

□ Procedure No.: PS/00288/2021

RESOLUTION OF PUNISHMENT PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection and based on
to the following

BACKGROUND

FIRST: On 12/03/2020, it had entry in this Spanish Agency of
Data Protection a document presented by A.A.A. (hereinafter, the claimant),
assuming its representation UPPER CONSULTING S.L. with NIF B18775577,
through which you formulate a claim against the entity CANARIAS PERSONAL
COMPUTING S.L. with NIF B38804092 (hereinafter, the claimed one), for lacking the
website <http://www.naperfectchemical.eu> of the corresponding policy of
privacy.

The claim indicates the following, in relation to the matter of protection of
data:

"The aforementioned website does not have a privacy policy, or legal notice, nor is it specified
the treatment of the data collected in the contact form. Does not indicate address
contact. It is not identified whether it is a legal person or not, although it refers to
branches in Portugal, Chile, Madrid, Alicante and the Canary Islands. Report a phone
mobile contact ***TELEPHONE.1".

SECOND: Prior to admitting this claim for processing, the

The Agency transferred it to the respondent on 01/22/2021, in accordance with the
provided in article 65.4 of Organic Law 3/2018, of December 5, of
Protection of Personal Data and guarantee of digital rights (hereinafter,
LOPDGDD).

The request for information on the facts revealed could not be

notified to the respondent after two attempts. The first of these took place at through the Electronic Notifications Service, being rejected on the date 02/02/2021 once the established period of ten days has elapsed; and the second sent through the Postal Service, being "Returned to origin by address incorrect" on 02/08/2021.

THIRD: On 07/09/2021, the Director of the Spanish Protection Agency of Data agreed to initiate a sanctioning procedure against the claimed party, in accordance with provided in articles 63 and 64 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP), for the alleged infringement of article 13 of the RGPD, typified in article 83.5 b) of the GDPR.

FOURTH: Having been notified of the aforementioned initiation agreement, the respondent submitted a written allegations dated 07/12/2021 in which, in summary, it states that "The registration of domain naperfectchemical.com and naperfectchemical.eu was made on November 17 of 2020 by the company Canarias Personal Computing, S.L. , being mere C/ Jorge Juan, 6

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intermediary of NA Perfect Chemical Company, S.L., which at that time was was in the process of constitution, being already in February 2021 when it obtains Definitive CIF with number B42737346. This page is under development. construction and transferred to the legal department for the preparation of the aforementioned privacy policies, being in development, said page has not been advertised, nor promoted abroad, ONLY AND EXCLUSIVELY has been published

to test its operation, for internal proof of concept use. Currently

the website is NOT published waiting for the aforementioned information".

For all these reasons, the defendant in her allegations requests "the procedure be archived

Therefore, we consider that this complaint is due to interests contrary to the

company NA Perfect Chemical Company S.L. which I do NOT represent."

In view of everything that has been done, by the Spanish Data Protection Agency

In this proceeding, the following are considered proven facts:

FACTS

FIRST: On 12/03/2020, it entered this Spanish Agency for the Protection of

Data a document in which the claimant stated that the website

<http://www.naperfectchemical.eu> has no privacy policy.

SECOND: On 07/12/2021, the agreement to start this

sanctioning procedure to the claimed, presenting that same day written of

allegations in which it states what is indicated in the section "Facts", fourth

point of this resolution.

THIRD: Currently, when accessing the website, you can see what

following: "We are under construction. Sorry for the disturbances. Currently, in our

website is under construction. We appreciate your understanding". Therefore, do not

It supposes an infringement of article 13 of the RGPD because in said web page it is not

collect personal data.

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 arts. 47 and 48.1 of the LOPDGDD, the Director of

The Spanish Agency for Data Protection is competent to resolve this

process.

The defendant was charged with the commission of an infraction for violation of article 13 of the RGPD, considering you the owner of the website <https://www.naperfectchemical.eu>, the which breached the data protection regulations by lacking a privacy policy.

privacy. The aforementioned provision states that:

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"1. When personal data relating to him is obtained from an interested party, the responsible for the treatment, at the time these are obtained, will provide

all the information indicated below:

a) the identity and contact details of the person in charge and, where appropriate, of their representative. presenter;

b) the contact details of the data protection delegate, if any;

c) the purposes of the treatment to which the personal data is destined and the legal basis treatment schedule;

d) when the treatment is based on article 6, paragraph 1, letter f), the interests legitimate ses of the person in charge or of a third party;

e) the recipients or categories of recipients of the personal data, in your case;

f) where appropriate, the intention of the controller to transfer personal data to a third country or international organization and the existence or absence of a decision adequacy assessment by the Commission, or, in the case of transfers indicated in articles 46 or 47 or article 49, paragraph 1, second paragraph, reference

lack of adequate or appropriate safeguards and means of obtaining

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 not

possible, the criteria used to determine this period;

b) the existence of the right to request from the data controller access

to the personal data related 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

cho to data portability;

c) when the treatment is based on article 6, paragraph 1, letter a), or the

Article 9, paragraph 2, letter a), the existence of the right to withdraw consent

at any time, without affecting the legality of the treatment based on

sado in the consent prior to its withdrawal;

d) the right to file a claim with a supervisory authority;

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 obligated

to provide personal data and is informed of the possible consequences

acknowledgments that you do not provide such data;

f) the existence of automated decisions, including profiling, to

referred to in article 22, sections 1 and 4, and, at least in such cases, inform

significant information about applied logic, as well as the importance and con-

planned sequences of said treatment for the interested party.

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3. When the data controller plans the further processing of personal data personal data for a purpose other than that for which they were collected, will provide the received, prior to such further processing, information about that other purpose and any additional relevant information pursuant to paragraph 2.

4. The provisions of sections 1, 2 and 3 shall not apply when and to the extent measure in which the interested party already has the information.”

The infringement is typified in article 83.5 b) of the RGPD and is classified as very serious in Article 72.1 h) of the LOPDGDD.

III

At the time this claim was filed, the content was accessible of the website <https://www.naperfectchemical.eu> without having the corresponding privacy policy or equivalent document. The website put available to users a contact form through which it was collected as mandatory personal data name and email. In this regard, it should be noted that both the email address to which the aforementioned form should be sent and other means of contact (for example, LinkedIn or Facebook), also refer to NA Perfect Chemical, at no time do they mention the claimed one. for what i know understands that the defendant lacks passive standing in this case. It should be noted that the content of the website cannot currently be accessed and, therefore, no personal data is collected.

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

Spanish Data Protection RESOLVES:

FIRST: FILE procedure PS/00288/2021, initiated to the entity

CANARIAS PERSONAL COMPUTING S.L., with NIF B38804092, without the need for

formulate a resolution proposal, in accordance with article 89 of the LPACAP.

SECOND: NOTIFY this resolution to the claimant and the respondent.

In accordance with the provisions of article 50 of the LOPDGDD, this

Resolution 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

LOPDGDD, 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

counting from the day following the notification of this resolution or directly

contentious-administrative appeal before the Contentious-Administrative Chamber of the

National Court, in accordance with the provisions of article 25 and section 5 of

the fourth additional provision of Law 29/1998, of July 13, regulating the

Contentious-administrative jurisdiction, within a period of two months from the

day following the notification of this act, as provided in article 46.1 of the

aforementioned Law.

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Sea Spain Marti

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