

□ Procedure No.: PS/00476/2020

RESOLUTION OF PUNISHMENT PROCEDURE

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

FACTS

FIRST: Mrs. A.A.A. and Mrs. B.B.B. (*hereinafter, the claimants) dated 28
September 2020 they filed a claim with the Spanish Agency for
Data Protection. The claim is directed against APARTAMENTOS PLAYA DE
COVACHOS, S.L. with CIF B39843610 (hereinafter, the claimed). The reasons in
on which the claim is based are succinctly as follows:

“Installation of security cameras in the building destined to carry out
tourist rental function, in the pool for the use of its clients, in the access
of the tourist apartments (...) the cameras being installed the day
06/15/19 (...)

They have several posters in which they do NOT indicate the identity of the
responsible for the installation, to whom and how to contact to exercise the rights
(...)”-folio nº 1--.

Together with the claim, it provides documentary evidence (Annex I) that proves the presence
of the posters, but they do not indicate the person responsible for the treatment in its
case.

SECOND: On 10/29/20, the claim is TRANSFERRED to the
denounced so that it manifests in law what it deems appropriate.

THIRD: When the database of this Agency was consulted on 03/01/21, no
received any response in this regard.

FOURTH: On 12/16/20, the claim is admitted for processing

presented by the Director of this AEPD.

FIFTH: On March 5, 2021, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the claimant, for the alleged infringement of Article 13 of the RGPD, typified in Article 83.5 of the RGPD.

SIXTH: The database of this AEPD consulted on 05/19/21 does not contain any statement in relation to the facts subject to transfer.

SEVENTH: Attached as an annex is a list of documents in the process.

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2/6

EIGHTH: On 05/20/21, a “Resolution Proposal” is issued, being notified

telematically to the claimed, verifying the commission of art. 13 GDPR, al

have a video-surveillance system, without informing about the person responsible for the

treatment, way of exercising the rights and purpose(s) of the same, reasons for the

that a sanction encrypted in the amount of €1,000 (one thousand euros) is proposed.

NINTH: The database of this body was consulted on 06/07/21, no

There is no allegation in this regard.

Of the actions carried out in this procedure and the documentation

in the file, the following have been accredited:

PROVEN FACTS

First. On 09/28/20, a claim is received at this Agency through the

which translates the following:

“Installation of security cameras in the building destined to carry out

tourist rental function, in the pool for the use of its clients, in the access

of the tourist apartments (...) the cameras being installed the day

06/15/19

They have several posters in which they do NOT indicate the identity of the

responsible for the installation, to whom and how to contact to exercise the rights

(...)”-folio nº 1--.

Second. It is accredited as the main person in charge APARTAMENTOS PLAYA

DE COVACHOS, S.L. with CIF B39843610.

Third. The absence of indication of the person responsible for the treatment is accredited

on the information signs installed.

Fourth. The accused lacks information form(s) available to the

affected (as) that may require it.

Fifth. The respondent has not made any statement in relation to the facts

object of the complaint, nor corrective measure has been accredited before this Agency.

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 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

resolve this procedure.

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3/6

II

In the present case, we proceed to examine the claim dated 09/28/20 by

means of which the following is transferred as the main fact:

“Installation of security cameras in the building destined to carry out tourist rental function, in the pool for the use of its clients, in the access of the tourist apartments (...) the cameras being installed the day

06/15/19

They have several posters in which they do NOT indicate the identity of the responsible for the installation, to whom and how to contact to exercise the rights (...).”

The obligation to inform interested persons about the circumstances regarding the processing of your data falls on the Data Controller.

Information collection procedures can be very varied and, in

Consequently, the ways of informing the interested persons must be adapted to the circumstances of each of the means used for the collection or data record.

The right to information is regulated in art. 13 and 14 as well as in Recitals 60 to 62 of the GDPR.

Article 13 RGPD Information that must be provided when the data data are obtained from the interested party.

1. When personal data relating to him is obtained from an interested party, the responsible for the treatment, at the moment in which these are obtained, will provide all the information indicated below:

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- a.
- b.
- c.

the identity and contact details of the person in charge and, where appropriate, of their representative;

the contact details of the Data Protection Delegate, where appropriate;

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

and.

d. when the treatment is based on article 6, paragraph 1, letter

f) (Legitimate interest), the legitimate interests of the person in charge or of a third;

the recipients or categories of recipients of the data personal, if any;

F. where appropriate, the intention of the person responsible for transferring personal data to a third country or international organization and the existence or absence of an adequacy decision by the Commission, or, in the case of transfers indicated in articles 46 (Transfers through adequate guarantees) or 47 (Binding Corporate Rules) or the article 49 (Exceptions for specific situations), paragraph 1, second paragraph, reference to adequate or appropriate guarantees and to the means to obtain a copy of them or to the fact that they have been borrowed (...)."

Article 22 section 4 of LO 3/2018, December 5 (LPDGDD) provides the regard:

“The duty of information provided for in article 12 of the Regulation (EU)

2016/679 will be understood to be fulfilled by placing a device

informative 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 articles 15 to 22 of Regulation (EU) 2016/679. You can also

include in the informative device a connection code or internet address to

this information”.

III

In accordance with the evidence available in this proceeding

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

Surveillance without informing the person responsible for the treatment when the informative posters are

blank for that purpose.

The evidence provided by the claimants (Annex I photographs) allows

certify that the informative posters of the video-surveillance area are blank, not

informed of the person in charge of the treatment or of the way to exercise the rights by

part of the stakeholders.

The known facts constitute an infraction, attributable to the defendant, for

violation of the content of art. 13 GDPR.

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5/6

Article 83.5 RGPD provides the following:

IV

“Infractions 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 of greater amount:

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

When motivating the sanction, the following is taken into account:

-the nature of the infraction by having a video-surveillance system

whose informative posters do not inform in legal form (art. 83.5 a) RGD).).

-the intentionality or negligence of the infringement (art. 83.2 b) RGD).).

For all this, a sanction encrypted in the amount of €1,000 (one thousand Euros) is ordered, for having a video-surveillance system that does not report on the required by the regulations in force, sanction located on the lower scale for this type of behaviors.

All this without prejudice to regularizing the informative posters contributing photograph (s) with date and time that proves such end.

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 APARTAMENTOS PLAYA DE COVACHOS, S.L., with CIF B39843610, for an infringement of Article 13 of the RGD, typified in Article 83.5 b) of the GDPR, a fine of €1,000 (One Thousand Euros).

SECOND: ORDER the claimed in accordance with art. 58.2 d) RGD that proceed within 1 month from the day following the notification of this act, to "regularize the situation described" by providing documentary evidence that proves such extreme before this Agency.

THIRD: NOTIFY this resolution to the claimed entity

COVACHOS BEACH APARTMENTS, S.L.

FOURTH: 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

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6/6

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

between the 1st and 15th of each month, both inclusive, the term to make the payment

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

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

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

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.

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-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

938-131120

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