

Procedure No.: PS/00018/2019

938-0419

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: On September 15, 2018 Mr. A.A.A., (hereinafter, the
claimant), filed two claims with the Spanish Protection Agency
of Data against the PARAULA Association. CENTER OF LINGUISTIC SERVICES OF
LES ILLES BALEARS, (hereinafter PARAULA or the claimed party), for collecting data
personal information of users through the forms on the web pages

***URL.1 and ***URL.2 without offering them the information required in the
Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27,
2016.

SECOND: Upon receipt of the claim, the Subdirector General for
Data Inspection proceeded, on October 16, 2018, to transfer said
claim through the State Post and Telegraph Society, S.A. to the domicile of
claimed site at ***ADDRESS.1 of Palma, being returned by unknown with
date October 22, 2018.

On December 27, 2018, the admission for processing of the
said claim.

THIRD: In view of the facts presented by the claimant, the Subdirector
General Data Inspection proceeded to carry out preliminary actions of
investigation to clarify the facts in question, by virtue of the
investigative powers granted to the control authorities in article 57.1 of the

Regulation (EU) 2016/679 (General Data Protection Regulation, hereinafter RGPD), and in accordance with the provisions of Title VII, Chapter I, Section second, of Organic Law 3/2018, of December 5, on Data Protection Personal and guarantee of digital rights (hereinafter LOPDGDD), the result of which became aware of the facts outlined below:

3.1 On the occasion of the access made to the website ***URL.1 on the 13th of February 2019 the following facts are verified:

3.1.1 That it has a "Subscription to the Bits de Paraula Newsletter" form, in which the user is requested to provide their email address, Name and surname.

Under which appears in Catalan the following informative legend that has been translated into Spanish, an operation that has also been carried out with the other texts transcribed in this resolution from the web pages under analysis: "Your personal data will be incorporated into a file of the association Word. Center Language Services of the Balearic Islands. To exercise your access rights, www.aepd.es

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28001 – Madrid

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2/17

rectification and cancellation, you can send an email to ***EMAIL.1 with the bulletin issue." Then the text "I have read the conditions and the

I accept" accompanied by a blank box and a button with the text "Sign up". Plus

Below it is indicated "Fill in the requested data and click the [register] button to subscribe to the electronic newsletter.

3.1.2 That it also has a New "Enrollment" form for the Course

"Oral expression workshop March 2019", in which the user must provide, among other information related to the course to which you are registering, the following personal data: surnames, name, DNI/NIF/NIE/passport, year of birth, sex (completing male or female, as appropriate (autonomous community/country of birth, landline, mobile phone, email address, employment status (completing unemployment, work, student, others, as appropriate), studies attended, profession, Catalan speaker (completing Yes or No, as appropriate), Catalan title (indicating the one that corresponds to those offered), other titles of Catalan, student of a previous course (filling in Yes or No, as appropriate), course previous.

The following information appears under the form:

"Your contact information may be used to send you information about the training offer and other activities that we think may interest you. But If you wish to receive information, please indicate in the following box:" blank box next to which appears "I am not interested in receiving more information"

"Your personal data will be incorporated into a file of the Word association.

Center of Linguistic Services of the Balearic Islands to manage actions training, and may be communicated to the entity promoting the action to Monitor attendance and participation. You must fill in all the fields so that registration can be completed. At the end of the training action, your data will be transferred to form part of the historical archive of the association and will be treated for statistical and historical. To exercise your rights of access, rectification and cancellation, you can write, in writing, to Paraula.CSL, at its address in the ***ADDRESS.2 Palma, Balearic Islands. ". Further down, a blank box appears along with the text "I accept the conditions".

3.2 On the occasion of the access made to the website ***URL.2 on the 13th of

February 2019 the following facts are verified

3.2.1 That it has a “Catalan Volunteer Registration” form

Parlante” in which the user is requested to provide, among others, the following

personal data: Required fields: NIF/NIE/Passport, name, surnames,

address, landline, mobile phone, email, year of birth, gender.

Non-mandatory fields: municipality, postal code, place of birth, language

mother tongue, other languages spoken, professional activity, topics of interest. (a select).

The following information appears under the form:

“Your personal data will be incorporated into a file of the Word Association,

Center of Linguistic Services of the Balearic Islands to manage actions

training, and may be communicated to the entity promoting the action to

Monitor attendance and participation. You must fill in the fields marked with

an asterisk (*) so that the registration can be formalized. At the end of the action

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3/17

training, your data will become part of the historical archive of the association and

will be treated for statistical and historical purposes. To exercise your rights to

access, rectification and cancellation, you can write, in writing, to Paraula.CSL, at its

address at ***ADDRESS.2 Palma. Balearic Islands.”

