

□ Procedure No.: PS/00501/2020

RESOLUTION OF PUNISHMENT PROCEDURE

In the sanctioning procedure PS/00501/2020, instructed by the Spanish Agency for

Data Protection to D. A.A.A., with NIF.: ***NIF.1, owner of the website: ***URL.1,

(hereinafter, "the person claimed"), by virtue of the claim filed by D.

B.B.B., (hereinafter, "the claimant"), for alleged violation of the regulations

is about data protection, and attending to the following:

BACKGROUND

FIRST: On 04/17/20, the claimant sent this Agency a letter, in which

indicated: "Without providing any information, I came across the publication of my name in

an opinion of one of the establishments advertised on the web, as

you can see in this link: ***URL.2. I contacted them via email ***EMAIL.1

provided on the privacy policy page of its website, in October 2019 and this

same month with the purpose of removing my personal data from their website, but I have not

received any response from the company.

SECOND: Dated 12/07/20 by the Director of the Spanish Agency for

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

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

3/2018, of December 5, on the Protection of Personal Data and guarantee of the

digital rights (LPDGDD), considering that the response given by the respondent to

this Agency in relation to the claimed facts does not prove its submission to the

current legislation

THIRD: On 12/07/20, by this Agency, a printout of the

Complained URL, ***URL.2, noting that the comment indicated by the complainant

along with his name and surnames had been removed as requested by the

claimant.

FOURTH: On 02/15/21, the Director of the Spanish Agency for the Protection of Data agreed to open a sanctioning procedure for non-compliance with the provisions of the article 6.1 of the RGPD with a sanction of “warning”, regarding the treatment unlawful use of the claimant's personal data.

SIXTH: Once the initiation agreement has been notified, the claimed person has not received any written statement of allegations at the initiation of the file, in the period granted to the effect.

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

1.- According to the claimant, he was aware that his personal data they were included in a publication posted on the website of the defendant. But

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contacted them in order to remove the personal data from their page, not

You have not yet received any response to your request.

2.- On the part of this Agency, it was verified that, in the URL of the web, indicated by the complainant, that the indicated comment had been removed as requested by the claimant.

FOUNDATIONS OF LAW

Is competent to resolve this Sanctioning Procedure, the Director of the Spanish Agency for Data Protection, by virtue of the powers that article 58.2 of the

Regulation (EU) 2016/679, of the European Parliament and of the Council, of 04/27/16, regarding the Protection of Natural Persons with regard to the Treatment of Personal Data and the Free Circulation of these Data (RGPD) recognizes each Control Authority and, as established in arts. 47, 64.2 and 68.1 of the Law Organic 3/2018, of December 5, on the Protection of Personal Data and Guarantee of Digital Rights (LOPDGDD).

The General Data Protection Regulation deals in article 5 with the principles that must govern the processing of personal data and mentions among them that of "legality, loyalty and transparency". The precept provides: "1. The data will be: a) Treated lawfully, loyally and transparently with the interested party;"

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II

For its part, article 6 of the RGPD, "Legality of the treatment", details in its section 1 the cases in which the processing of third party data is considered lawful.

In the present case, there is evidence that the requested person violated the article 6.1) of the RGPD, since it processed the personal data of the claimant, publishing them on the web page, ***URL.2 of its ownership, without legitimate cause your treatment.

For its part, article 72.1.b) of the LOPDGDD considers it very serious, for the purposes of prescription, "The processing of personal data without the concurrence of any of the conditions of legality of the treatment established in article 6 of the RGPD".

This infraction can be sanctioned with a maximum fine of €20,000,000 or, in the case of a company, an amount equivalent to a maximum of 4% of the global total annual turnover of the previous financial year, opting for the of greater amount, in accordance with article 83.5.b) of the RGPD.

However, Article 58.2) of the RGPD provides that: "Each supervisory authority

will have all the following corrective powers indicated below: b)

sanction any person responsible or in charge of the treatment with a warning when treatment operations have violated the provisions of this

Regulation; (...); i) impose an administrative fine pursuant to Article 83,

in addition to or instead of the measures mentioned in this section, depending on the circumstances of each particular case”, therefore, the sanction corresponds in the

This case is a “warning” case.

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In accordance with the foregoing, by the Director of the Spanish Agency for

Data Protection,

RESOLVE

NOTICE: to D. A.A.A., with NIF.: ***NIF.1, owner of the website: ***URL.1 by in-

section of article 6.1 of the RGPD, regarding the illicit treatment of data

personal information of the claimant, during the time they were on the web page of their ownership.

NOTIFY: this resolution to D. 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-
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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