

□ Procedure No.: PS/00296/2021

- 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 February 27, 2021

filed a claim with the Spanish Data Protection Agency. The

claim is directed against NONASPE CITY COUNCIL with NIF P5019000H

(hereinafter, the claimed). The grounds on which the claim is based are
manifestation of the affected:

“A video surveillance camera system has been installed without the co-
corresponding authorization, lacking an informative poster (...)”—folio nº 1--.

Together with the claim, it provides as the only documentary evidence a photograph of
a camera that seems oriented towards public space (Annex I).

SECOND: On 03/24/2021, the claim is TRANSFERRED to the re-
called, without any response having been made to date.

THIRD: On 06/11/2021, the claim is admitted for processing
by this AEPD.

FOURTH: On July 12, 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: On 07/22/21 a letter is received from alloys of the claimed argument-
assuming that the "cameras are not operational" obeying the reason for the installation to
acts of vandalism purchase municipal assets pending the mandatory authorization
of the Government Subdelegation.

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 02/27/21 “there has been to install a video-surveillance camera system without the corresponding authorization. tion, lacking an informative poster (...)”—folio nº 1--.

Together with the claim, it provides as the only documentary evidence a photograph of a camera that seems oriented towards public space (Annex I).

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

2/5

Second. It is identified as the main responsible CITY COUNCIL OF NO-NASPE, who does not deny the installation of the cameras for security reasons of the heritage furniture.

Third. The installation of the cameras is due to various acts of vandalism, not do the same operations at the time of the claim.

Fourth. The evidence provided by the respondent (Photographic Document 1, 2 and 3) per-allow verifying that the system is not in operation, not verifying treatment

Storage of any personal data associated with a neighbor of the locality.

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RGD 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 02/27/21 is examined by me-

gave from which the following is transferred as the main fact:

“A video surveillance camera system has been installed without the corresponding authorization, lacking an informative poster (...)”—folio nº 1--.

Therefore, the facts are concretized in the presence of an improper camera system.

seen from an informative poster (is), indicating the person in charge of the treatment to whom 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:

☐

☐

☐

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?

nals.

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

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

3/5

"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.

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 device a connection code or internet address to this information tion. In any case, the data controller must keep available to those 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.

Article 77 section 1 LOPDGDD provides:

III

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

c) The General State Administration, the Administrations of the communities autonomous entities and the entities that make up the 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 (...). The resolution will also establish the measures that appropriate to adopt so that the conduct ceases or the effects of the infraction are corrected that it 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.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

4/5

IV

The party complained against in the pleadings dated 07/22/21 argues that the cameras were not operational at the time of the events, pending the corresponding authorization for the start-up of the system.

Therefore, it is not possible to speak of an administrative infraction, since the same more operational, not producing a treatment of third party data.

The proliferation of acts of vandalism against publicly owned furniture does not

It is an unknown fact for this organism, which has ruled on its re-

rejection whatever the reason, recognizing the suitability of the chamber systems

video-surveillance gangs as a preventive measure to avoid them.

With this type of system, the streets are provided with greater security and

tends to avoid acts of vandalism against public furniture, with the consequent cost for

the municipal coffers (vgr. painted, burning of containers, etc), trying to dissuade

dir this type of behavior clearly uncivil.

Therefore, the installed system obeys a legitimate purpose, being the

same in a non-operational state when they were detected by the claimant,

obeying a phase prior to its start-up and operation.

In general terms, the use of video cameras must obey the principle of proportion.

tionality between the means employed and the end pursued, with no other alternative

less invasive. Also, it is required that said device be visibly advertised.

do, as well as respect the rights of people by eliminating the

recordings after some time.

Citizens must be clearly and permanently informed of the existence

of these fixed video cameras, without specifying their specific location, as well as of

the authority responsible for processing the data generated, before which they may

exercise their rights. This information must be done with signage plates in

the area where it is located at the time of its operation.

In situations such as those described, it is perhaps advisable to first address

term to the Office of attention to the citizen (a) of the Local Corporation for the purposes of

be informed about the rights that could be affected and only in the event of a lack of

answer, present the corresponding claim to this Agency.

The arguments put forward are considered sufficient to preserve the

right to the presumption of innocence (art. 24 CE), highlighting the collaborative work with this organism, which denotes the absence of a volitional element in the behavior written, beyond a concern to protect the municipal heritage for the reasons you exposed.

Therefore, in accordance with the applicable legislation and after assessing the graduation criteria of the sanctions whose existence has been proven,

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

5/5

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ORDER the FILE of this procedure as there is no evidence gives the commission of administrative infraction in the matter that concerns us.

SECOND: NOTIFY this resolution to the NONASPE CITY COUNCIL.

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

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es