3.2.2 That it has a “Apprentice Volunteer Registration” form in the

that the user is requested to provide the same personal data indicated in

point 3.2.1 above. Under this form appears the same informative legend that

It has been transcribed in the previous point.

FOURTH: Consulted on February 13, 2019, the application that manages the history of sanctions and previous warnings in terms of protection of data, it is verified that there are no previous records associated with the claimed, for violation of data protection regulations.

FIFTH: On March 21, 2019, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against the claimant, with in accordance with the provisions of articles 58.2.b) of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, regarding the protection of individuals with regard to the processing of personal data and the free circulation of these data (General Data Protection Regulation, (hereinafter RGPD), and 63 and 64 of Law 39/2015, of October 1, of the Procedure Common Administrative of Public Administrations (hereinafter, LPACAP), by the alleged infringement of article 13 of the RGPD, typified in article 83.5 of the RGPD. Said act was notified to the respondent on March 27, In said agreement, it was stated, in accordance with the provisions of article 58.2.d) of the RGPD, the corrective measure that could be imposed on the claimant in the resolution to be adopted in the procedure in case the existence of the infraction, as well as the term that would be granted for its fulfillment and justification of the same.

2019.

SIXTH: On April 10, 2019, a written entry is registered in this Agency of allegations of the legal representative of PARAULA, pointing out that they had initiated the necessary measures so that, within the framework of the collection processes of personal data, users are provided with all the information required in article 13 of the GDPR.

In order to justify said update, I attached: printout of the "Privacy Policy" Web Privacy" that was recorded as updated in April 2019; texts of the informative clauses to include in the web forms used, distinguishing between them these were online registration forms or volunteer forms linguistic; and texts with the information on privacy to include in the "Mail of Confirmation of registration" in the platform "Aula Virtual Moodle" of Paraula and in the "Enrollment Confirmation Clause" in training programs and language volunteering.

The clause provided as corresponding to the "Registration Form in Line" had the following text: "Basic information on privacy: The person in charge of the treatment is Paraula, Center of Linguistic Services of the Balearic Islands. The purpose of the treatment is the management of your request for online registration to the Training offers to prepare the oral exam for the official Catalan tests.

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28001 – Madrid

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4/17

You have the right to access, rectify and delete the data, as well as other rights such as explained in our web privacy policy [Link]",

The clause provided as corresponding to the "Volunteering Form language" had the following text: "Basic information on privacy: The responsible for the treatment is Paraula, Center for Linguistic Services of the Islands Balearics. The purpose of the treatment is to attend your request for registration to the language volunteer program You have the right to access, rectify and delete the data, as well as other rights as explained in our web privacy policy

[Link]",

On May 10, 2019, a new brief of allegations has been entered in
which reiterates the entity's reaction for the purpose of remedying the situation.

SIXTH: On September 26, 2019, the printing procedure is incorporated
capture of the following documentation, obtained on September 25 and 26
2019 when accessing the web pages [http://***URL.1](#) and [***URL.2](#):

6.1 "General Privacy Policy of the Web", updated in April 2019.

6.2 "Privacy Policy for Users", updated in May 2019.

In relation to these checks, it is found that the policy links
of general privacy of the web and for users that appear on the site [***URL.2](#)
direct to the documents of the same name published on the website [***URL.1](#).

6.3 Catalan-speaking Volunteer and Apprentice Volunteer Forms of the
website [***URL.2](#).

It was not possible to access any online forms on the website
[***URL.1](#) because registration for the courses offered is closed.

In order not to repeat the information obtained in these accesses,
observes that in the Fifth Proven Fact the information collected in relation to
with the documents detailed in this Antecedent.

SEVENTH: On September 26, 2019, it is verified that through the second
result obtained in the Google Chrome search engine by entering as text of
search "Subscription to the Bulletin Bits of Paraula.Cat", you access the form
"Subscription to the Bits de Paraula Newsletter" of the website [http://***URL.1](#), which presents
Content identical to that outlined in section 3.1.1. of the Third Antecedent of this
resolution.

PROVEN FACTS

FIRST: On September 15, 2018, they are registered at the AEPD

respective claims of the claimant against the PARAULA Association. CENTER OF SERVEIS LINGÜÍSTICS DE LES ILLES BALEARS, (hereinafter PARAULA or the claimed), for collecting personal data from users through the forms operating on the web pages ***URL.1 and ***URL.2 without providing them with the information required in the GDPR.

