

□ Procedure No.: PS/00243/2021

RESOLUTION OF PUNISHMENT PROCEDURE

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

FACTS

FIRST: CIVIL GUARD - POST OF ***LOCALITY.1 (*hereinafter, the
claimant) dated January 20, 2021 filed a claim with the Agency

Spanish Data Protection. The claim is directed against A.A.A. with NIE

***NIE.1 (hereinafter, the claimed). The grounds on which the claim is based are

“data processing through the video surveillance camera system without saving
the appropriate security measures lacking an informative poster” (folio nº 1).

Together with the claim, it provides as documentary evidence (Annex I) a copy of the
Record of Complaint dated 01/12/21.

SECOND: On 02/25/21, the claim is TRANSFERRED to the party

demanding to claim in law what it deems appropriate, without any response to
such effect.

THIRD: On 05/17/21 the claim is admitted for processing
by this Spanish Data Protection Agency.

FOURTH: On July 12, 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.

FIFTH: The database of this Agency consulted on 08/30/21 does not contain
no allegation in this regard, nor any measure has been proven.

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. The facts bring cause of the claim dated 01/20/21 through the which the Civil Guard (Comandancia Madrid) sends the Act-Complaint. “data processing through the video-surveillance camera system without keep the appropriate security measures in the absence of an information poster” (folio no. one).

Second. It is accredited as the main responsible A.A.A., with NIE ***NIE.1.

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28001 – Madrid

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2/5

Third. The installation of a video-surveillance system with control functions of the establishment, lacking the same informative badge for the appropriate legal purposes.

Bedroom. There is no evidence that the respondent has a form(s) available to the clients of the establishment in case of exercising the legally recognized rights.

FOUNDATIONS OF LAW

I

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.

II

In the present case, we proceed to analyze the claim dated 01/20/21 by means of which is transferred by the Civil Guard (Madrid Command) as the main fact

lead the following:

“data processing through the video-surveillance camera system without have the mandatory information poster”—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 a computerized device in a sufficiently visible place identifying, at least, the existence of the treatment to, the identity of the person in charge and the possibility of exercising the rights foreseen in Articles 15 to 22 of Regulation (EU) 2016/679. It may also be included in the informative positive 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 areas guarded whether indoors or outdoors. In the event that the video-monitored space has ga of several accesses, said video-surveillance zone badge must be available in each one of them.

Likewise, the rest of the information will also be made available to the interested parties. information that must be provided to those affected in compliance with the right to information regulated in the RGPD.

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

The person in charge must inform, as well as in his case of the purpose of the treatment, com-

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fulfilling this obligation with the express mention in the informative poster that it places in your establishment or private property.

As a general rule, article 13.1 of the GDPR requires that the information required by the right to information must be provided to the interested party whenever it is obtained. have data on him.

The obligation to inform interested persons of the circumstances relating to the treatment of your data falls on the person in charge of the Treatment.

Therefore, the commission of an infraction of article 13 is charged.

RGPD, as the Locutorio establishment ***LOCUTORIO.1 lacks the mandatory sign informative in a visible area, as well as not having an informative form(s) for the appropriate legal effects.

The claimed party has not exercised their right to defense (art. 24 CE), nor has accredited the legality of the system, granting presumption of veracity to the current tion of the acting force displaced to the place of the facts, which verifies face-to-face Mind the absence of information poster.

The art. 83.5 RGPD provides: "Infringements of the following provisions will be sanctioned will be charged, in accordance with section 2, with administrative fines of 20,000,000 EUR maximum or, in the case of a company, an amount equivalent to 4% as a maximum of the total global annual turnover of the previous financial year higher, opting for the highest amount:

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

IV

According to the above, when motivating the sanction, the following is taken into account: tea:

- the nature, seriousness and duration of the offence, taking into account the nature nature, scope or purpose of the treatment operation in question as well as

the number of interested parties affected and the level of damages suffered

frido (art. 83.5 a) RGPD).

- the intention or negligence in the infringement (art. 83.5 b) RGPD), to the disposer of a video-surveillance system without proper information, ignoring to the requirements of the competent authorities.

So that a sanction of €1,000 is agreed, for the infringement of art. 13

RGPD, lacking the mandatory informative poster(s) of video-surveillance zone, infringement located on the lower scale for this type of infraction.

All this without prejudice to irrefutably proving the availability of a poster informative in the terms of art. 58.2 d) RGPD, being able in case of a new ins-face-to-face inspection to face a new sanctioning procedure, for infraction

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4/5

continued over time, assessing the recommendations of the acting force that go to the scene of the incident.

Therefore, in accordance with the applicable legislation and after assessing the graduation criteria of the sanctions whose existence has been proven,

the Director of the Spanish Data Protection Agency RESOLVES:

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FIRST: IMPOSE A.A.A., with NIE ***NIE.1, for a violation of Article 13

of the RGPD, typified in Article 83.5 of the RGPD, a fine of €1,000 (one thousand euros).

SECOND: ORDER in accordance with article 58.2 RGPD, so that within the term

of ONE MONTH reliably proves to this Agency the following points:

-Placement of informative badge in accordance with current regulations.

-Have informative form(s) available to the clients of the establishment that runs.

THIRD: NOTIFY this resolution to A.A.A. and REPORT the result of the proceedings to the claimant CIVIL GUARD - POSITION OF ***LOCATION.1.

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, of the Administrative Procedure Co- of the Public Administrations (hereinafter LPACAP), within the term of payment 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 in the name of the Spanish Agency Department of Data Protection at the banking entity CAIXABANK, S.A.. In case of Otherwise, it will be collected during 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 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

resents may optionally file an appeal for reconsideration before the Director of the Spanish Agency for Data Protection within a month from the date of the day following the notification of this resolution or directly contentious appeal before the Contentious-Administrative Chamber of the National High Court, in accordance with the provisions of article 25 and section 5 of the additional provision

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5/5

Final fourth of Law 29/1998, of July 13, regulating the Contentious Jurisdiction-administrative, within a period of two months from the day following the notification of this act, as provided for 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 interested party do states its intention to file a contentious-administrative appeal. Of being

In this case, the interested party must formally communicate this fact in writing

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

Electronic registry of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or to

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

that proves the effective filing of the contentious-administrative appeal. If the

Agency was not aware of the filing of the contentious-administrative appeal

tive within 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

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