

□ Procedure No.: PS/00264/2021

## 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 January 20, 2021

filed a claim with the Spanish Data Protection Agency. The

claim is directed against BAZTANDIS, S.L. with CIF B71006605 (hereinafter, the  
reclaimed). The reasons on which the claim is based are "deficiency in the signage  
information on video-surveillance" (page No. 1).

Together with the claim, it provides documentary evidence (Annex I) that proves the  
presence of the poster(s) with reference to the LOPD.

SECOND: On 02/15/21, the claim is TRANSFERRED so that

the claimed party shall express in law what it deems appropriate, without answering  
any has occurred.

THIRD: On 04/23/21 the claim is admitted for processing

by the Director of this AEPD, in accordance with article 65 LOPDGDD.

FOURTH: On June 24, 2021, the Director of the Spanish Agency for Pro-

Data Protection agreed to initiate a sanctioning procedure against the defendant, in accordance with  
the provisions of articles 63 and 64 of Law 39/2015, of October 1, on the Procedure  
Common Administrative Procedure of Public Administrations (hereinafter, LPA-  
CAP), for the alleged infringement of Article 13 of the RGPD, typified in Article 83.5  
of the GDPR.

FIFTH: On 07/19/21, a "Resolution Proposal" is issued confirming

the infringement of art. 13 RGPD, by not having modified the signage in the terms re-

Dear friends, proposing a sanction encrypted in the amount of €1,000 (one thousand euros).

Of the actions carried out in this procedure and the documentation

in the file, the following have been accredited:

#### PROVEN FACTS

First. The facts bring cause of the claim dated 01/20/21 through the

which is transferred "deficiency in the informative signage in the matter of video-surveillance"

(folio no. 1).

Together with the claim, it provides documentary evidence (Annex I) that proves the

presence of the poster(s) with reference to the LOPD.

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Second. BAZTANDIS, S.L. is accredited as the main person in charge. with CIF

B71006605.

Third. When the database of this AEPD was consulted on 07/14/21, there is no evidence

no regulation whatsoever, nor has the signage been regularized in terms of

deo-surveillance.

Fourth: It is proven that the informative poster mentions a regulation de-

requested (LOPD) not having an effective address before which to exercise the co-

corresponding rights within the framework of the current LO 3/2018, December 5.

#### 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 re-solve this procedure.

II

On 01/20/21 a claim is received through which the character is transferred

"obsolete" of the informative poster of the video-surveillance zone of the claimed, which refers to

It limits the repealed LOPD (LO 15/99).

On May 25, 2018, the European Protection Regulation entered into force.

Data (RGPD) that establishes the rules related to the protection of natural persons

with regard to the processing of personal data and the rules relating to

the free movement of such data.

Those responsible for the treatment must inform prior to the collection of data

personal cough. The way of informing the interested parties must be adapted to the type of

behavior and characteristics of the medium used to collect data.

The art. 13 RGPD increases the information that must be provided to the interested party.

do, when the data is obtained from it.

"When personal data relating to him is obtained from an interested party, the person responsible

responsible for the treatment, at the time these are obtained, will provide you with all the information

training listed below:

a.

b.

c.

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

sitting;

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

ca of treatment;

d. when the treatment is based on article 6, section 1, letter f) (Legitimate interest)

time), the legitimate interests of the person in charge or of a third party;

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and.

the recipients or categories of recipients of the personal data, in

Their case; (...)."

The art. 22 section 4 of the LOPDGDD (LO 3/2018, December 5) provides:

"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

In any case, the data controller must keep available to those affected

two the information referred to in the aforementioned regulation"

III

In accordance with the evidence available in this proceeding

sanctioning party, it is considered that the defendant has not proceeded to adapt the signage in

matter of video-surveillance to the regulations in force, indicating the person responsible for the treatment.

effective management and direction to that effect for the exercise of the rights of the RGPD.

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

mado, for violation of the content of art. 13 GDPR.

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;

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

- 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; (art. 83.2 a) RGPD).
- the intent or negligence in the infringement; (art. 83.2 b) RGPD), given the time elapsed since the entry into force of the RGPD, the lack of attention in the adaptation of video-surveillance posters.

For all these reasons, a penalty of €1,000 is agreed for the infringement of art. 13 RGPD, a sanction located on the lower scale for this type of infringements.

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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 party claimed, together with the sanction imposed, must prove the change of the posters with photography (date and time) being the same homologated to current regulations.

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 BAZTANDIS, S.L., with CIF B71006605, for an infraction of Article 13 of the RGD, typified in Article 83.5 of the RGD, a fine of €1,000 (A thousand euros).

SECOND: NOTIFY this resolution to BAZTANDIS, S.L.

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

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

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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

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