SECOND: The claimed party is responsible for the treatment carried out with the information obtained from users who fill in the web forms included in the sites

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5/17

web ***URL.1 and ***URL.2, both of its ownership, as well as the requests made via the web and by email.

THIRD: On February 13, 2019, the website ***URL.1 is accessed, verifying that you have the following forms:

provision of your email address, name and surname.

- Form for "Subscription to the Bits de Paraula Newsletter" requests the user to

Under said form the following informative legend appears: "Your data

Personal data will be incorporated into a Word association file. Center

Language Services of the Balearic Islands. To exercise your access rights,

rectification and cancellation, you can send an email to ***EMAIL.1 with the

bulletin issue." Then the text "I have read the conditions and the

I accept" accompanied by a blank box and a button with the text "Sign up". Plus

Below it is indicated "Fill in the requested data and click the [register] button to subscribe

to the electronic newsletter.

- New "Registration" Form for the Course "Oral Expression Workshop March of 2019 ", in which the user must provide, among other information related to the course to which you register, the following personal data: surnames, name, DNI/NIF/NIE/passport, year of birth, sex (filling in male or female, as appropriate (autonomous community/country of birth, landline, telephone mobile, email address, employment status (completing unemployment, work, student, others, as appropriate), studies completed, profession, Catalan speaker (filling in Yes or No, as appropriate), Degree in Catalan (indicating the one that corresponds to those offered), other Catalan qualifications, student of a previous course (filling in Yes or No, as appropriate), previous course.

Below the form, two informative legends appear in parallel. In one indicates: "Your contact information may be used to send you information about the training offer and other activities that we think may interest you. But If you wish to receive information, please indicate in the following box:" blank box next to which appears "I am not interested in receiving more information"

In the other legend it is reported: "Your personal data will be incorporated into a Word association file. Balearic Islands Language Services Center to manage training actions, and may be communicated to the promoting entity of action to control attendance and participation. You must fill in all fields so that the registration can be formalized. At the end of the training action, your data will become part of the historical archive of the association and will be treated for statistical and historical purposes. To exercise your access rights, rectification and cancellation, you can write, in writing, to Paraula.CSL, at your address from *** ADDRESS.2, Balearic Islands. ". Further down, a blank box appears along with the text "I accept the conditions".

FOURTH: On February 13, 2019, the website ***URL.2 is accessed,

verifying that you have the following forms:

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“Catalan Speaking Volunteer Registration” form in which the

requests the user to provide, among others, the following personal data:

Mandatory fields: NIF/NIE/Passport, name, surnames, address, landline,

mobile phone, email, year of birth, gender; Non-mandatory fields:

municipality, postal code, place of birth, mother tongue, other languages that

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6/17

speak, professional activity, topics of interest. (to select).

The following information appears under the form: “Your personal data is

incorporated into a file of the Word Association, Center for Linguistic Services

of the Balearic Islands to manage training actions, and may be communicated to

the entity promoting the action to control attendance and participation. There are

to fill in the fields marked with an asterisk (*) so that it can be formalized

the inscription. At the end of the training action, your data will become part of the

historical archive of the association and will be treated for statistical and historical purposes.

To exercise your rights of access, rectification and cancellation, you can contact, by

writing, to Paraula.CSL, to his address at ***ADDRESS.2 Palma. Balearic Islands.”

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"Apprentice Volunteer Registration" form in which the applicant is requested to

user the provision of the same personal data as those indicated in the

“Catalan Speaking Volunteer Registration” form, also being offered by the

claimed the same informative legend as in that form.

FIFTH: On September 25 and 26, 2019, the web pages are accessed

http://***URL.1 and ***URL.2, verifying:

- That the information accessible through the links to the "Privacy Policy"

general privacy of the Web" and the "Privacy Policy for users" of both

web pages is the same, leading in both cases to the one published on the website

***URL.1.

- That the "General Web Privacy Policy", updated in April

2019, contains information on the following aspects: 1. Who is the

responsible for the treatment of your data?; 2. What do we process your data for? A

Who can we communicate your data?; 4. Legal basis of the treatments; 5. How much

How long will we keep your data?; 6. What are your rights?

- That the "Privacy Policy for Users", updated in May 2019,

contains information related to the same aspects as those detailed in the "Policy

of general privacy of the Web", although with a different content.

- Catalan-speaking Volunteer and Apprentice Volunteer forms for the page

website ***URL.2.

It is verified that at the bottom of both forms it is noted: that before sending them

You must read the basic information on data protection below, which

The fields marked as mandatory are essential to be able to participate in the

process and that by pressing the send button it is stated that they have read this information.

