

□ Procedure No.: PS/00121/2020

938-300320

RESOLUTION OF PUNISHMENT PROCEDURE

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

FACTS

FIRST: MUNICIPAL POLICE OF ***LOCALITY.1 (*hereinafter, the claimant)

On March 5, 2020, he filed a claim with the Spanish Agency for

Data Protection. The claim is directed against A.A.A. with NIF ***NIF.1 (in

later, the claimed one). The grounds on which the claim is based are installation of

video-surveillance camera in the establishment without the informative poster conforming to
current legislation.

Together with the claim, it provides documentary evidence that proves that the cartel did not
indicates the data controller (Annex I).

SECOND: In view of the facts denounced in the claim and the documents

data provided by the claimant, the Subdirector General for Data Inspection pro-

yielded to carry out preliminary investigation actions for the clarification

of the facts in question, by virtue of the powers of investigation granted to the

control authorities in article 57.1 of Regulation (EU) 2016/679 (Regulation

General Data Protection, hereinafter RGPD), and in accordance with the provisions

ed in Title VII, Chapter I, Second Section, of Organic Law 3/2018, of 5

December, of Protection of Personal Data and guarantee of digital rights (in

hereinafter LOPDGDD).

As a result of the research actions carried out, it is confirmed

that the data controller is the claimed party.

THIRD: On June 16, 2020, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the claimant, for the alleged infringement of Article 5.1.c) of the RGPD, typified in Article 83.5 of the GDPR.

FOURTH: When the database of this organization was consulted on 07/13/20, no received any allegation in relation to the facts object of the complaint.

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 March 5, 2020, he filed a claim with the Agency

Spanish Data Protection, the Local Police (**LOCATION.1).

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The reasons on which the claim is based are the installation of a video camera-

Surveillance in the establishment without the informative poster complying with the law valid.

Second. It is identified as the main responsible A.A.A.

Third. It is proven that the defendant has a camera system in

the establishment it runs, which does not have an informative sign in a visible area.

It is confirmed by the documentary evidence provided (photographs No. 1 and two).

Fourth. The respondent does not have an informative form(s) available to the customers who may require it.

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By virtue of the powers that article 58.2 of the RGPD recognizes to each authority control, and according to the provisions of articles 47 and 48 of the LOPDGDD, the Director of the Spanish Agency for Data Protection is competent to initiate and to solve this procedure.

II

In the present case, the claim dated 03/05/20 is analyzed by me-
gave from which the following is transferred:

“Installation of a video-surveillance camera without the informative poster adjusting to current legislation” (folio No. 1).

Article 22 section 4 of the LOPDGG provides the following:

“The duty of information provided for in article 12 of the Regulation (EU) 2016/679 will be understood to be fulfilled by placing an informative device in a sufficiently visible place identifying, at least, the existence of the treatment, the identity of the person in charge and the possibility of exercising the rights provided for in the Articles 15 to 22 of Regulation (EU) 2016/679. It may also be included in the informative site a connection code or internet address to this information.

In any case, the data controller must keep available to those affected the information referred to in the aforementioned regulation”.

This badge will be displayed in a visible place, and at least, at the entrances to the monitored areas whether indoors or outdoors. In the event that the video-monitored space has several entrances, it must have said video surveillance zone badge.
gives in each of them.

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Likewise, the rest of the information will also be made available to interested parties.

training that must be provided to those affected in compliance with the right to information
mation regulated in the RGPD.

Article 13 RGPD provides that when the data is obtained from the interested party,

You must be informed by the person in charge, as well as in your case of the purpose of the treatment,
complying with this obligation with the express mention on the informative poster placed
than in your establishment.

You must also have form(s) available to customers who may
should require it, having to show it to the State Security Forces and Corps.
do in case of inspection of the establishment.

III

In accordance with the evidence available in this proceeding,
sanctioning procedure, it is considered that the defendant has an establishment,
provided with video-surveillance cameras, without the information poster being approved
to the regulations in force, indicating the person responsible for processing the data.

Article 77 section 5 of Law 39/2015 (October 1) provides the following:

"The documents formalized by the officials who are recognized as
of authority and in which, observing the corresponding legal requirements,
take the facts verified by those will prove them unless it is accredited
the opposite."

The acting force confirms the presence of the devices, as well as provides
documentary evidence (photographs No. 1-2) that prove the absence of information in the
signs installed in the establishment that runs.

The known facts constitute an infraction, attributable to the claimant.

mado, for violation of article 13 RGPD.

IV

Without prejudice to the provisions of article 83 of the RGPD, the aforementioned Regulation

has in its art. 58.2 b) the possibility of sanctioning with a warning, in relation

with what is stated in Considering 148:

“In the event of a minor offence, or if the fine likely to be imposed

would constitute a disproportionate burden for a natural person, rather than a sanction.

tion by means of a fine, a warning may be imposed. must, however, lend

special attention to the nature, seriousness and duration of the infringement, its character

intentional, to the measures taken to alleviate the damages suffered, to the degree

liability or any relevant prior violation, to the manner in which the authority

control authority has become aware of the infraction, compliance with measures

measures ordered against the person in charge or in charge, adherence to codes of con-

conduct and any other aggravating or mitigating circumstance.”

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The party denounced must prove that the system complies with the law.

in force (vgr. placement of a sign indicating the person responsible for the treatment) or in its

case, proceed to remove it from its current location, providing evidence

documentation for this purpose in both cases, indicating the current number of procedures

lie (PS/00121/2020).

In the event of a new complaint for the same "facts", it is brought to the attention of

of the defendant who may be affected by the opening of a new procedure

that could end with the imposition of a pecuniary fine.

Therefore, in accordance with the applicable legislation and having assessed the criteria for

graduation of sanctions whose existence has been proven,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE A.A.A., with NIF ***NIF.1, for an infraction of Article 13 of the

RGPD, typified in Article 83.5 a) of the RGPD, a sanction of Warning.

SECOND: NOTIFY this resolution to the accused party A.A.A. and

REPORT the result of the actions to the MUNICIPAL POLICE OF

***LOCATION.1

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

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 period of

month 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.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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