

Procedure No.: PS/00030/2019

RESOLUTION: R/00413/2019

In procedure PS/00030/2019, instructed by the Spanish Agency for Protection of Data to the entity PLAZA DE TOROS DE PONTEVEDRA, given the complaint filed by Don A.A.A. and by virtue of the following,

FACTS

FIRST: Don A.A.A. (*hereinafter, the claimant) dated October 3, 2018 filed a claim with the Spanish Agency for Data Protection, motivated by the processing of data carried out through cameras of a video surveillance system whose owner identifies as PLAZA DE TOROS DE PONTEVEDRA (*hereinafter the claimed) installed in RÚA NOSTRAMO LOURIDO S/N-PONTEVEDRA.

The reasons on which the claim is based are "denunciation of the installation of a camera system, without the informative poster indicating the person in charge of the same" (folio nº 1).

Along with the claim, it provides documentary evidence No. 1 that proves that the cartel informative, the part corresponding to the person responsible for it is not filled out.

SECOND: In view of the reported facts, in accordance with the evidence that is available, the Data Inspection of this Spanish Agency for the Protection of Data considers that the treatment of personal data that is carried out by the denounced through the chambers to which the complaint refers, does not meet the conditions imposed by the regulations on data protection, for which reason the opening of this sanctioning procedure.

THIRD. On 10/16/18 and 11/29/18, the claim was transferred to the reported entity, appearing as "notified" in the computer system of this body, but without any allegation having been made for legal purposes

opportune.

: On July 22, 2019, the Director of the Spanish Agency for

FOURTH

Data Protection agreed to submit this

warning procedure PS/00030/2019. This agreement was notified to

denounced.

FIFTH

which succinctly communicates the following:

: On 08/13/19, this Agency received a letter from the defendant in the

“Despite the fact that the person appearing is NOT the owner, it is reported that he has never

there has been any video-surveillance system outside the Plaza de Toros de

Pontevedra. And neither in the (...).

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The bullring (Pontevedra) is a protected historic building, so

Any action on the walls and its parameters requires the

corresponding permits from both the municipal and regional administrations.

And although in the provided photographs some posters can be seen on the

access doors to the lines, where the lighting lamps are also located, this

This is because they had not been removed by the operators, but without, as we say

respond to the existence of a video-surveillance system.

Consequently, the fact that is the subject of the Complaint does NOT exist and that it has

place to the procedure, the rejection of the same proceeds and the file of the

process".

PROVEN FACTS

First. On 10/03/19, a claim was received from the complainant through the which conveys as the main fact that the information signage of the Plaza de Toros (Pontevedra) does not comply with current legislation.

Attach documentary evidence (photograph No. 19 that proves such end.

Second. It is identified as the main person responsible—Plaza de Toros (Pontevedra)-- as the informative posters are outside the enclosure.

Third. The accused party denies the facts, although it acknowledges the presence of the posters, stating that "they were not withdrawn at the time".

Fourth. The installation of interior or exterior cameras in the bullfighting arena

Fifth. There is no evidence that "image processing" has been carried out affecting the right of the users of the premises.

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 as established in art. 47 of the Organic Law 3/2018, of 5 December, of Protection of Personal Data and guarantee of digital rights (in hereinafter LOPDGDD), the Director of the Spanish Agency for Data Protection is competent to initiate and resolve this procedure.

II

In the present case, we proceed to examine the claim dated 10/03/18 by through which the main fact was transferred "absence of the person responsible in the informative video-surveillance poster" (page No. 1).

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The art. 13 RGPD contemplates among the rights of citizens, the right to the information, so that you have to be informed "of the identity and data of contact of the person in charge and, where appropriate, of his representative".

The exposed facts could suppose the commission, on the part of the defendant of an infringement of article 12 of the RGPD, in the terms referred to both in the aforementioned article, as in articles 13 and 14 of said rule, and the respondent must give due compliance with the provisions of article 3 of Instruction 1/2006, of 8 November, from the Spanish Data Protection Agency. Consequently, the claimed must:

Place in the video-monitored areas, at least one badge

1.

informative located in a sufficiently visible place, both in spaces open as closed.

In accordance with the provisions of articles 13 and 14 RGPD, in the informative badge mentioned above must identify, at least, the existence of a treatment, the identity of the person in charge and the possibility of exercising the rights foreseen in said precepts.

Keep available to those affected the information to which

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refers to the aforementioned RGPD;

On 08/13/19, allegations were received from the accused party stating that there is no video-surveillance system as such, the only thing that exists are posters

old news.

In order to speak of "data processing" it is necessary to install

or presence of operating cameras, an aspect that does not occur in the present case, therefore

that it cannot be spoken of affecting the right of any person.

It should be pointed out that the presence of cartels can induce

users of the Plaza de Toros (Pontevedra) to think that it has a

video-surveillance system, and that are being recorded at the entrances to the site.

So it is advisable to remove them, since the mere

presence of these can lead to new complaints, with the consequent cost both

for the acting Administration, as well as for those responsible who must give the

timely explanations.

The presumption of innocence governs without exceptions in the sanctioning system and has

to be respected in the imposition of any sanction, whether criminal or administrative

(TCo 13/1981), since the exercise of the sanctioning right in any of its

manifestations, is conditioned to the test game and to a procedure

contradictory in which they can defend their own positions

Pursuant to this principle, no penalty may be imposed on the basis of the

guilt of the accused if there is no activity to prove the charge, which in the

appreciation of the authorities or bodies called to resolve, destroy this

presumption (TCo Auto 3-12-81).

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IV

According to the statements made by the person in charge, it has been accredited that there is no video-surveillance system, which is why it is appropriate to order the File of this procedure.

According to what was stated,

By the Director of the Spanish Data Protection Agency,

HE REMEMBERS:

1.- PROCEED to decree the FILE of this procedure as there is no accredited the commission of any administrative infraction.

2.- NOTIFY this Agreement to the denounced entity PLAZA DE TOROS DE PONTEVEDRA and REPORT the result of the proceedings to the complainant Mr.

A.A.A.

Against this resolution, which puts an end to the administrative procedure (article 48.2 of the LOPD), and in accordance with the provisions of articles 112 and 123 of the Law 39/2015, of October 1, of the Common Administrative Procedure of the Public Administrations, the interested parties may optionally file appeal for reconsideration before the Director of the Spanish Data Protection Agency within one month from the day following the notification of this resolution, or, directly contentious-administrative appeal before the Chamber of the Contentious-administrative of the National Court, in accordance with the provisions of the Article 25 and in section 5 of the fourth additional provision of Law 29/1998, of July 13, regulating the Contentious-Administrative Jurisdiction, within the period of two months from the day following the notification of this act, as provided for in article 46.1 of the aforementioned legal text.

Sea Spain Marti

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