Below that warning appears the following legend: "Basic information

About privacy: The data controller is Paraula Center de Serveis

Linguistics of the Balearic Islands. The purpose of the treatment is to meet your request for

enrollment in the linguistic volunteer program and, if authorized, the image and/or voice

captured during the development of the activities to which you have registered will be

processed for promotional and accreditation purposes of the activities of the Association. You have the right to access the data, rectify and delete them, and also other rights, as explained in our web privacy policy and in the policy privacy for users.

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28001 – Madrid

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7/17

Please indicate below your preference regarding the treatment of your personal data:", below this text appears a blank box accompanied by the following legend: "I authorize the Paraula Center of Linguistic Services of the Islands Balearic Islands to capture my image/voice for the purposes indicated with anteriority.

This consent is given protected by the provisions of the Regulation General Data Protection and Organic Law 1/1982, of May 5, on civil protection of the right to honor, to personal and family privacy and to one's own image" (The underlined text is from the AEPD and are links to said documents)

SIXTH: Dated September 26, 2019, through the Google search engine Chrome, you access the form "Subscription to the Bits de Paraula Newsletter" on the page web http://***URL.1 through the Google Chrome browser by entering as text of search "Subscription to Paraula.Cat's Bits Newsletter".

SEVENTH: In the accesses made on September 25 and 26, 2019 to the web pages cited, it has been verified that the "Privacy Policy for users" and the "Privacy Policy of the web" remain visible through links permanent.

FOUNDATIONS OF LAW

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By virtue of the powers that articles 55.1, 56.2 and 58.2 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 04/27/2016 regarding the protection of natural persons with regard to data processing personal information and the free circulation of these data, (hereinafter, RGPD), recognizes each control authority, and as established in articles 47 and 48.1 of the Law Organic 3/2018, of 5/12, on the Protection of Personal Data and guarantee of the digital rights, (hereinafter LOPDGDD), the director of the AEPD is competent to solve this procedure.

Article 63.2 of the LOPDGDD establishes that: "The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions regulations issued in its development and, as long as they do not contradict them, with a subsidiary, by the general rules on administrative procedures."

II

Article 4 of the GDPR Regulation, under the heading "Definitions", provides that: "For the purposes of this Regulation, the following shall be understood as:

- 1) "personal data": any information about an identified natural person or identifiable ("the interested party"); An identifiable natural person shall be deemed to be any person whose identity can be determined, directly or indirectly, in particular by an identifier, such as a name, an identification number, location, an online identifier or one or more elements of the identity physical, physiological, genetic, psychic, economic, cultural or social of said person;
- 2) "processing": any operation or set of operations carried out about personal data or sets of personal data, either by procedures

automated or not, such as the collection, registration, organization, structuring,

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28001 – Madrid

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8/17

conservation, adaptation or modification, extraction, consultation, use,

communication by transmission, broadcast or any other form of enabling of

access, collation or interconnection, limitation, suppression or destruction;”

“11) «consent of the interested party»: any manifestation of free will,

specific, informed and unequivocal by which the interested party accepts, either through

a statement or a clear affirmative action, the processing of personal data that

concern you;”

Therefore, in accordance with those definitions, the collection of data from

personal character through forms included in a web page constitutes a

data processing, in respect of which the data controller must give

compliance with the provisions of article 13 of the RGPD, a precept that has displaced

from May 25, 2018 to article 5 of Organic Law 15/1999, of May 13,

December, Protection of Personal Data.

III

The defendant is charged with the violation of the provisions of article 13 of the

RGPD, precept that regarding the Information that must be provided when the

personal data is obtained from the interested party” determines that:

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;
- b) the contact details of the data protection delegate, if applicable;
- c) the purposes of the treatment to which the personal data is destined and the basis legal treatment;
- d) when the treatment is based on article 6, paragraph 1, letter f), the legitimate interests 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 to adequacy of the Commission, or, in the case of transfers indicated in the Articles 46 or 47 or Article 49, paragraph 1, second paragraph, reference to the adequate or appropriate warranties and the means to obtain a copy of these or to the fact that they have been borrowed.

2. In addition to the information mentioned in section 1, the person responsible for the treatment will facilitate the interested party, at the moment in which the data is obtained personal, the following information necessary to guarantee data processing fair and transparent

- a) the period during which the personal data will be kept or, when not possible, the criteria used to determine this period;

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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 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 in any time, without affecting the legality of the treatment based on 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 obliged to provide personal data and is informed of the possible consequences of 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, information about applied logic, as well as the importance and consequences provisions of said treatment for the interested party.

