

□ Procedure No.: PS/00082/2021

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### FACTS

FIRST: A.A.A. (\*hereinafter, the claimant) dated February 27, 2020

filed a claim with the Spanish Data Protection Agency. The

claim is directed against CITY COUNCIL OF \*\*\*LOCALITY.1 with CIF

P2409100A (hereinafter claimed). The grounds on which the claim is based are

the following:

"Failure to comply with the regulations in force by having video cameras-

surveillance at various points in the city of \*\*\*LOCALIDAD.1 whose posters do not

indicate the data controller (...)"—folio nº1--.

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-

ceeded 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 found that the

responsible for the treatment is the claimed.

The documentation provided by the claimant confirms that the cartels do not

They take the authority responsible for the treatment through a complementary panel. The

The same claimant provides photographs of the posters claimed together with another from another autonomous community that meets this requirement.

According to Additional Provision 8 of LO 4/1997, these posters must comply with Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and the free circulation of these data as collected the Video Surveillance Guide in its section 4.2.1 and the legal report of this Agency to the referred to in this section.

THIRD: On May 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.

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FOURTH: The database of this AEPD consulted on 06/13/21 does not contain any allegation in relation to the facts subject to transfer.

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 02/27/20 through the which is transferred to this AEPD the following:

"Failure to comply with the regulations in force by having video cameras-surveillance at various points in the city of León whose signs do not indicate the

data controller (...)”—folio nº1--.

Second. It is accredited as the main responsible City Council of \*\*\*LOCA-LITY.1.

Third. No response has been made in relation to the availability of cargo.

informative tel(s), indicating the data controller.

Fourth. No measure has been explained in relation to the camera system.

video-surveillance cameras installed by the Consistory.

## 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.

II

In the present case, the claim dated 02/27/20 is examined by me-gave from which the following is transferred as the main "fact":

"Breach of data protection regulations, preventing the exercise of rights in legal form as the information on the cartels is insufficient. training courses installed" (folio no. 1).

The facts will be limited to the possession of informative posters that do not fit as to the regulations in force, after the inquiries carried out by this Agency.

The Organic Law 4/1997 that regulates the use of video cameras by the Forces and Security Forces in public places, refers to compliance with the normative in data protection. Specifically, this rule will be applicable in matters

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such as creation of the register of activities, adoption of security measures, ity, rights of people and right to information by signaling the guarded space.

The RGPD obliges data controllers to offer interested parties a ma-

More information about the treatments that are carried out and the way to exercise the rights guys. All those responsible must comply with this obligation of transparency, regardless of its size as an organization.

In articles 13 and 14 of the RGPD, an exhaustive list of the information that must be provided to the interested parties (wider than the one contained in today's requested LOPD 15/1999), depending on whether or not the data has been obtained from the interested party.

Article 22 of Organic Law 3/2018 (December 5)-LOPDGDD- provides:

“Images of public roads may only be captured to the extent that it is essential for the purpose mentioned in the previous section. However, it will be It is possible to capture the public road in a greater extension when it is necessary. ary to guarantee the security of strategic assets or facilities or infrastructure structures linked to transport, without in any case implying the capture of images of the interior of a private home”

III

In accordance with the "evidence" available in this proceeding, sanctioning procedure, it is considered that the defendant (a) has a system of video-surveillance gangs without it being duly signaled in relation to to the “responsible for the treatment” of the data.

According to the content of Organic Law 4/1997, installed cameras must use-

with respect to the principle of proportionality, both from the point of view of its suitability as the minimum intervention.

The information to the interested party will be made through posters that warn of the video surveillance area.

The known facts constitute an infraction, attributable to the defendant, for violation of the content of article 13 RGPD "Information that must be provided when the personal data is obtained from the interested party".

#### IV

The behavior described is subsumable in the offending type of art. 83.5 b) GDPR, which prescribes the following: "Infringements of the following provisions shall be sanctioned will, in accordance with paragraph 2, be subject to administrative fines of EUR 20,000,000 maximum or, in the case of a company, an amount equivalent to 4% as maximum of the total global annual turnover of the previous financial year, opting the highest amount:

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

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Article 77 section 1 LOPDGDD provides: "The regime established in this article will apply to the treatments for which they are responsible or entrusted:

c) The General State Administration, the Administrations of the communities autonomous entities and the entities that make up the Local Administration.

2. When those responsible or in charge listed in section 1 committed

any of the infractions referred to in articles 72 to 74 of this organic law  
ca, the competent data protection authority will issue a sanction resolution  
mentioning them with warning. The resolution will also establish the  
measures to be taken to stop the conduct or correct the effects of the  
offense that had been committed. The resolution will be notified to the person in charge  
responsible for the treatment, to the body on which it reports hierarchically, where appropriate, and to the  
affected who had the status of interested party, as the case may be (...)."

4. The data protection authority must be notified of the resolutions that  
fall in relation to the measures and actions referred to in the sections  
previous.

5. They will be communicated to the Ombudsman or, where appropriate, to similar institutions  
of the autonomous communities the actions carried out and the resolutions issued  
under this article.

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Among the corrective powers contemplated in article 58 of the RGPD, in its section 2

d) it is established that each control authority may "order the person in charge or  
of the treatment that the treatment operations comply with the provisions  
of this Regulation, where appropriate, in a certain way and within  
a specified period...". The imposition of this measure is compatible with the sanction  
consisting of an administrative fine, as provided in art. 83.2 of the GDPR.

The rest of the issues exceed the competence framework of this Agency, de-  
being resolved in their case in the corresponding instances.

Therefore, in accordance with the applicable legislation and after assessing the graduation criteria  
tion of the sanctions whose existence has been proven,  
the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE TO TOWN HALL OF \*\*\*LOCALITY.1, with CIF P2409100A,

for an infringement of Article 13 of the RGPD, typified in Article 83.5 b) of the RGPD,

a warning sanction.

SECOND: NOTIFY this resolution to the entity CITY COUNCIL OF

\*\*\*LOCATION.1.

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THIRD: ORDER the claimed CITY COUNCIL OF LEÓN so that in the

non-extendable term of ONE MONTH proceed to prove in legal form the availability

sign (s) approved indicating that it is a video-monitored area, with information

indication of the data controller.

FOURTH

in accordance with the provisions of article 77.5 of the LOPDGDD.

: COMMUNICATE this resolution to the

Ombudsman, of

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

resorts 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

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.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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