

□ Procedure No.: PS/00030/2020

938-300320

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### FACTS

CIVIL GUARD - POSITION \*\*\*LOCATION.1 (\*hereinafter, the

FIRST:

claimant) dated December 17, 2019 filed a claim with the Agency

Spanish Data Protection. The claim is directed against Don A.A.A. with NIF

\*\*\*NIF.1 (hereinafter, the claimed one).

The grounds on which the claim is based are "installation of a

video-surveillance cameras, without having the mandatory information poster indicating the  
responsible" (folio nº 1).

"The bar called \*\*\*BAR.1 in the town of \*\*\*LOCALIDAD.1 has

a video-surveillance system that taxes the parking of the aforementioned premises, lacking  
of authorization for the installation...as well as of signage for the cancellation and  
rectification of personal data"-Official 09/12/19--

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 March 19, 2020, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against the defendant, with glo to the provisions of articles 63 and 64 of Law 39/2015, of October 1, of the Pro-Common Administrative Procedure of Public Administrations (hereinafter, LPA-CAP), for the alleged infringement of article 12 of the RGPD, typified in Article 83.5 of the GDPR.

FOURTH: Having been notified of the aforementioned initiation agreement, the respondent submitted a written pleadings in which, in summary, it stated the following:

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“...the only cameras that exist are those of the security system

DIRECT SECURITIES Cameras that only take pictures if the camera is triggered alarm and detect the presence of intruders.

The establishment does not have a video-surveillance system but rather a intrusion detection system connected to a monitoring station...with remote access to the image in case of tripping the alarm...

The service is provided by this security company and with it, the implications in matter of data protection, in this case for the installation and/or maintenance of equipment and intrusion detection systems with the use of equipment or

access to images.

Ultimately, the security company determines the purposes and means of

treatment of said personal data for the provision of the service to which it is obliged.

In accordance with what was stated and taking into account that in the establishment

that I manage there are two cameras that can be shot and capture images of

one person, including an informative poster of the system with all the requirements and

being the implanted system, in terms of personal data, responsible

of the treatment the security company, it would be the one in charge of implementing everything

regarding data protection (...).

Therefore, I understand that I have not violated any provision of the RGPD

(...).

FIFTH: Attached as an annex is a list of documents in the

procedure, remembering the full availability of the administrative file.

Of the actions carried out in this procedure and the documentation

in the file, the following have been accredited:

#### PROVEN FACTS

First: On 12/17/19, this AEPD received a complaint from the Forces and

State Security Bodies through which it is transferred as a fact

main the following:

"Installation of a video-surveillance camera system, without having the

mandatory informative poster indicating the person in charge" (folio nº 1).

Second. It is accredited as the main responsible Mr. A.A.A.

Third. In the informative poster provided, the only thing that is stated is that it is

of a video-monitored area, capturing "Image recording" and the web page of

Securitas Direct.

Fourth. In the contract provided dated 04/21/17 signed between the parties

The following is stated "The activity of video-surveillance and/or photo-petition services is assumed by the CLIENT, being therefore the treatments images and/or

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sounds of your sole and exclusive responsibility by having the status of responsible of the video-surveillance file".

In the clauses of the same (Number 9 Rights on the installation) "It is list the following obligations related to data protection:

Locate informative signs that contain the following legend "Law

Organic 15/1999, Data Protection. VIDEO SURVEILLANCE zone and an express reference to the identification of the data controller before whom you can exercise your rights of access, rectification, cancellation and opposition"

"The CLIENT will have at the disposal of the interested parties printed in which detail the information provided for in article 5.1 of the LOPD (15/1999)" (\* bold belongs to this AEPD).

Fifth. The respondent does not have an informative form(s) available to customers in case of exercising the rights recognized in articles 15 to 22

GDPR

FOUNDATIONS OF LAW

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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, we proceed to examine the Complaint sent by the Forces and

State Security Corps (Civil Guard-Puesto Sanabria-- ) through the

which is transferred as the main fact:

“Installation of a video-surveillance camera system, without having the mandatory informative poster indicating the person in charge” (folio nº 1).

“The bar called \*\*\*BAR.1 in the locality \*\*\*LOCALIDAD.1, has a video-surveillance system that taxes the parking of the aforementioned premises, lacking authorization for the installation of these cameras as well as posters for the cancellation and rectification of personal data”

It should be noted that individuals can install video-surveillance systems, although they are responsible for them to comply with current legislation.

Surveillance cameras may make recordings limited to what is necessary, the perimeter and some reasonable points, applying the principle of proportionality, it is

In other words, only the truly relevant areas for the purpose will be recorded.

wanted.

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Article 22 section 4 LOPDGDD (LO 3/2018, December 5) provides the following:

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.

A connection code or address may also be included in the information device.

from the internet to this information. In any case, the data controller must

Keep the information referred to in the aforementioned regulation available to those affected.

glament”.

The facts described above may affect the content

do of article 12 RGPD, since it does not inform the clients of the establishment that

manager of the purpose (s) of the treatment, nor of the person in charge of the same or the way of exercising the rights recognized in articles 15-22 RGPD.