3. When the person in charge of the treatment projects the subsequent treatment of personal data for a purpose other than that for which it was collected, will provide the interested party, prior to said further treatment, information for that other purpose and any additional information relevant to the meaning of paragraph 2.

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

For its part, article 12.1 of the RGPD, referring to the “Transparency of the information, communication and modalities of exercising the rights of the interested party”, sets the following:

"1. The person responsible for the treatment will take the appropriate measures to facilitate to the interested party all the information indicated in articles 13 and 14, as well as any communication pursuant to articles 15 to 22 and 34 relating to processing, in the form concise, transparent, intelligible and easily accessible, with clear and simple language, in particular any information directed specifically at a child. Information shall be provided in writing or by other means, including, if applicable, by When requested by the interested party, the information may be provided verbally provided that the identity of the interested party is proven by other means."

In turn, regarding the rights of "Transparency and information to the affected", sections 1 and 2 of article 11 of the LOPDGDD, establish that:

"1. When the personal data is obtained from the affected party, the person in charge of the treatment may comply with the duty of information established in the Article 13 of Regulation (EU) 2016/679 providing the affected party with basic information referred to in the following section and indicating an electronic address or other medium that allows easy and immediate access to the rest of the information.

2. The basic information referred to in the previous section must be contain at least:

a) The identity of the data controller and his representative, in his case.

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28001 – Madrid

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10/17

b) The purpose of the treatment.

c) The possibility of exercising the rights established in articles 15 to 22

of Regulation (EU) 2016/679.

If the data obtained from the affected party were to be processed for the preparation of profiles, the basic information will also include this circumstance. In this

In this case, the affected party must be informed of their right to oppose the adoption of automated individual decisions that produce legal effects on him or her significantly affect in a similar way, when this right concurs in accordance with the provisions of article 22 of Regulation (EU) 2016/679.”

IV

Sections b), d) and i) of article 58.2 of the RGD provide the following:

“2 Each supervisory authority shall have all of the following powers
corrections listed below:

(...)

b) sanction any person responsible or in charge of the treatment with
warning when the processing operations have violated the provisions of
this Regulation;”

(...)

“d) order the person responsible or in charge of the treatment that the operations of
treatment comply with the provisions of this Regulation, where appropriate,
in a specified manner and within a specified period;”

“i) impose an administrative fine in accordance with article 83, in addition to or in
instead of the measures mentioned in this paragraph, depending on the circumstances
of each particular case;

Article 83 of the RGD, under the heading “General conditions for the
imposition of administrative fines”, in its sections 2 and 5.b) states that:

“two. Administrative fines will be imposed, depending on the circumstances
of each individual case, in addition to or as a substitute for the measures contemplated

in article 58, paragraph 2, letters a) to h) and j). (...)

5. Violations of the following provisions will be sanctioned, in accordance with paragraph 2, with administrative fines of a maximum of EUR 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 largest amount:

(...)

b) the rights of the interested parties according to articles 12 to 22;”.

For its part, article 71 of the LOPDGDD establishes that "They constitute infractions the acts and behaviors referred to in sections 4, 5 and 6 of the Article 83 of Regulation (EU) 2016/679, as well as those that are contrary to the present organic law.”, providing in article 74.a) of said norm that “It is considered minor and will prescribe after a year the remaining infractions of a merely formal of the articles mentioned in paragraphs 4 and 5 of article 83 of Regulation (EU) 2016/679 and, in particular, the following:

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28001 – Madrid

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11/17

a)

Failure to comply with the principle of transparency of information or the right to information of the affected party for not providing all the information required by Articles 13 and 14 of Regulation (EU) 2016/679.”

v

In the present case, of the set of actions carried out on the occasion of the

processing of the procedure it is evident that, at least, until February 13, 2019, date on which the first of the accesses made to the websites was made studied, the respondent had not adapted the information offered on the websites of its ownership studied to the RGPD, a rule that was applicable from 25 May 2018.

As can be deduced from the third and fourth proven facts, in the mentioned access it was found that despite the fact that PARAULA collects data information of the interested parties who filled in the web forms of the sites studied, however the information offered at the bottom of the subscription form Paraula's "Bits" newsletter and the online registration forms included in the website ***URL.1, as well as in the linguistic volunteer forms included in the website ***URL.2, referred to the aspects contemplated in article 5 of the Organic Law 15/1999, of December 13, on the Protection of Character Data Staff. That is to say, that the claimed party, in his capacity as data controller did not offer the information that article 13 of the RGPD establishes must be provided, in the at the time of its collection, to the interested parties whose data is requested by that means. Having been notified of the agreement to initiate this proceeding, the respondent alleged have initiated the necessary steps to facilitate users in the processes of collection of personal data carried out on both web pages all the information required in article 13 of the RGPD.

