

□ File No.: EXP202206753

RESOLUTION

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

BACKGROUND

FIRST: The CIVIL GUARD COMPANY (...) (hereinafter, the part
complainant) on June 21, 2019 filed a complaint with the Agency
Spanish Protection of Data against A.A.A. with NIF ***NIF.1 (hereinafter, the part
denounced), due to the installation of a video surveillance system located in the
ALIMENTACIÓN A.A.A. establishment, located at ***ADDRESS.1 with indications
of a possible breach of the provisions of article 13 of Regulation (EU)
2016/679 (General Data Protection Regulation, hereinafter GDPR).

The complaining party states that the informative posters of the
video surveillance installed by the denounced party, both inside and outside the
abroad, are incomplete, not including the identity of the person responsible for the file and the
domicile before which the rights can be exercised.

Provide a copy of the Act-Complaint processed.

SECOND: These facts were the object of a complaint before this Agency, processing
file E/07087/2019. This Agency communicated to the party
denounced the requirements demanded to carry out processing of personal data
through this type of device, indicating that, in the event of not adopting the
necessary measures to comply with those requirements, would incur in a violation of the
provided in the data protection regulations, which could lead to the initiation of the
investigative and sanctioning actions. Said communication was notified with
date August 16, 2019.

THIRD: On June 13, 2022, the complaining party has submitted to this Agency a new complaint against the party denounced for the same facts.

The complaining party provides the Complaint Act dated June 9, 2022 in which the shows that the denounced party is responsible for an establishment that has a video surveillance system, without being properly marked by means of the mandatory informative signs of the video-monitored area.

FOURTH: On July 15, 2022, the Director of the Spanish Agency for Data Protection agreed to initiate disciplinary proceedings against the claimed party, for the alleged infringement of article 13 of the GDPR, typified in article 83.5 of the RGPD, and that, for the purposes provided in article 64.2 b) of Law 39/2015, of 1 October, of the Common Administrative Procedure of Public Administrations (LPACAP), the corresponding sanction would be an administrative fine of €400 (four hundred euros), without prejudice to what may result from the instruction.

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FIFTH: On August 17, 2022, the claimed party has proceeded to pay the sanction in the amount of 400 euros.

SIXTH: When verifying that the amount entered corresponded to the entire sanction imposed, on August 22, 2022, a letter was sent to the party claimed, giving it a term "(...) to tell us if the payment acknowledges the responsibility, and, consequently, it would be appropriate to return the amount paid corresponding to the reduction in the voluntary payment for the recognition of the responsibility, for which you should provide us with a bank account number for

proceed to that return", being received the same on the 1st of September 2022.

The claimed party replied to said letter, indicating that "(...) I express my responsibility in the facts subject to sanction."

However, you have not provided a bank account number so that from this Agency proceeds to refund the amount paid in excess.

SEVENTH: The payment made, within the term granted to formulate allegations to the opening of the procedure, entails the waiver of any action or appeal via against the sanction and acknowledgment of responsibility in relation to the facts referred to in the Commencement Agreement.

FUNDAMENTALS OF LAW

Yo

In accordance with the powers that article 58.2 of the RGPD grants to each authority of control and as established in articles 47, 48.1, 64.2 and 68.1 of the Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of the digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed by the Spanish Data Protection Agency will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions regulations dictated in its development and, insofar as they do not contradict them, with character subsidiary, by the general rules on administrative procedures."

II

Article 85 of the LPACAP under the heading "Termination in procedures sanctions" provides the following:

"1. Initiated a disciplinary procedure, if the offender acknowledges his responsibility,

The procedure may be resolved with the imposition of the appropriate sanction.

2. When the sanction has only a pecuniary nature or it is possible to impose a pecuniary sanction and another of a non-pecuniary nature but the

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inadmissibility of the second, the voluntary payment by the presumed perpetrator, in

any moment prior to the resolution, will imply the termination of the procedure,

except in relation to the replacement of the altered situation or the determination of the

compensation for damages caused by the commission of the offence.

3. In both cases, when the sanction is solely pecuniary in nature, the

The competent body to resolve the procedure will apply reductions of at least

20% of the amount of the proposed penalty, these being cumulative among themselves.

The aforementioned reductions must be determined in the notification of initiation

of the procedure and its effectiveness will be conditioned to the withdrawal or resignation of

any administrative action or resource against the sanction.

The percentage reduction provided for in this section may be increased

according to regulations."

II

In these proceedings, the respondent party, upon notification of the Agreement of

Opening, proceeded to pay the entire penalty that was proposed to be imposed, without

apply any of the discounts to which he was eligible.

For this reason, a letter was addressed to him so that, if he recognized his responsibility, he would

proceed to refund the amount paid in excess.

In response to said letter, the claimed party acknowledged its responsibility in the facts subject to sanction. However, he did not provide any account number bank to proceed with that return.

For this reason, the claimed party is requested to provide this Spanish Agency of Data Protection a bank account number to proceed with the return correspondent.

According to what has been stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: DECLARE the termination of procedure EXP202206753, in

in accordance with the provisions of article 85 of the LPACAP.

SECOND: Request A.A.A. that you provide to this Spanish Data Protection Agency

Data a bank account number.

THIRD: NOTIFY this resolution to A.A.A..

In accordance with the provisions of article 50 of the LOPDGDD, this

Resolution will be made public once the interested parties have been notified.

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Against this resolution, which puts an end to the administrative process as prescribed by

Article 114.1.c) of the LPACAP, interested parties may file an appeal

administrative litigation before the Administrative Litigation 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 for in article 46.1 of the

referred Law.

Mar Spain Marti

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