

□ Procedure No.: PS/00442/2020

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 June 16, 2020

filed a claim with the Spanish Data Protection Agency. The

claim is directed against SANTA LUCIA DE TIRAJANA CITY COUNCIL with

NIF P3502300A (hereinafter, the claimed). The grounds on which the claim is based

They are succinctly the following:

“The City Council of Santa Lucía de Tirajana (Island of Gran Canaria, province

de Las Palmas) does not yet have a Data Protection Officer. Secondly,

has a video surveillance system with several cameras outside the headquarters

municipal (oriented both towards the main entrance door, and towards areas of

pedestrian crossing), without complying with the Duty of Information contained in the EU RGPD

679/2016, specifically with the corresponding informative poster adapted to the Nor-

current matative.

On the contrary, it only has a piece of paper glued to the door

of the main entrance to the municipal offices, in which mention is made of the dero-

gada Law LOPD 15/1999. On the other hand, the municipal website (www.santaluciagc.com) does not

has a privacy policy adapted to the provisions of the RGPD” (folio nº 1).

Together with the claim, it provides documentary evidence (Annex I) that proves the
stated in your statement of claim.

SECOND: On 07/31/20, the claim is TRANSFERRED to the party

denounced so that it manifests what it deems pertinent in law.

THIRD: On 08/13/20, a reply is received from the respondent, arguing what following in relation to the facts denounced.

“The City Council of Santa Lucia on the website www.santaluciagc.com only maintains has public and general interest activities, being a portal to keep information citizens of the news of the municipality, and through its electronic headquarters only citizens have access to and can manage the municipal services of the administration local nistration.

We proceed to incorporate as DOCUMENT no. 2 the notification by the ser-computer vice, through communication made by email from fe-date of August 13, 2020, of carrying out the operations for the update of the informative texts of the treatment of personal data collected in the Poli-Privacy Policy of the City Council website.

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- That in no case has the City Council of Santa Lucia acted against the rights of the interested party, nor has it been the intention of this City Council of Santa Lucia carry out a treatment of the data against the principles of legality, loyalty and transparency and purpose limitation of personal data processing that are made by this City Council through its website www.santaluciagc.com.

Likewise, it is stated that the local administration is very concerned for compliance with current regulations on data protection, and maintains a attitude of proactive responsibility with a continuous analysis of risks, applying technical, security, organizational and corrective measures in all its dealings

procedures to guarantee that only the personal data that are necessary for each of the specific purposes of the treatment, and that it is carried out carried out in compliance with the principles of article 5 of the RGPD”.

FOURTH: On March 18, 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.

FIFTH: The database consulted on 05/17/21 has not received an allegation any in relation to the facts subject to transfer.

SIXTH: On 05/18/20, a Resolution Proposal is issued confirming the infringement of art. 13 RPD, as there is no informative poster(s) indicating that it is of a video-monitored area, proposing a sanction of warning.

SEVENTH: Attached as an annex is a list of documents in the process.

Of the actions carried out in this procedure and of the document information in the file, the following have been accredited:

PROVEN FACTS

First. The facts bring cause of the claim dated 06/16/20 through the which translates as the main fact the following:

“The City Council of Santa Lucía de Tirajana (Island of Gran Canaria, province de Las Palmas) does not yet have a Data Protection Officer. Secondly, has a video surveillance system with several cameras outside the headquarters municipal (oriented both towards the main entrance door, and towards areas of pedestrian crossing), without complying with the Duty of Information contained in the EU RGPD

679/2016, specifically with the corresponding informative poster adapted to the Nor-current matative.

On the contrary, you only have a piece of paper glued to the door of the main entrance to the municipal offices, in which mention is made of the repealed

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LOPD Law 15/1999. On the other hand, the municipal website (www.santaluciagc.com) does not have puts a privacy policy adapted to the provisions of the RGPD" (folio nº 1).

Second. It is accredited as the main person in charge of the City Council of Santa Lucia de Trijana with NIF P3502300A.

Third. It is accredited that the aforementioned Consistory does not have a poster(s) informative indicating that it is a video-monitored area, so that there is no informs in legal form of the rights and purposes of the treatment.

Fourth. It is accredited that it does not have an informative form(s) to disposition of the companies that may require it.

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 06/16/20 is examined by me-

which translates as the main fact the presence of a video-video system

surveillance that does not duly comply with the duty of information established in the regulations in force.

Among the facts denounced, the claimant states that the billboards

information is "insufficient" and that it does not adapt to the demands required by the regulations in force.

To make compatible the greater information requirement introduced by the RGPD and the conciseness and understanding in the way of presenting it, from the Protection Authorities tion of Data it is recommended to adopt an information model by layers or levels.

The European General Data Protection Regulation (hereinafter, RGPD), of 2016, applicable as of May 25, 2018, is a standard of direct application in throughout the European Union, relating to the protection of natural persons with regard to

It respects the processing of personal data and the free circulation of these data. The

RGPD introduces novelties and obligations, to the current Organic Law of Protection of Data (LOPD) and Regulation RD-1720/2007, which develops it, producing a series series of changes, to which it is necessary to adapt current treatments.

By virtue of the principle of transparency (art.12 of the RGPD) the data controller ment has the obligation to inform the interested parties about the circumstances and conditions of data processing to be carried out (art. 13 and 14 of the RGPD).

Article 13 RGPD contains a precise enumeration of the information to fa-facilitate when the data is obtained from the interested party, as an indication, where appropriate, of the Delegate of data protection, the term of conservation of the data, the right to file a claim with a supervisory authority, etc.

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Article 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 device a connection code or internet address to this information”.

For this reason, it is necessary that the Treatment Managers review and adapt the existing models or forms before the full application of the RGPD to comply with these new requirements.

III

In accordance with the evidence available in this proceeding, penalty, it is considered that the defendant has a camera system of video-surveillance that breaches the duty of information, mentioning a regulation Mative repealed to date and not being in a sufficiently visible place.

The known facts constitute an infraction, attributable to the defendant, 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:

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

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c) The General Administration of the State, the Administrations of the communities autonomous units 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 ca, the competent data protection authority will issue a sanction resolution mentioning them with warning. The resolution will also establish the measures to be taken 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.

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.

The party denounced must prove the adaptation of the informative signage in ma-video-surveillance material, proceeding to the placement of poster(s) in a visible area inside forming the current rights within the framework of the RGPD, having to provide a photograph (date and time that proves the above); It must also be provided on the page website of the corresponding adapted form so that it can be downloaded, if applicable, paid in case it is necessary to exercise the rights recognized in the 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 SANTA LUCIA DE TIRAJANA CITY COUNCIL, with NIF P3502300A, for an infringement of Article 13 of the RGPD, typified in Article 83.5 of the RGPD, a sanction of WARNING.

SECOND: TO ORDER that within ONE MONTH it is appropriate to place posters certified to the new regulations in force in the visible area, accrediting such former tes this organism through the appropriate photographs (with date and time).

THIRD: NOTIFY this resolution to the CITY COUNCIL OF SANTA LUCIA OF TIRAJANA.

FOURTH

in accordance with the provisions of article 77.5 of the LOPDGDD.

: COMMUNICATE this resolution to the Ombudsman,

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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.

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

resorts 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

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