To justify such a reaction to the facts notified in the resolution of beginning of the procedure received, the respondent attached wording of the following texts: printing of the "Web Privacy Policy" that was recorded as updated in April 2019; texts of the informative clauses to include in the web forms used, distinguishing between whether they were online registration forms or language volunteer forms; and texts with information on privacy to

include in the "Registration Confirmation Email" in the "Moodle Virtual Classroom" platform of Paraula and in the "Enrollment Confirmation Clause" in training programs and language volunteering.

As a result of the accesses made on September 25 and 26, 2019 to both websites, it has been verified, as reflected in the Fifth Proven Fact, that the claimed party offers information through the "General Privacy Policy of the Web" and the "Privacy Policy for users", these being the documents to those that refer the links contained in the legend of "Basic information on privacy" located at the foot of the two linguistic volunteer forms available on the website ***URL.2.

However, since registration for training courses or workshops is closed offered on the website ***URL.1, during these visits it was not possible verify the content of the basic information currently offered in the forms

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12/17

online registration to users who request to register in some of the training activities offered.

Nor has the form "Subscription to the Bits de Paraula Newsletter" been found.

cited in the Third Proven Fact, having also disappeared the tab "Bits de Paraula" in the header of the aforementioned website.

SAW

Based on the foregoing, it is clear that the respondent has modified the information offered in the "Privacy Policy for users" in order to adapt it to the

regulations currently in force. However, in view of the information contained in said document as well as in the "Privacy Policy of the general of the Web", it is estimated that the claimed party should complete the legend or clause of "Basic information about privacy" that is shown at the bottom of the forms of linguistic volunteering in order to give the pertinent information in order to collect a free, specific, informed and unequivocal consent of the users regarding of the purposes of the treatment whose legality or legal basis is protected in the consent of the interested parties.

The following information appears in the "Privacy Policy for Users" referring to the purposes of the treatment for which the personal data collected is intended of the users, the legal basis of the treatment and that relating to the recipients or the categories of recipients of personal data:

- In the point Why do we treat your data? of said document it is pointed out that the data of the users will be treated to carry out the management administrative and financial aspects of the relationship maintained with the person in charge of the treatment, the provision of the requested services, the fulfillment of the legal obligations and quality improvement, adding that during the development of linguistic volunteer programs, videos and/or reports will be made photographs that will be used for promotional and informative purposes and for justify the work developed by the association at the time of opting for the subsidies and public aid.

- In the point To whom can we communicate your data? of said document indicates that the material resulting from the videos and/or photographic reports will be disseminated mainly, although not limited to, on the website and profiles of Paraula Center de Serveis Lingüístics on social networks, such as Facebook, Instagram or Twitter. Adding that this audiovisual material will form part of the annual report of

Word Linguistic Services Center, to accredit the activities of the association.

- In the point "Legal basis of the treatments" of said document, it is informed users that the processing of their data is based on the management of the relationship contract with clients and users (art. 6.1.b) RGPD), compliance with the legal obligations (article 6.1.c) RGPD) and your legitimate interest in evaluating your services (article 6.1.f). At the same time it is specified that the uptake or subsequent dissemination of your image and/or voice is based on your consent, expressed in the time to formalize the registration in the language volunteer program correspondent.

On the other hand, as in the point Who is responsible for the treatment of your data?, of the "General Privacy Policy of the Web" it is reported that the data www.aepd.es

C/ Jorge Juan, 6

28001 – Madrid

sedeagpd.gob.es

13/17

treaties come both from the requests that are made on the Web or from those that are receive by email as well as of the completed forms, it has to be taken in consideration what is indicated in the point Why do we treat your data? of said document. At this point it is indicated that the data of the users will be treated, as well as for the functions of management and administration of requests, accounts of user, Web security and compliance with legal obligations, to incorporate them into the historical archive of the Association for statistical purposes after to end once the relationship has ended.

The aforementioned leads to indicate that in the "Privacy Policy

of the Web” the respondent does not report on the weighting made for determine that the specific legitimate interests pursued with such treatment with Statistical purposes take precedence over the interests or rights and freedoms of the interested parties that require the protection of personal data, thus breaching the requirement set out in article 13.1.d) of the RGD, precept which must be related to the provisions of article 6.1.f) of the RGD. In Congruence with this reasoning, in the "Privacy Policy for users" you must find out about the statistical purposes for which the data from the forms with an expression of the weighting carried out in relation to that specific treatment that the claimed protects in the legitimate interest.

