

□ Procedure No.: PS/00226/2021

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 5, 2021

filed a claim with the Spanish Data Protection Agency. The

claim is directed against B.B.B. with NIF ***NIF.1 (hereinafter, the claimed one). The

The reasons on which the claim is based are succinctly the following:

“which has security cameras inside the hairdressing salon that record
video. Without having registered in the file of the AEPD (...) and does not have a poster either
informing that it is a video-surveillance zone” (folio nº 1).

Together with the claim, it provides a mobile screen impression, where it is observed
to the claimant in the box of the establishment of his place of work.

SECOND: On 03/01/21, the claim is TRANSFERRED so that

the claimed (or) manifest in law what it deems appropriate, without answering-
tion has occurred.

THIRD: On 05/11/21 the claim is admitted for processing
by the Director of this Agency, in accordance with article 65 LO-
PDGDD.

FOURTH: On June 24, 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 09/08/21 does not contain
any allegation in this regard, nor has the legality of the camera system been proven

denounced.

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 02/05/21 through the

which transfers the presence of "a camera system (...) and it does not have a poster informing that it is a video-surveillance zone" (folio nº 1).

Second. It is identified as the main responsible B.B.B., who does not carry out any testimonial to this body.

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Third. It is accredited that the defendant has a video-surveillance system

cia without informing as they do not have an informative badge in this regard.

Fourth. The respondent party has not made any allegation, nor has it clarified the legality system data.

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 02/05/21 is examined by me-

gave from which the following is transferred:

“which has security cameras inside the hairdressing salon that record video, without having registered in the file of the AEPD (...) and does not have a poster informing that it is a video-surveillance zone” (folio nº 1).

The facts take shape in the presence of a video-surveillance system that it is not duly informed, as there is no information poster in a visible area.

The art. 13 RGPD increases the information that must be provided to the interested party, when do the data is obtained from it.

“When personal data relating to him is obtained from an interested party, the person in charge of treatment, at the time these are obtained, will provide you with all the information tion indicated 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)

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

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

Their case; (...)”.

and.

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 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

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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 person in charge of the treatment must keep available to the affected the information referred to in the aforementioned regulation”

III

In accordance with the "evidence" available in this proceeding, sanctioning procedure, it is considered that the defendant has a video camera surveillance in the establishment without informing about it indicating that it is video-surveillance area.

Cameras installed by individuals for the purpose of establishing security

The foundations must comply with current legislation, and both the employees as customers of the purpose and responsible for data processing of a personal nature.

The known facts constitute an infraction, attributable to the defendant, for violation of the content of art. 13 GDPR.

IV

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

fried; (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, proving the lack of charge

tel regarding video-surveillance.

In this case, it is taken into account that it is a small establishment of

hairstylist, whose volume of income has not been accredited, nor are they associated with the

claimed previous infractions, although the time elapsed since

the entry into force of the RGPD, more than enough time to comply with the regulations

in force and have placed an informative badge in a visible area.

For all these reasons, it is agreed to impose a sanction encrypted in the amount of €1,000

for the infringement of art. 13 RGPD, sanction located on the lower scale for this type

of infractions.

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Article 58.2 d) RGPD provides: "Each control authority will have all the

following corrective powers indicated below:

d) order the person in charge or in charge of the treatment that the operations of treatment comply with the provisions of this Regulation, where appropriate, in a certain way and within a specified period (...)."

The foregoing without prejudice to accrediting with a photograph (date and time) the presence of the informative poster adapted to the regulations in force, which must be placed in a visible area informing that it is a video-monitored area, as well as having informative form (s) available to the client (s) of the same.

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 Don B.B.B., with NIF ***NIF.1, for an infraction 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 d) RGPD to the person in charge to proceed within a period of 1 month to adjust the system to current legislation, giving to install informative badge adjusted to the requirements of the current legality, accrediting such end to this Agency.

THIRD: NOTIFY this resolution to B.B.B..

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.

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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

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

tion 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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