

Procedure No.: PS/00217/2019

938-0419

## 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 March 7, 2019  
filed a claim with the Spanish Agency for Data Protection, motivated by  
the processing of data carried out through cameras of a video surveillance system  
whose owner is identified as B.B.B. with NIF \*\*\*NIF.1 (hereinafter the claimed)  
installed in GARAGE ACCESS OF \*\*\*ADDRESS.1 COUNCIL OF RIOSA,  
ASTURIAS.

The reasons on which the claim is based are "that on the façade of a  
private property located in \*\*\*ADDRESS.1 (council of Riosa) there are  
Two video-surveillance cameras were installed on the access gate to a garage of  
this property (...)"—folio nº 1---.

Along with the claim, provide documentary evidence that proves the installation of  
video surveillance cameras.

SECOND: In view of the reported facts, in accordance with the evidence  
that is available, the Data Inspection of this Spanish Agency for the Protection of  
Data considers that the treatment of personal data that is carried out by the  
denounced through the chambers to which the complaint refers, does not meet the  
conditions imposed by the regulations on data protection, for which reason the  
opening of this sanctioning procedure.

THIRD: On 04/01/19, the claim was TRANSFERRED to

denounced, so that he could allege in law what he deems appropriate, stating as

"notified" in the computer system of this Agency.

FOURTH: On 04/12/19 the allegations of the accused were received in relation to the

denounced system, justifying its installation for "security reasons",

confirming the availability of an informative poster.

FIFTH: On September 2, 2019, 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.

SIXTH: On 09/18/19, this Agency received a written statement of allegations from the

denounced party, stating succinctly the following:

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"That the angle of vision of the camera is modified, leaving only

and exclusively a vision of the plot to be watched, without this invading beyond what

public thoroughfare strictly necessary"

"A photographic report of the before and after changes is attached.

requested" (Exhibit No. 1).

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

In this proceeding, the following are considered proven facts:

#### PROVEN FACTS

First. On 03/07/19, this Agency received a claim from the party

complainant through which transfers as main fact the following:

“That on the facade of a private property located at \*\*\*ADDRESS.1

(council of Riosa) two video-surveillance cameras are installed on the access gate to a garage of this property (...)”—folio nº 1---

Second. It is identified as the main responsible Mr. B.B.B., being identified as such in the written complaint filed.

Third: The system has the mandatory information poster indicating that it is a video-monitored area, informing the person responsible for it.

Fourth. The accused party has proceeded to reorient the installed camera, so that it is limited to the part located in front of his private property, responding to the installation of the same for security reasons.

## FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of the RGPD recognizes to each control authority, and as established in art. 47 of the Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of rights (hereinafter LOPDGDD), the Director of the Spanish Agency for Data Protection is competent to initiate and resolve this procedure.

II

In the present case, we proceed to examine the claim dated 03/07/19 by means of which the following is transferred as the main fact:

“That on the facade of a private property located at \*\*\*ADDRESS.1 (Council of Riosa) two video-surveillance cameras are installed on the access gate to a garage of this property (...)”—folio nº 1---

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The facts, therefore, are concretized in that at least one of the chambers is oriented in such a way that it obtains images of the entrance of the establishment where the complainant exercises her professional activity, capturing a wide space of public road.

The facts described above may imply an affectation of art. 5.1 c)

RGPD, which provides:

"Personal data will be: c) adequate, pertinent and limited to the necessary in relation to the purposes for which they are processed ("minimization of data").

Individuals can install video-surveillance cameras, although they are responsible for ensuring that they comply with current legislation.

With this type of device, it is generally intended to protect property property, in the face of hypothetical attacks and/thefts with force on things, although may be used for different purposes, always within the current legal framework.

The defendant acknowledges being responsible for the system, which is due to of "security" showing a collaborative attitude with this Agency to reorient the camera in what is necessary and justified the rest of the requirements demanded for this type of devices.

It provides documentary evidence (Annex I) with limitation of the angle, so that

The capture of public and/or private space by a third party without just cause is avoided.

### III

For information purposes only, it is worth remembering some of the requirements that must comply with the processing of images through a video surveillance system to comply with current regulations:

- Respect the principle of proportionality.
- When the system is connected to an alarm center, you can only be installed by a private security company that meets the requirements contemplated in article 5 of Law 5/2014 on Private Security, of April 4.
- The video cameras will not be able to capture images of the people who are outside the private space since the treatment of images in places public can only be carried out, where appropriate, by the Forces and Bodies of Security. Nor can spaces owned by third parties be captured or recorded without the consent of their owners, or, as the case may be, of the persons who are find.

- The duty to inform those affected provided for in article 12 of the RGPD 2016/679, of April 27, 2016, in the terms referred to both in the cited article, as in articles 13 and 14 of said rule, resulting from the application

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-by not contradicting the provisions of the aforementioned Regulation-, the manner provided in the Article 3 of Instruction 1/2006, of November 8, of the Spanish Agency for Data Protection, on the Processing of Personal Data for the Purpose of Surveillance through Camera Systems or Video Cameras (Instruction 1/2006, of 8 of November, of the Spanish Data Protection Agency).

Specifically, it must:

1. Place at least one informative badge in the video-monitored areas

located in a sufficiently visible place, both in open spaces and

closed.

In accordance with the provisions of articles 13 and 14 of the Regulation (EU)

2016/679, of April 27, 2016, in the informative sign previously

mentioned must identify, at least, the existence of a treatment, the

identity of the person in charge and the possibility of exercising the rights provided in

these precepts.

2. Keep the information to which it refers available to those affected

the aforementioned Regulation (EU) 2016/679, of April 27, 2016.

IV

Based on the arguments examined and the evidence provided, it can be concluded

that the defendant has proceeded to reorient the angle of view of the camera,

capturing images of the area located in front of your private property.

Article 4 section 3 of Instruction 1/2006 (AEPD) provides the following:

“Cameras and video cameras installed in private spaces may not

obtain images of public spaces unless it is essential for the

surveillance purpose that is intended, or it is impossible to avoid it by reason of the

location of those. In any case, any data processing should be avoided.

unnecessary for the intended purpose.

With the new orientation the camera only obtains images of the near space

to your property, although it is recommended, if possible, that you close the angle even more,

towards a proportional area located in front of the door that it intends to protect.

So, having corrected the capture angle, not obtaining

images of the sidewalk in front, the right of the complainant is considered protected,

that it is not affected by the reported device, which is why it is appropriate

order the file of this procedure.

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:

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FIRST:

administrative.

PROCEED to decree the

FILE of this procedure

SECOND: NOTIFY this resolution to Don B.B.B. and REPORT the

result of the actions to the denouncing party Ms. A.A.A.

In accordance with the provisions of article 50 of the LOPDPGDD, the

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

LOPDPGDD, 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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