However, in the “Basic information on privacy” clause that appears

At the bottom of the linguistic volunteer forms it is stated that: “The person in charge of the treatment is Paraula Center de Serveis Lingüístics of the Balearic Islands. Purpose of the treatment is to attend to your application for enrollment in the volunteer program language and, if authorized, the image and/or voice captured during the development of the activities to which you have registered will be treated for promotional purposes and accrediting the activities of the Association. You have the right to access the data, rectify and delete them, and also other rights, as explained in our web privacy policy and in the privacy policy for users.

Please indicate below your preference regarding the treatment of your personal data:”, below this text appears a blank box accompanied by by the following legend: “I authorize the Paraula Center of Linguistic Services of the Islands Balearic Islands to capture my image/voice for the purposes indicated with anteriority.

This consent is given protected by the provisions of the Regulation General Data Protection and Organic Law 1/1982, of May 5, on

civil protection of the right to honor, to personal and family privacy and to one's own image" (The underlined text is from the AEPD and are links to said documents)

In other words, said legend does not specify that the data obtained via form are also used for statistical purposes, as can be seen from the "General Privacy Policy of the Web" in which said purpose is indicated in relation to the data processed, among which are cited, as already indicated, those from the forms.

Likewise, said legend does not state that the image and/or voice of the users collected in the videos and/or photographic reports will be disseminated on the web and in the profiles of the Association in social networks for promotional purposes, nor is it specifies that this audiovisual material will be used to qualify for subsidies and public aid and will be included in the annual report of the Association to accredit its activities, notwithstanding that such information is necessary for the purposes of www.aepd.es

C/ Jorge Juan, 6

28001 – Madrid

sedeagpd.gob.es

14/17

obtain validly granted consent for promotional purposes and accrediting the activities of the claimed. In this regard, it is recalled the definition of consent of article 4.11 of the RGD previously transcribed and provided regarding the "Legality of the treatment" in article 6.1 a) of the RGD, provision that establishes that: "1. The treatment will only be lawful if at least one of the following conditions: a) the interested party gave his consent for the processing of your personal data for one or more specific purposes;

In accordance with which, the respondent must establish a mechanism

that allows interested parties to give their unequivocal and informed consent to the use of your personal data in granular form, that is, through a clear action positive with respect to each of the specific purposes of the treatment whose basis legal basis is based on the consent of the interested party, in this case, for the Treatments with promotional and accreditation purposes of the activities of the Association.

At the same time, given that in the "General Web Privacy Policy" it is states that part of the data processed comes from the forms that they fill out users, you must inform yourself about the promotional purposes and accreditation for which the voice and/or image data of the users who have completed the volunteer forms and on the legal basis of the consent of their holders that protects this type of treatment. In Consequently, the respondent must offer in the "General Privacy Policy of the Web" the information previously outlined to comply with what is required in the article 13 of the RGD. As a possible solution to the situation described, the defendant could include, precisely next to the place in said document in which the use of personal information from the forms, a hyperlink that would allow users to access the information contained in the "Privacy Policy". Privacy for users", which is remembered must be modified in order to respond to the observations made in this legal basis, without prejudice to the establishment by the respondent of any other mechanism that allows complete the indicated information.

On the other hand, the respondent is reminded that in the event that he continues collecting personal data from users who enroll in courses training offered on the website ***URL.1 must adopt the necessary measures to adapt the information offered to them at the time of obtaining it to

the requirements contemplated in article 13 of the RGPD.

7th

From the exposed facts, it can be deduced that the defendant has violated the duty of information that is required in its capacity as responsible for the treatment analyzed, since it is proven that as of February 13, 2019 collects personal data from users who filled in the forms included in the two websites studied without providing them, at the time of their collection, the information provided for in article 13 of the RGPD, regulations on of data protection that was applicable from May 25, 2018.

