

□ File No.: PS/00356/2021

## 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 complaining party) dated April 20,  
2021 filed a claim with the Spanish Data Protection Agency. The  
claim is directed against B.B.B. with NIF \*\*\*NIF.1 (hereinafter, the part  
claimed). The reasons on which the claim is based are succinctly:  
following:

“presence of cameras installed by the neighbor close to his home” considered  
considering that it could affect their personal and/or family privacy without just cause (for  
mess no. 1).

Together with the claim, it provides documentary evidence (Annex I) that confirms the  
presence of several cameras installed on the facade of the neighbor's property denounced  
ciated, and they may be misdirected without just cause.

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5  
December, of Protection of Personal Data and guarantee of digital rights (in  
hereinafter LOPDGDD), said claim was transferred to the claimed party in fe-  
cha 05/05/21 and 05/28/21, to proceed to its analysis and inform this Agency  
within a month, of the actions carried out to adapt to the requirements  
provided for in the data protection regulations.

No response has been received to this letter, nor has any clarification been made on  
installed cameras.

THIRD: On July 6, 2021, the Director of the Spanish Agency for Pro-

Data protection agreed to admit for processing the claim presented by the claimant party.

keep.

FOURTH: On September 1, 2021, the Director of the Spanish Agency for

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

FIFTH: On 10/18/21, the careful collaboration of the Forces and Bodies is required.

of Security so that those displaced to the place of the facts verify the facts  
object of claim, providing documentary evidence to that effect.

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SIXTH: On 11/07/21, a visual inspection of the home was carried out, verifying the  
presence of four security cameras installed for security reasons of the  
same.

"the dwelling in question is contiguous to the claimant's plot (plot 66)

and are divided by a concrete block wall with a difference in level between  
these, being above the required plot (plot 65)

"You can see a sign on the front fence of the house in which it gives

notice of the existence of alarm and video-surveillance cameras belonging to the

Securitas Direct Company

Complaints filed, consulted the SIGO System of the Civil Guard,

There are eight facts in which criminal complaints appear, from A.A.A. against  
claimed.

Photographs are attached (Annex I) for the analysis of the facts object of claim.

In view of everything that has been done, by the Spanish Data Protection Agency

In this proceeding, the following are considered proven facts:

First. The facts bring cause of the claim dated 04/20/21 by me-

from which "the presence of a system of video-surveillance cameras

that could affect their personal/family privacy and public space without just cause.

fied".

Second. The Security Forces and Bodies displaced to the place of the

Many confirm that the main person responsible is Doña B.B.B..

Third. In the Civil Guard Report of 11/18/21, it is confirmed by the force acting

that the installation company is Securitas Direct, having a valid contract with the

same, confirming the owner the viewing with the cameras (front and rear).

Fourth. No contract has been provided to the acting force, having made it

sent an email, to clarify the legality of the system.

Fifth. The installed sign only specifies the installation company, not being a

poster homologated to the regulations in force, the person responsible for the treatment is not confirmed.

ment, being located for informative purposes to the outside, of what is

deduces the area to capture.

## 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.

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II

Before going into the substance of the matter, it should be noted that in the Agreement to Start the Fe-  
cha 09/01/21 was informed that in case of not making any allegation to the Agreement  
of Initiation, the same “may be considered as a Resolution proposal” in the terms  
Article 64 letter f) Law 39/2015 (October 1).

“f) Indication of the right to make allegations and to be heard in the proceeding.  
procedure and the deadlines for its exercise, as well as an indication that, in the event of  
make allegations within the stipulated period on the content of the initiation agreement,  
this may be considered a resolution proposal when it contains a pronouncement  
precise statement about the imputed responsibility.

In the present case, the claim dated 04/20/21 is examined by me-  
from which the main fact is transferred as the "presence of cameras installed  
by the neighbor next to her home" considering that it could affect her privacy  
personal and/or family without just cause.

The facts denounced suppose an affectation to the content of art. 5.1 c) GDPR  
(regulations currently in force) that provides: “personal data will be:  
c) adequate, pertinent and limited to what is necessary in relation to the purposes  
for which they are processed (“data minimization”) (...)”.

Individuals are responsible for the installed video-surveillance systems to be  
comply with current legislation, and must be able to prove such extremes.

We report to the competent authority.

Cameras installed by individuals must be oriented towards their private space.

vative avoiding the capture of private area of third parties without just cause.

In no case will the use of surveillance practices be admitted beyond the objective environment.

of the installation and in particular, not being able to affect the surrounding public spaces.

contiguous buildings and vehicles other than those accessing the guarded space.

Likewise, in the case of false cameras, they must be oriented

to a private area, avoiding intimidation of neighboring neighbors who are unaware

know whether or not they process personal data.

III

In accordance with the evidence available in this proceeding

sanctioning party, it is considered that the claimed party has a video system

Surveillance that affects the rights of third parties without just cause.

The respondent has not clarified the area that is captured with the cameras in

question, remembering that an impact on a transit area (not exclusively

private) entails the duty to inform by means of an informative poster adapted to the current

regulations, not being the same obligatory in case of affectation to zone

exclusively exclusive to it.

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The documentary evidence (Annex I) confirms that the cameras

close to the adjoining dwelling can capture its private space, as well as

that the front camera captures space close to the adjacent road, being surrounded

the house with a mesh that allows capturing the outside area of the access door to

the House.

The known facts constitute an infraction, attributable to the party claimed based on the proven facts of the content of article 5.1 c) RGPD, above-mentioned.

Article 83.5 RGPD provides the following:

IV

“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;

When motivating the sanction, the following is taken into account:

- the nature of the infraction by having a video-surveillance system that is oriented towards a third-party private area without just cause, trying to presumably mind data of identifiable natural persons (art. 83.2 a) RGPD).
- the intentionality or negligence of the infringement, (art. 83.2 b) RGPD), since with the video-surveillance system, it performs an excessive control of the area outside the property. mercy without any justified cause, highlighting the bad orientation of the installation of the device(s), which is affecting an excessive area around your property.
- any other aggravating factor (art. 83.2 k) RGPD), by not collaborating with the Civil Guard, which after contacting the affected party requests a copy of the installation contract. lation, without having contributed or taken any measure to prove the law. quality of the denounced system.

For all this, a sanction is agreed in the amount of €1,500 (one thousand five hundred

euros), by having a camera system that records excessively private areas of third parties, sanction located in the lower scale of this type of infractions and according to the nature of the events described.

It must be provided in accordance with art. 58.2 d) RGPD screen printing (fe-  
date and time) of what in your case is captured with the camera (s) installed in order of their  
analysis by this Agency, as well as characteristics of the device(s) installed, without prejudice  
pact of the allegations that it deems necessary to make or, where appropriate, provide evidence  
withdrawal of the same from the areas described.

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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 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 fine of €1,500 (one thousand five hundred  
euros).

SECOND: ORDER the respondent to proceed within ONE MONTH from  
of the notification of this resolution to adopt the following measures,  
in accordance with article 58.2 d) RGPD:

-Prove the legality of the system, providing a screen print/s (date and  
time) that proves what is captured in your case with them.

-Certify that you have a poster homologated to the current regulations, indicating  
where appropriate, the person responsible for the treatment or delimit the area that is the object of capture.

tion with the cameras.

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

of the proceedings to the complaining party.

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

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



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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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