

□ Procedure No.: PS/00032/2021

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 October 14, 2020

filed a claim with the Spanish Data Protection Agency. The

claim is directed against CITY COUNCIL OF ZAMORA with NIF P4930500F (in

later, the claimed one). The grounds on which the claim is based are

succinctly the following:

“That when observed in the Municipal Police Barracks (Zamora) at least
two video-surveillance cameras (...) without it containing the identity of the
responsible and also lacking the indication where to exercise the rights,
violating the information (Test 1-2)”

“On the pedestrian walkway that connects the San Isidro neighborhood with the Bosque de
Valorio, there is a multi-directional security camera, but in none of
the three accesses to the aforementioned footbridge, nor in the immediate vicinity is there any indication that
video-surveillance is being carried out (Test No. 4)”.

Together with the claim, it provides documentary evidence that proves the presence of
the cameras, without the presence of an informative badge in this regard.

SECOND: In accordance with the provisions of article 65 of Organic Law 3/2018, of

December 5, Protection of Personal Data and guarantee of digital rights

them (LOPDGDD hereinafter), the claim was transferred to the person in charge, requiring-

to send this Agency the requested information and documentation. East

request for information was not answered within the deadline. The claim was admitted for processing

information, by the Director of the Spanish Agency for Data Protection, dated 26

January 2021.

THIRD: On April 16, 2021, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the defendant, with

glo to the provisions of articles 63 and 64 of Law 39/2015, of October 1, of the Pro-

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.

FOURTH: The database of this Agency was consulted on 06/05/21 and has not been received

any response to the appropriate legal effects.

FIFTH: On 06/07/21, the "Proposed Resolution" is issued

confirming the described infringement of art. 13 RGPD, without any response

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has received in this Agency, appearing in the computer system as "Notified"

telematically.

SIXTH: The database of this Agency consulted on 07/12/21 does not contain

any allegation of the claimed, nor has it accredited the regularization of the system of

denounced cameras.

Of the actions carried out in this procedure and the documentation

in the file, the following have been accredited:

PROVEN FACTS

First. The facts are based on the claim dated 10/14/20 whereby

the following is transferred:

“That when observed in the Municipal Police Barracks (Zamora) at least two video-surveillance cameras (...) without it containing the identity of the responsible and also lacking the indication where to exercise the rights, violating the information (Test 1-2)”

“On the pedestrian walkway that connects the San Isidro neighborhood with the Bosque de Valorio, there is a multi-directional security camera, but in none of the three accesses to the aforementioned footbridge, nor in the immediate vicinity is there any indication that video-surveillance is being carried out (Test No. 4)”.

Together with the claim, it provides documentary evidence that proves the presence of the cameras, without the presence of an informative badge in this regard.

Second. It is accredited as the main person responsible for the installation Zamora City Hall.

Third. It is proven that the camera system is not properly informed according to signage approved to the RGPD.

Fourth. When the database of this Agency was consulted on 06/05/21, there is no evidence any claim in this regard by the respondent.

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

On 10/14/20, a claim was received from the claimant transferring as a main fact lead the following:

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“That when observed in the Municipal Police Barracks (Zamora) at least two video-surveillance cameras (...) without it containing the identity of the responsible and also lacking the indication where to exercise the rights, violating the information (Test 1-2)”

Therefore, the facts are specified in the presence of a camera system devoid of informative poster (s), indicating the person in charge of the treatment to whom be able to address your case.

The installation of cameras must conform to the following rules:

-Proportionality Principle (art. 5 RGPD). The cameras must be oriented preferably towards our private space, avoiding the capture of public area and/or third-party private space.

-Duty information. An informative device must be available in the visible (eg access door) indicating that it is a video-monitored area, in the

It must be indicated:

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the existence of the treatment.

the identity of the person responsible.

possibility of exercising the rights provided for in articles 15 to 22

of Regulation (EU) 2016/679.

□ Where to obtain more information on the processing of personal data?

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

"1. Natural or legal persons, public or private, may carry out the

processing of images through camera systems or video cameras with the purpose of

to preserve the safety of people and property, as well as its installations.

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4. 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 person in charge of the treatment must keep available to the

affected the information referred to in the aforementioned regulation.

The AEPD, in a related report, stipulates that it is not necessary for cartels to be

stand right below the cameras. It is enough to do it in a visible place and that it includes

open and closed spaces where the video camera circuit is operational.

III

In accordance with the evidence available in this proceeding,

penalty, it is considered that the defendant has a video-surveillance system

cia that is not duly informed.

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

Article 58 section 2 of the RGPD provides the following: Each control authority shall have all of the following corrective powers listed 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 behavior described is subsumable in the offending type of art. 83.5 a) GDPR, which prescribes the following:

“The infractions of the following dispositions will be sanctioned, in accordance with the section 2, with administrative fines of a maximum of EUR 20,000,000 or, treating- of a company, of an amount equivalent to a maximum of 4% of the volume of Total annual global business of the previous financial year, opting for the one with the highest amount:

a) the basic principles for the treatment, including the conditions for the consent under articles 5, 6, 7 and 9;

Article 77 section 1 LOPDGDD provides:

IV

“The regime established in this article will be applicable to treatments of which they are responsible or entrusted:

b) 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

nica, the competent data protection authority will issue a resolution sanctioning them with a warning. The resolution will also establish the measures that should be adopted 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 or in charge of the treatment, to the body of the that depends hierarchically, where appropriate, and to those affected who had the condition of interested, in his case (...)".

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.

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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.

Therefore, without prejudice to arguing what is deemed necessary by law, the presence of signage must be accredited informing the presence of the cameras in force, according to the new RGPD.

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 ZAMORA CITY COUNCIL, with NIF P4930500F, by

an infringement of Article 13 of the RGPD, typified in Article 83.5 of the RGPD, a

PENALTY sanction.

SECOND: NOTIFY this resolution to the ZAMORA CITY COUNCIL.

THIRD

with the provisions of article 77.5 of the LOPDGDD.

: Communicate this resolution to the Ombudsman, in accordance

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

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.

Sea Spain Marti

Director of the Spanish Data Protection Agency

938-131120

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