

Summary Final Decision Art 60

Complaint

Administrative fine, Compliance order

EDPBI:ES:OSS:D:2021:263

Background information

Date of final decision:	1 July 2021
Date of broadcast:	3 August 2021
LSA:	ES
CSAs:	DE-BE, DE-MV, DE-NW, DE-SL, DE-SN, DE-RP, FR, IT, NO
Legal Reference:	Principles relating to processing of personal data (Article 5), Lawfulness of processing (Article 6), Right to transparent information, communication and modalities for the exercise of right of the data subject (Article 12), Information to be provided where personal data are collected from the data subject (Article 13), Right to object (Article 21)
Decision:	Administrative fine, Compliance order
Key words:	E-commerce, Transparency, Principles relating to processing of personal data, Lawfulness of processing, Data subject rights, Right to be informed, Right to object

Summary of the Decision

Origin of the case

On 15 October 2018, a data subject residing in Germany lodged a complaint with the DE-BE SA against a website selling furniture and decorative accessories in Germany. This complaint alleged a lack of information on data protection and missing cookie warnings on the website, as well as the refusal by the company to issue an invoice unless buyers provide their tax identification number. As the company operating these websites was found to be established in Spain, the ES SA has been identified as the lead supervisory authority (LSA).

Findings

The LSA found that the privacy policy of the controller's website was difficult to read due to a large number of grammatical and spelling errors, and that its structure was confusing. As a result, the LSA found that the privacy policy violated Article 12 (1) GDPR with regard to the obligation to provide information to data subjects in a concise, transparent, intelligible and easily accessible form.

Additionally, several shortcomings were identified by the LSA as to the content of the controller's privacy policy, resulting in a violation of Article 13 GDPR (Information to be provided where personal data are collected from the data subject).

In particular, the LSA ruled that since the information concerning the right to object under Article 21 (1) GDPR is drafted in a confusing manner, this made it more difficult for data subjects to exercise their right to object to processing of their data for direct marketing purposes. As a result, an infringement of Article 21 (4) GDPR (Right to object) was found by the LSA.

Finally, the LSA considered that, as the complainant had the right to request a simplified invoice without being asked for an identification number to be issued, the controller infringed Article 6 (1) and, consequently, the principle laid down in Article 5 (1) (a) GDPR.

Decision

In view of the above, the LSA imposed to the controller an administrative fine of 6,000 euros for infringements of Articles 5(1)(c), 6(1), 12, 13 and 21 GDPR.

The controller was given three months to align its privacy policy with Articles 12 and 13 GDPR, as well as to stop requesting the customer's tax identification number unless it obtained a valid consent or it is required by law to process this data.