“The person responsible for the treatment will take the appropriate measures to facilitate the

interested all information indicated in articles 13 and 14, as well as any co-

communication under articles 15 to 22 and 34 relating to treatment, in the form

concise, transparent, intelligible and easily accessible, with clear and simple language, in

particular any information directed specifically at a child. Information

will be provided in writing or by other means, including, if applicable, by electronic means.

nicos. 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.

III

In accordance with the evidence available in this proceeding,

sanctioning procedure, it is considered that the defendant has a video system

surveillance, which lacks the mandatory information poster indicating who is responsible for the treatment for the appropriate legal purposes.

Contrary to what was stated by the defendant, the installed system obtains

ne “images”, that is, it is in a position to process personal data, third parties,

both with exterior cameras and those installed inside the establishment

which runs

Therefore, the defendant must anticipate that obtaining images of the cameras

exterior cameras must be proportionate to the intended purpose, as well as available

having an informative poster(s) assuming responsibility as responsible for the tra-

treatment of the images, an aspect whose responsibility is made clear by the contract

contributed.

“SECURITAS Direct acquires the status of data processor

management of security systems with access to the CLIENT's images”

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“Of the processing of images and/or sounds (such as personal data)

indicated in point 15.C may derive responsibilities and obligations towards the

CLIENT as responsible for the treatment in accordance with the provisions of the Organic Law

nica of Data Protection and its Development Regulation, as well as the Instruction

1/2006 of video surveillance. The following obligations should be listed (...)”.

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

sued, for violation of the content of article 12 RGPD, by failing to comply with the duty to inform

information, lacking the establishment that runs the mandatory informative signage

I command that it is a video-monitored area.

Furthermore, you must have an informative form (s) available.

information of clients who may require it, informing them of all their rights

chos within the framework of the protection of personal data.

You can obtain an indicative model on the website of this body

[www.aepd.es](http://www.aepd.es) in the Video-surveillance section.

#### IV

The art. 83.5 RGPD provides the following: "Infringements of the following provisions

will be sanctioned, in accordance with section 2, with administrative fines of 20

EUR 000,000 maximum or, in the case of a company, an equivalent amount.

to a maximum of 4% of the total global annual turnover of the financial year

above, opting for the highest amount:

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

In this case, when motivating the sanction, the following is taken into account:

-the nature of the infraction, as there is no information poster informing of the data controller (art. 83.2 a) RGPD).

- the way in which the supervisory authority became aware of the infringement, be transferred the facts by the acting force (art. 83.2 h) RGPD).

The foregoing justifies the imposition of a sanction encrypted in the amount of 1,000

€, a sanction located on the lowest scale for this type of infraction, as it lacks the

mandatory informative poster of the video-surveillance zone, being the denounced the responsible for legal purposes of the "treatment" of the same.

All this without prejudice to accrediting before this body, the change in the cartel

informative, indicating the person responsible for the treatment, as well as the way in which the

Clients can exercise their rights within the framework of articles 15 to 22 RGPD.

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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 Don A.A.A., with NIF \*\*\*NIF.1, for an infraction of article

12 of the RGD, typified in Article 83.5 of the RGD, a fine of €1,000 (one thousand Euros), being punishable in accordance with article 58.2 RGD.

SECOND: NOTIFY this resolution to Don A.A.A. and REPORT the result of the actions to GUARDIA CIVIL - POSITION OF \*\*\*LOCALITY

THIRD: Warn the sanctioned party that he must make the imposed sanction effective once

Once this resolution is enforceable, in accordance with the provisions of the art. 98.1.b) of Law 39/2015, of October 1, on Administrative Procedure

Common Public Administrations (hereinafter LPACAP), within the payment term

voluntary established in art. 68 of the General Collection Regulations, approved

by Royal Decree 939/2005, of July 29, in relation to art. 62 of Law 58/2003,

of December 17, through its entry, indicating the NIF of the sanctioned and the number of procedure that appears in the heading of this document, in the account

restricted number ES00 0000 0000 0000 0000 0000, opened on behalf of the Agency

Spanish Department of Data Protection in the banking entity CAIXABANK, S.A.. In case

Otherwise, it will be collected in the executive period.

Received the notification and once executed, if the date of execution is

is between the 1st and 15th of each month, both inclusive, the term to carry out the

voluntary payment will be until the 20th day of the following month or immediately after, and if

is between the 16th and last day of each month, both inclusive, the term of the

payment will be until the 5th of the second following month or immediately after.

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.

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

LPACAP, the firm resolution may be provisionally suspended in administrative proceedings

if the interested party expresses his intention to file a contentious appeal-

administrative. If this is the case, the interested party must formally communicate this

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through the

Electronic Registration of

made by writing to the Spanish Agency for Data Protection,

introducing him to

the agency

[<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other

records provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. Also must transfer to the Agency the documentation that proves the effective filing of the contentious-administrative appeal. If the Agency were not aware of the filing of the contentious-administrative appeal within two months from the day following the notification of this resolution, it would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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