

□ File No.: PS/00277/2021

RESOLUTION OF TERMINATION OF THE PROCEDURE FOR PAYMENT

VOLUNTEER

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

BACKGROUND

FIRST: On July 2, 2021, the Director of the Spanish Agency for
Data Protection agreed to initiate a sanctioning procedure against PODEMOS PARTIDO
POLITICO (hereinafter, the claimed party), through the Agreement that is transcribed:

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Procedure No.: PS/00277/2021

AGREEMENT TO START A SANCTION PROCEDURE

Of the actions carried out by the Spanish Data Protection Agency and in
based on the following

FACTS

FIRST: A.A.A. (*hereinafter, the claimant) dated April 13, 2021
filed a claim with the Spanish Data Protection Agency. The
claim is directed against PODEMOS POLITICAL PARTY with NIF G86976941 (in
later, the claimed one). The grounds on which the claim is based are presumed
"irregularities in the video-surveillance system" when considering that it captures
excessive public space without just cause.

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Along with the claim, it provides links where what is allegedly observed is observed.

capture exterior images (Annex I).

SECOND: On 04/13/21, the transfer to the claimed one is carried out so that

in law, express what it deems pertinent.

THIRD: On 05/23/21 a reply is received from the complainant stating that

the cameras are real, being installed by the company Seguritas Direct, commissioned
view the images if necessary.

Provide a photograph of the poster in the access area, where the company is indicated.

sa system installer: Securitas Direct.

There are no monitors, the images are only reviewed if there is any incident, for

APP.

FOUNDATIONS OF LAW

Yo

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.

II

In the present case, the claim dated 04/13/21 is examined by me-
gave from which the following is transferred:

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“After viewing the videos published by Podemos Cartagena on the occasion of the events that occurred on April 2, it is verified that the video surveillance cameras lancia capture images from the outside: car license plates...” (folio no. 1).

Article 5 section 1 GDPR “Principles related to treatment” provides that: “The personal data will be:

c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ("data minimization");

It should be remembered that individuals are responsible for ensuring that the systems installed felled comply with current legislation, proving that it complies with all the requirements demanded by the regulations in force.

The installation of this type of device must have the mandatory informative sign.

tive, indicating the purposes and responsible for the treatment, where appropriate, of the data of each personal character.

They will be installed at the different entrances to the video-monitored area and, in a visible place, one or several posters that inform that you are accessing a video-monitored area.

In any case, the cameras must be oriented towards the particular space, avoiding intimidate neighboring neighbors with this type of device, as well as control areas transit of the same without just cause.

With this type of device it is not possible to obtain image(s) of public space either.

co, as this is the exclusive competence of the State Security Forces and Bodies ted.

The recording system will be located in a guarded place or with restricted access. At recorded images will be accessed only by authorized personnel, who must enter a code

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say username and password. Once the system is installed, it is recommended regular password change, avoiding easily deductible ones.

On the part of individuals, it is not possible to install imaging devices of public space, outside the cases allowed in the regulations.

The camera(s) cannot focus on public roads. If it is necessary to protect the entrance from a house or that of the garage or establishment, the installation must pass the judgments of proportionality, suitability and minimal intervention.

III

In accordance with the evidence available at the present time of agreement to initiate the sanctioning procedure, and without prejudice to what results from the instruction, it is considered that the requested person has a video-surveillance system whose legality has not been accredited to date.

The known facts could constitute an infraction, attributable to the claimed, for violation of the content of art. 5.1 c) GDPR.

IV

The defendant does not deny having a video surveillance camera system, providing Documentary evidence of the presence of an information poster in the access area.

The art. 22.4 LOPDGDD provides the following:

“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

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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”.

The facts described above imply an affectation to the content of the art. 13 RGP, due to the lack of a poster homologated to the regulations in force, ignoring those affected before whom they can exercise the rights recognized by the regulations in vigor.