Therefore, and without prejudice to the changes introduced by the respondent for rectify said irregular situation described, which has already been reasoned continues occurring as long as the respondent has not adapted the information offered in www.aepd.es

C/ Jorge Juan, 6

28001 – Madrid

sedeagpd.gob.es

15/17

the websites outlined in all aspects required in article 13 of the RGPD, are evidence that PARAULA is responsible for the violation of the provisions of the article 13 of the RGPD in its relationship with the provisions of article 11 of the LOPDGDD, typified in article 83.5.b) of the RGPD, and classified as mild for the purposes of prescription in article 74.a) of the LOPDGDD.

viii

In the present case, it is considered appropriate to propose the imposition of the penalty of warning provided for in article 58.2.b) of the RGPD in view of the following circumstances: the principal activity of the respondent is not

linked to the usual processing of personal data, the absence of intentionality in the offending conduct given that, without prejudice to the existence of the commission of the infraction, the defendant has acted as quickly as possible to adopt measures tending to correct the irregular situation studied, to which adds that the imposition of an administrative fine would constitute a burden disproportionate for PARAULA, an entity that is not aware of the commission of no previous breach of data protection.

Confirmed the existence of the described infraction, and in view of the irregularities observed in relation to the aspects indicated in the Basis of Law VI, in accordance with the provisions of the aforementioned article 58.2.d) of the RGPD, considers appropriate to propose ordering the defendant, as responsible for the treatment,

carry out the necessary actions (technical measures and organizational) so that the treatment operations comply with the provisions of article 13 of the RGPD, and must provide users, at the time they are obtain said data from those affected, all the information required in the cited precept, for which you must take into account the provisions of article 6 of the RGPD in relation to the legality of the treatment.

The respondent is informed that said measures will have to be adopted in the period of ONE MONTH, computed from the date on which this sanctioning resolution, having to prove compliance within the same period by providing documentation, or any other means of proof valid in right, which allows verifying the adequacy to the RGPD of the information offered in the websites studied to the right of information of the interested parties whose data is require via form.

It is noted that section 6 of article 83 of the RGPD, establishes that “6. The

Failure to comply with the resolutions of the supervisory authority pursuant to article 58, paragraph 2, will be sanctioned in accordance with paragraph 2 of this article with administrative fines of a maximum of EUR 20,000,000 or, in the case of a company, of an amount equivalent to a maximum of 4% of the turnover global annual total of the previous financial year, opting for the highest amount.”

Article 72.1.m) provides that: “1. According to what the article establishes 83.5 of Regulation (EU) 2016/679 are considered very serious and will prescribe to three years the infractions that suppose a substantial violation of the articles mentioned therein and, in particular, the following: (...)

m) Failure to comply with the resolutions issued by the authority of competent data protection in exercise of the powers conferred by article 58.2 of Regulation (EU) 2016/679.”

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

16/17

Therefore, in accordance with the applicable legislation and valued the concurrent circumstances

The Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE PARULA. CENTER OF SERVEIS LINGÜISTICS DE LES ILLES BALEARS, with NIF G57027534, in accordance with the provisions of article 58.2.b) of the RGPD, a sanction of WARNING for violation of the provisions of the article 13 of the RGPD, typified in article 83.5.b) RGPD.

SECOND: ORDER PARULA. CENTER OF SERVEIS LINGÜISTICS DE LES ILLES BALEARS, with NIF G57027534, under the provisions of article 58.2.d)

of the RGPD, the adoption and implementation of the necessary measures to adapt in the information offered in the "Privacy Policy" documents in its entirety General Web" and "Privacy Policy for users" shown in the two websites studied, as well as the information provided at the bottom of the forms web of data collection used in said web pages, to the requirements contemplated in article 13 of the RGPD, in particular, to the aspects of said precept detailed in the Legal Basis VI of this resolution.

The claimed party must accredit before this Agency the completion of the ordered by means of any legally valid proof within ONE MONTH, count from the day following the notification of this resolution.

THIRD: NOTIFY this resolution to PARAULA.CENTER DE SERVEIS LINGUISTICS DE LES ILLES BALEARS, with NIF G57027534.

In accordance with the provisions of article 50 of the LOPDPGDD, 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 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

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.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP,

may provisionally suspend the firm resolution in administrative proceedings if the

The interested party expresses his intention to file a contentious-administrative appeal.

If this is the case, the interested party must formally communicate this fact by

writing addressed to the Spanish Agency for Data Protection, presenting it through

Electronic Register of the Agency [<https://sedeagpd.gob.es/sede-electronica->

web/], or through any of the other registers provided for in art. 16.4 of the

aforementioned Law 39/2015, of October 1. You must also transfer to the Agency the

documentation proving the effective filing of the contentious appeal-

www.aepd.es

C/ Jorge Juan, 6

28001 – Madrid

sedeagpd.gob.es

17/17

administrative. If the Agency was not aware of the filing of the appeal

contentious-administrative within a period of two months from the day following the

notification of this resolution would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

C/ Jorge Juan, 6

28001 – Madrid

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