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Procedure No.: PS/00307/2021

RESOLUTION OF PUNISHMENT PROCEDURE

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

FACTS

FIRST: DG OF THE MUNICIPAL POLICE (*hereinafter, the claimant party) with
dated June 11, 2021 filed a claim with the Spanish Agency for

Data Protection. The claim is directed against the establishment

***COMPANY.1 with NIF ***NIF.1 (hereinafter, the claimed party). The reasons in
that bases the claim are the following considers "that the claimed lacks
informative poster in the fruit establishment that he runs".

Attach documentary evidence (Photograph No. 1-2) that proves such extreme
observing the presence of video-surveillance devices without sign(s)
information at the entrance of the establishment.

SECOND: It should be noted that the respondent had already been previously warned by
this Agency through an informative letter of the need to adjust the system to the law.
current legality within the framework of E/00758/2020, answering the Forces and Bodies
of Security (complainant) about the possible consequences in case of non-compliance
unto

THIRD: On June 18, 2021, the Director of the Spanish Agency for
Data Protection agreed to admit for processing the claim presented by the party
clamant.

FOURTH: On September 7, 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 AEPD consulted on 09/20/21 has not been received.

received any response, nor has the regularization of the system under investigation been accredited.

complaint.

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 06/11/21 through the

which the "absence of informative badge" is transferred in the establishment ***EM-

DAM.1.

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Second. There is evidence of the absence of an informative badge in the aforementioned establishment.

foundation that has a video-surveillance camera system without informing the

clients of the same in legal form.

Third. The absence of informative form(s) available to the

the clients of the establishment who, in their case, 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 re-

solve this procedure.

In the present case, the claim dated 06/11/21 is examined by me-

from which the following “absence of informative posters” is transferred as the main fact.

“mativos” despite having video-surveillance devices in the establishment

***COMPANY.1.

This extreme is verified by a patrol of the Local Police that affirms the

“absence of informative poster(s)” on 02/05/21, the evidence provided being

(photographs nº 1-2) clear enough to prove the absence of a poster

at the entrance of the establishment.

The above facts suppose an infringement of the content of art. 13 RGD, to care

have an informative badge indicating that it is a video-monitored area, not informing

command of the data controller, the purpose of the use given to the images captured

tada, etc.

Reporting on video surveillance according to RGD is an obligation contained in this framework.

legislative co.

An informative device must be available in a visible area (eg access door)

indicating that it is a video-monitored area, it must indicate:

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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.

The image of a person to the extent that it identifies or can identify the person

constitutes personal data, which may be processed to di-

various purposes.

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

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"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. nes.

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.

This badge will be displayed in a visible place, and at least, at the entrances to the areas guarded whether indoors or outdoors. In the event that the video-monitored space has has several accesses, said video-surveillance area badge must be available in each one of them.

III

In accordance with the evidence available in this proceeding sanctioning party, it is considered that the claimed party lacks an informative label in visible area indicating that it is a video-monitored area.

Article 77 paragraph 5 of Law 39/2015 (October 1) provides: "5. The documents acts formalized by the officials who are recognized as having authority and in which, observing the corresponding legal requirements, the records are collected. facts verified by those will prove them unless the contrary is proved.

river".

The facts are constitutive of an infringement, attributable to the claimed party for violation of art. 13 GDPR.

IV

The art. 83.5 RGD 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 affected parties and the level of damages they have suffered (art. 83.2 a) RGD).

The camera is installed inside a customer access establishment (as) in such a way that it allows exercising control over them that are monitored

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without having received any explanation about the purpose(s) of the treatment of their data. personal cough.

- the intentionality or negligence in the infringement (art. 83.2 b) RGD), by not having- have taken any measure to report the presence of the cameras in the inter-

rior of the establishment despite the various recommendations received.

- the way in which the supervisory authority became aware of the infringement, in

particular whether the person in charge or the person in charge notified the infringement and, if so, in what

measure (art. 83.2 h), when the facts were notified by the displaced Local Police

directly to the scene of the events.

For all these reasons, it is considered correct to impose a sanction encrypted in the amount of

€1,500 (one thousand five hundred euros), a sanction located on the lowest scale for this type of

administrative infractions, taking into account the various warnings in this regard

about the "irregularity" of the conduct described.

In accordance with the provisions of article 58.2.d) of the RGPD, each authority

of control may "order the person in charge or in charge of the treatment that the operations

treatment measures comply with the provisions of this Regulation, when

proceed, in a certain way and within a specified period...".

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 ***EMPRESA.1, with NIF ***NIF.1, for an infraction of the

Article 13 of the RGPD, typified in Article 83.5 of the RGPD, a fine of €1,500 (one thousand

five hundred euros).

SECOND: ORDER the respondent so that within ONE MONTH proceed to the

regularization of the system in accordance with art. 58.2 d) RGPD, providing proof

verifiable proof of the following:

-Have an informative badge placed in a visible area, with an indication of

responsible treatment.

-Have a form(s) available to clients who may request

want it in case of exercising the rights 15-22 RGPD.

THIRD: NOTIFY this resolution to ***EMPRESA.1 and INFORM of the re-

result of the proceedings to D.G. OF THE MUNICIPAL POLICE.

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

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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

is between the 16th and last day of each month, both inclusive, the term of the payment

It will be valid 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
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. If it is-

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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