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In accordance with the evidence available in this proceeding sanctioning party, it is considered that the exposed facts do not comply with what is established in the articles 5.1.c) and 13 of the RGPD, for what they could suppose the commission of in-

Fractions typified in article 83.5 of the RGPD, which provides the following:

“Infractions of the following provisions will be sanctioned, in accordance with paragraph 2, with administrative fines of a maximum of EUR 20,000,000 or, alternatively, being from a company, of an amount equivalent to a maximum of 4% of the volume overall annual total turnover of the previous financial year, opting for the greater amount:

a)

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

a)

the rights of the interested parties under articles 12 to 22; [...]”.

The following aggravating circumstance has been taken into account in the initial assessment:

-The nature, seriousness and duration of the infraction, since it is affecting rights

third-party acts without just cause (art. 83.2 a) RGPD.

-The intention or negligence in the infringement (article 83.2.b) of the RGPD),

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Based on the foregoing, it should be noted that the respondent has a system of video-surveillance cameras, incorrectly signposted, whose allegations are estimated are insufficient in relation to the uptake of outer space that affects the area of transit, reasons that determine the opening of this procedure for the presumption This infringement of articles 5.1 c) RGPD and 13 RGPD.

For the installation of a video-surveillance system that could record in ex-access to public roads, a penalty of €3,000 is proposed, while for lacking the system subject of an approved poster, an initial penalty of €1,000 is proposed, proposing a fine of €4,000 (FOUR THOUSAND EUROS).

It is recalled that both offenses are independent, so that the payment in your case of one of the same does not prevent claiming in law with respect to the other, without prejudice to "regularize" the situation (proving such extreme before this Agency in legal form).

Therefore, in accordance with the foregoing, By the Director of the State Agency

Data Protection Panel, IT IS AGREED:

FIRST: START SANCTIONING PROCEDURE TO PODEMOS PARTIDO

POLITICO, with NIF G86976941, for the alleged violation of art. 5.1 c) GDPR, infraction typified in art. 83.5 a) RGPD, being punishable in accordance with the

art. 58.2 GDPR.

SECOND: START SANCTIONING PROCEDURE TO PODEMOS PARTIDO

POLITICO, with NIF G86976941, for the alleged violation of art. 13 GDPR, infringement typified in art.83.5 b) RGPD, being punishable in accordance with the art. 58.2 GDPR.

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THIRD: APPOINT B.B.B. and, as secretary, to C.C.C., indicate-

do that any of them may be challenged, where appropriate, in accordance with the provisions in articles 23 and 24 of Law 40/2015, of October 1, on the Legal Regime of the Public Sector (LRJSP).

FOURTH: INCORPORATE to the disciplinary file, for evidentiary purposes, the claim information filed by the claimant and his documentation, the documents obtained and generated by the Subdirector General for Data Inspection during the investigation phase. investigations, all of them part of the administrative file.

FIFTH: THAT for the purposes provided in art. 64.2 b) of Law 39/2015, of October 1 name, of the Common Administrative Procedure of the Public Administrations, the blood tion that could correspond would be €4,000 (Four Thousand Euros), without prejudice to what result of the instruction.

SIXTH: NOTIFY this agreement to PODEMOS POLITICAL PARTY, with NIF G86976941, granting him a hearing period of ten business days to formulate the allegations and present the evidence it deems appropriate. In his writing of Allegations must provide your NIF and the number of the procedure that appears in the en-

header of this document.

If within the stipulated period it does not make allegations to this initial agreement, the same may be considered a resolution proposal, as established in article 64.2.f) of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations (hereinafter, LPACAP).

In accordance with the provisions of article 85 of the LPACAP, in the event that the sanction to be imposed was a fine, it may recognize its responsibility within the period granted for the formulation of allegations to this initial agreement; what will be accompanied by a reduction of 20% of the sanction to be imposed in the present procedure. With the application of this reduction, the sanction would be established at €3,200, resolving the procedure with the imposition of this sanction.

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Similarly, you may, at any time prior to the resolution of this procedure, carry out the voluntary payment of the proposed sanction, which supposes will give a reduction of 20% of its amount. With the application of this reduction, the The payment would be established at €3,200 and its payment will imply the termination of the procedure.

