

□ Procedure No.: PS/00222/2020

RESOLUTION OF PUNISHMENT PROCEDURE

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

FACTS

FIRST: Mrs. A.A.A. (*hereinafter, the claimant) dated October 1, 2019

filed a claim with the Spanish Data Protection Agency. The

claim is directed against B.B.B. with NIF ***NIF.1 (hereinafter, the claimed one). The

reasons on which the claim is based are "installation of video surveillance cameras

that could be oriented towards public and/or private space without just cause"

(folio nº1).

Together with the claim, it provides documentary evidence that proves the presence of
the chamber(s) complained of.

SECOND. On 10/17/19, the complaint was TRANSFERRED so that

allege what he deems appropriate in law, stating who identifies himself as

Lawyer of the defendant "that he remains hospitalized for a serious
illness".

THIRD. When the database of this Agency was consulted on 10/01/20, no

answers any allegation about the facts that are the subject of the complaint, in order to clarify the
legality of the denounced system.

FOURTH. On October 28, 2020, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the claimant, for the
alleged infringement of Article 5.1.c) of the RGPD, typified in Article 83.5 of the
GDPR.

FIFTH. When the database of this organization was consulted on 11/30/20, no

received any allegation in relation to the facts object of the 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. It is identified as the main person responsible for the installation of the camera

(s) the accused, who has a video-surveillance system on the property

***ADDRESS.1 of Barcelona.

Second. No allegation has been received in relation to the facts under investigation.

nuncia, nor has the situation of the system been clarified to date.

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Third. The medical situation of the accused has not been clarified to date, nor

no manifestation has been made to this body.

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.

II

In the present case, the claim dated 10/01/19 is examined by me-

gave from which the following is transferred as fact:

“The defendant has proceeded to install various cameras in the nearby house.

that they asked to be obtaining images irregularly”

The art. 5.1 c) RGD provides the following: The personal data will be:

“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

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.

indicative, indicating the purposes and responsible for the treatment, where appropriate, of the data of each

personal character.

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

related.

It should be remembered that even in the case of a "simulated" camera, the same

should preferably be oriented towards private space, since it is considered

that this type of device can affect the privacy of third parties, that they are inti-

measured by it in the belief of being the subject of permanent recording.

On the part of individuals, it is not possible to install devices for obtaining

images of public space, outside the cases allowed in the regulations.

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In accordance with the evidence available in the sanctioning procedure, recipient, it is considered that the requested party has a video-surveillance system that may not comply with current regulations.

The evidence provided is considered "sufficient" to prove the presence of the chambers, not making any statement about their legality, neither the defendant himself, nor any family member or legal representative on his behalf.

The known facts constitute an infraction, attributable to the claimant. mado, for violation of the content of art. 5.1 c) RGPD, previously transcribed.

IV

The art. 83.5 RGPD 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:

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

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Without prejudice to the provisions of article 83 of the RGPD, the aforementioned Regulation provides ne in your art. 58.2 b) the possibility of sanctioning with a warning, in relation to what stated in Recital 148:

"In the event of a minor offence, or if the fine likely to be imposed would constitute a disproportionate burden for a natural person, rather than a sanction. tion by means of a fine, a warning may be imposed. must, however, lend special attention to the nature, seriousness and duration of the infringement, its character

intentional, to the measures taken to alleviate the damages suffered, to the degree
liability or any relevant prior violation, to the manner in which the authority
control authority has become aware of the infraction, compliance with measures
measures ordered against the person in charge or in charge, adherence to codes of con-
conduct and any other aggravating or mitigating circumstance.”

The defendant or his representative must clarify the legality of the system provided.

having all the precise documentation it deems appropriate.

By the denouncing party, the "facts" can be transferred if they persist
the offending conduct, to the local State Security Forces and Corps,
so that they carry out the precise inquiries, transferring the
inquiries made to this Agency.

Therefore, based on the foregoing,

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Therefore, in accordance with the applicable legislation and having assessed the criteria for
graduation of sanctions whose existence has been proven,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: IMPOSE B.B.B., with NIF ***NIF.1, for an infraction of Article 5.1.c)
of the RGPD, typified in Article 83.5 of the RGPD, a sanction of Warning.

SECOND. REQUIRE the accused so that within ONE MONTH to count
from the day after this notification clarifies the legality of the system,
providing all the necessary documentation for it.

THIRD: NOTIFY this resolution to B.B.B. and REPORT the result

of the proceedings to the complainant Doña A.A.A.

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

Interested parties may optionally file an appeal for reconsideration before the

Director of the Spanish Agency for Data Protection within a month from

counting from the day following the notification of this resolution or directly

contentious-administrative appeal 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.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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