter a), or article 9, paragraph 2, letter a), the existence of the right to withdraw consent at any moment, without affecting the legality of the treatment based on the consent prior to its withdrawal; d) the right to lodge a complaint with a law enforcement authority control; e) if the communication of personal data is a legal or contractual requirement, or a necessary requirement to sign a contract, and if the interested party is obliged to make provide personal data and is informed of the possible consequences of not provide such data; f) the existence of automated decisions, including the preparation of profiles, referred to in article 22, sections 1 and 4, and, at least in such cases, significant information about the applied logic, as well as the importance and consequences foreseen consequences of said treatment for the interested party”.

In the present case, according to the evidence available at this time resolution of the sanctioning procedure, it is considered that the "Privacy Policy" dad”, of the claimed website, no longer contradicts the provisions of article 13 of the GDPR.

IV.- About the "Cookies Policy" of the website:

The LSSI is applicable only to service providers of the company of the information; in other words, it is applicable to natural or legal persons who carry out economic activities over the Internet or other telematic means. So,



a Public Administration, as in this case, the Ministry of Education of the Principality of Asturias, (CIFP \*\*\* LOCATION.1), would not fit within the LSSI, except that, through the web page of said Public Administration, a economic activity, such as the sale of publications or the management of the job bank for hiring temporary staff.

In the case that does not concern, when the present sanctioning procedure began, it was verified that, through the website: \*\*\*URL.1, the job bank was managed of the Institute, allowing users to send their personal data and their curriculum vitae directly to the educational center CIFP \*\*\*LOCALIDAD.1, therefore, due to this activity the Ministry of Education of the Principality of Asturias, (CIFP \*\*\*LOCATION.1), was considered "Service Provider of the Society of the Information" and therefore subject to the LSSI.

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The website in question was consulted on 05/05/21, by this Agency it was possible to verify that personal data could be obtained from web users through of the <<work with us>> tab (Campus ☐ Employment Orientation ☐ Work with us), \*\*\*URL.1. On that page there was the following message: "Due to the volume of work and the diversity of areas of action that we cover, we have our own employment exchange to respond to our needs. If you want collaborate with us, let us know".

For its part, it was verified that, when entering the home page of the website, (first layer), without performing any action or accepting cookies, cookies were used

necessary, both their own and those of third parties.

The cookie banner on the home page provided information generic about cookies, but there was no possibility in this banner to reject unnecessary cookies and neither any type of link to the second cookie configuration layer or panel.

If the "Privacy Policy" was accessed, the web redirected to a new page, where Information was provided, in the cookies section, about: what cookies are and the types of cookies that exist, but no information is provided or identified the cookies used by the page.

After receiving the allegations made by the Ministry of Education of the Principality of Asturias where it was indicated that it was going to proceed to adapt the website to current regulations on "organization and development of the instruments of operation of information and communication technologies and the security of the information of the Administration of the Principality of Asturias and its public sector (BOPA 07/27/2018)", it has been possible to verify, by this Agency that, the link, <<works with us>> (Campus ☐ Employment Orientation ☐ Work with us), has been removed. Therefore, as established in article 2.1 of the LSSI, the Ministry of Education of the Principality of Asturias, (CIFP \*\*\*LOCALIDAD.1), would no longer fit within the scope of application of the LSSI.

V.- Penalty system applicable to certain categories of responsible and treatment managers.

Article 77 of the LOPDGDD establishes the following:

"1. The regime established in this article will be applicable to the treatment of who are responsible or in charge:

a) The constitutional bodies or those with constitutional relevance and the institutions of autonomous communities analogous to them.

b) The jurisdictional bodies.

c) The General State Administration, the Administrations of the autonomous communities

tónomas and the entities that make up the Local Administration.

d) Public bodies and public law entities linked to or dependent on

tes of the Public Administrations.

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e) The independent administrative authorities.

f) The Bank of Spain.

g) Public law corporations when the purposes of the treatment are re-

related to the exercise of powers of public law.

h) Public sector foundations.

i) Public Universities.

j) The consortiums.

k) The parliamentary groups of the Cortes Generales and the Legislative Assemblies

autonomous, as well as the political groups of the Local Corporations.

2. When those responsible or in charge listed in section 1 committed

any of the infractions referred to in articles 72 to 74 of this organic law

nica, the competent data protection authority will issue a resolution

sanctioning them with a warning. The resolution will also establish the

measures to be taken to stop the conduct or correct the effects of the

offense that had been committed.

The resolution will be notified to the person in charge or in charge of the treatment, to the body of the

that depends hierarchically, where appropriate, and to those affected who had the condition interested party, if any.

3. Without prejudice to what is established in the previous section, the data protection authority

data will also propose the initiation of disciplinary actions when there are in-

Enough words for it. In this case, the procedure and the sanctions to be applied

will be those established in the legislation on disciplinary or sanctioning regime that

result of application.

Likewise, when the infractions are attributable to authorities and managers, and

proves the existence of technical reports or recommendations for the treatment that

had not been duly attended to, in the resolution imposing the

The sanction will include a reprimand with the name of the responsible position and

will order the publication in the corresponding Official State or Autonomous Gazette.

gives.

4. The data protection authority must be notified of the resolutions that

fall in relation to the measures and actions referred to in the sections

previous.

5. They will be communicated to the Ombudsman or, where appropriate, to similar institutions

of the autonomous communities the actions carried out and the resolutions issued

under this article.

6. When the competent authority is the Spanish Data Protection Agency,

this will publish on its website with due separation the resolutions referring to

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the entities of section 1 of this article, with express indication of the identity of the person in charge or in charge of the treatment that had committed the infraction.

When the competence corresponds to a regional data protection authority, It will be, in terms of the publicity of these resolutions, to what your specific regulations.”

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

RESOLVES:

FIRST: SEND A WARNING, to the COUNCIL OF EDUCATION OF THE PRINCIPALITY OF ASTURIAS, responsible for the page \*\*\*URL.1, by:

-  
-

Violation of article 32.1) of the RGPD, punishable in accordance with the provisions of the art. 83 of the aforementioned standard, regarding the lack of security on the page web, during the time that the http// protocol was active, on web page in issue until amended.

Violation of article 13) of the RGPD, for the time it was without adapting the "Privacy Policy", to the new regulations in force.

SECOND: FILE, to the OFFICE OF EDUCATION OF THE PRINCIPALITY OF ASTURIAS, responsible for the website, \*\*\*URL.1, this procedure sanctioning party, for Violation of article 22.2) of the LSSI, regarding its "Policy of Cookies", upon the disappearance of its status as “Service Provider of the Society of the Information”, when modifying the web page.

THIRD: NOTIFY this resolution to the DEPARTMENT OF EDUCATION OF THE PRINCIPALITY OF ASTURIAS and the claimant on the result of the claim-tion.

FOURTH: COMMUNICATE this resolution to the Ombudsman,

in accordance with the provisions of article 77.5 of the LOPDGDD.

In accordance with the provisions of article 50 of the LOPDGDD, 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 as prescribed by

the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common to Public Administrations, and in accordance with the provisions of the

art. 112 and 123 of the aforementioned Law 39/2015, of October 1, interested parties may inter-

optionally file an appeal for reconsideration before the Director of the Spanish Agency

Data Protection Regulation within a month from the day following the

notification 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 July 13, regulating the Contentious-Administrative Jurisdiction, in the

period of two months from the day following the notification of this act,

in accordance with the provisions of article 46.1 of the aforementioned Law.

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Sea Spain Martí.

Director of the Spanish Agency for Data Protection.

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