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The reduction for the voluntary payment of the penalty is cumulative with the corresponding apply for the acknowledgment of responsibility, provided that this acknowledgment of the responsibility is revealed within the period granted to formulate arguments at the opening of the procedure. The voluntary payment of the referred amount in the previous paragraph may be done at any time prior to the resolution. In

In this case, if it were appropriate to apply both reductions, the amount of the penalty would be set at €2,400 (Two Thousand Four Hundred Euros).

In any case, the effectiveness of any of the two reductions mentioned will be conditioned to the withdrawal or waiver of any action or resource in the administrative process. deal against the sanction.

In case you chose to proceed to the voluntary payment of any of the amounts indicated above €3,200 or €2,400, you must make it effective by paying in account number ES00 0000 0000 0000 0000 0000 opened in the name of the Agencia Es-Data Protection Office at the banking entity CAIXABANK, S.A., indicating in the concept the reference number of the procedure that appears in the heading processing of this document and the reason for the reduction of the amount to which it is accepted. Likewise, you must send proof of income to the General Subdirectorato of Ins-request to continue with the procedure in accordance with the amount entered. gives.

The procedure will have a maximum duration of nine months from the date of page of the start-up agreement or, where appropriate, of the draft start-up agreement. elapsed that term will produce its expiration and, consequently, the filing of proceedings; of in accordance with the provisions of article 64 of the LOPDGDD.

Finally, it is pointed out that in accordance with the provisions of article 112.1 of the LPACAP,

There is no administrative appeal against this act.

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Director of the Spanish Data Protection Agency

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SECOND: On July 17, 2021, the claimed party has proceeded to pay the sanction in the amount of 2400 euros making use of the two reductions provided in the Startup Agreement transcribed above, which implies the recognition of the responsibility.

THIRD: The payment made, within the period granted to formulate allegations to the opening of the procedure, entails the waiver of any action or resource in via administrative action against the sanction and acknowledgment of responsibility in relation to the facts referred to in the Initiation Agreement.

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RCPD 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 LOPDGGD), the Director of the Spanish Agency for Data Protection is competent to sanction the infractions that are committed against said Regulation; infractions of article 48 of Law 9/2014, of May 9, General Telecommunications (hereinafter LGT), in accordance with the provisions of the article 84.3 of the LGT, and the infractions typified in articles 38.3 c), d) and i) and 38.4 d), g) and h) of Law 34/2002, of July 11, on services of the society of the information and electronic commerce (hereinafter LSSI), as provided in article 43.1 of said Law.

II

Article 85 of Law 39/2015, of October 1, on Administrative Procedure

Common to Public Administrations (hereinafter, LPACAP), under the rubric

"Termination in sanctioning procedures" provides the following:

"1. Started a sanctioning procedure, if the offender acknowledges his responsibility, the procedure may be resolved with the imposition of the appropriate sanction.

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2. When the sanction is solely pecuniary in nature or it is possible to impose a pecuniary sanction and another of a non-pecuniary nature, but the inadmissibility of the second, the voluntary payment by the alleged perpetrator, in any time prior to the resolution, will imply the termination of the procedure, except in relation to the replacement of the altered situation or the determination of the compensation for damages caused by the commission of the infringement.

3. In both cases, when the sanction is solely pecuniary in nature, the competent body to resolve the procedure will apply reductions of, at least, 20% of the amount of the proposed sanction, these being cumulative with each other.

The aforementioned reductions must be determined in the notification of initiation of the procedure and its effectiveness will be conditioned to the withdrawal or resignation of any administrative action or recourse against the sanction.

The reduction percentage provided for in this section may be increased regulations."

In accordance with the above, the Director of the Spanish Agency for the Protection of Data

RESOLVES:

FIRST: TO DECLARE the termination of procedure PS/00277/2021, of

in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to PODEMOS POLITICAL PARTY.

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 as prescribed by

the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of the Public Administrations, the interested parties may file an appeal

contentious-administrative before the Contentious-administrative Chamber of the

National Court, in accordance with the provisions of article 25 and section 5 of

the fourth additional provision of Law 29/1998, of July 13, regulating the

Contentious-Administrative Jurisdiction, within a period of two months from the

day following the notification of this act, as provided in article 46.1 of the

aforementioned Law.

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