

□ File No.: EXP202202457

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: Mrs. A.A.A. (hereinafter, the claimant party) dated February 8,
2022 filed a claim with the Spanish Agency for Data Protection against
D.B.B.B. with NIF ***NIF.1 (hereinafter, the claimed party), for the installation of a
video surveillance system located at CASA ***ADDRESS.1, ***LOCATION.1,
ASTURIAS, with indications of a possible breach of the provisions of the
article 5.1.c) of the RGPD.

The claimant states that the respondent has installed a video surveillance camera
at the entrance of your home, which is oriented to the entrance of the property
of the claimant and to the public highway.

Provides images of the camera situation.

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, to
to proceed with its analysis and inform this Agency within a month of the
actions carried out to adapt to the requirements set forth in the regulations of
Data Protection.

The transfer, which was carried out in accordance with the regulations established in Law 39/2015, of
October 1, of the Common Administrative Procedure of the Administrations
Public (hereinafter, LPACAP), was collected on March 9, 2022 as

It is stated in the acknowledgment of receipt that is in the file.

No response has been received to this transfer letter.

THIRD: The claim was admitted for processing on May 8, 2022.

FOURTH: On June 22, 2022, 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 Regulation (EU) 2016/679 of the European Parliament and of the Council, of April 27, 2016, regarding the protection of individuals with regard to the processing of personal data and the free circulation of these data and repealing Directive 95/46/EC (hereinafter, RGPD), typified in article 83.5 of the RGPD.

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FIFTH: Notification of the aforementioned start-up agreement in accordance with the rules established in Law 39/2015, of October 1, on the Common Administrative Procedure of the Public Administrations (hereinafter, LPACAP), dated July 6, 2022 the allegations presented by the respondent entered this Agency, providing a Registry Information document in which it appears, since February 2021, ownership of the home where the video surveillance system is installed, and which does not match the claim.

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 February 08, 2022, it entered this Spanish Agency

Data Protection claim for the installation of a security camera

video surveillance at the entrance of the requested dwelling, oriented towards the dwelling of the claimant and towards the public thoroughfare.

SECOND: The respondent, in his pleadings brief, has provided a document of Registry information in which it appears, since February 2021, the property of the home where the video surveillance system is installed, and that does not coincide with the reclaimed.

FOUNDATIONS OF LAW

Yo

In accordance with the powers that article 58.2 of the RGPD grants to each authority of control and according to what is established in articles 47 and 48.1 of the LOPDGDD, it is competent to initiate and resolve this procedure the Director of the Agency Spanish Data Protection.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed by the Spanish Agency for Data Protection will be governed by the provisions in Regulation (EU) 2016/679, in this organic law, by the provisions regulations issued in its development and, as long as they do not contradict them, with a subsidiary, by the general rules on administrative procedures."

II

On February 08, 2022, it had entry in this Spanish Agency of Data Protection claim for the installation of a video surveillance camera at the entrance of the defendant's home, oriented towards the home of the claimant and towards the public highway.

Article. 5.1 c) RGPD provides that personal data will be:

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

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It should be remembered that individuals are responsible for ensuring that the systems installed comply with current legislation.

The cameras must be oriented towards the particular space, avoiding intimidating neighboring neighbors with this type of device, as well as control transit areas of them without just cause.

On the part of individuals, it is not possible to install imaging devices of public space, outside the cases allowed in the regulations, as this is exclusive jurisdiction of the State Security Forces and Bodies.

The treatment of images through a video surveillance system, to be

In accordance with current regulations, it must meet the following requirements:

- Respect the principle of proportionality.
- When the system is connected to an alarm center, it 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 people who are outside the private space where the video surveillance system is installed, since the treatment of images in public places can only be carried out, unless Government authorization concurs, by the Security Forces and Bodies. Either spaces owned by third parties may be captured or recorded without the consent of their owners, or, where appropriate, of the people who are in them.

This rule admits some exceptions since, on some occasions, for the protection of private spaces, where cameras have been installed on facades or inside,

it may be necessary to guarantee the security purpose the recording of a portion of public road. That is, cameras and video cameras installed for the purpose of security will not be able to obtain images of public roads unless it is essential for said purpose, or it is impossible to avoid it due to the location of those and, extraordinarily, the minimum space for said purpose. Therefore, the cameras could exceptionally capture the portion minimally necessary for the intended security purpose.

- The duty to inform those affected provided for in articles 12 and 13 of the RGPD and 22.4 of the LOPDGDD.

Specifically, at least one badge must be placed in video-monitored areas. informative located in a sufficiently visible place, both in open spaces and closed, which will identify, at least, the existence of a treatment, the identity of the person in charge and the possibility of exercising the rights foreseen in said precepts. Likewise, the information must be kept available to those affected. to which the aforementioned RGPD refers.

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- The person in charge must keep a record of treatment activities carried out under its responsibility, including the information to which it makes reference article 30.1 of the RGPD.

- Installed cameras cannot get images from third-party proprietary space and/or public space without duly accredited justified cause, nor can they affect the privacy of passers-by who move freely through the area. not allowed, for

Therefore, the placement of cameras towards the private property of neighbors with the purpose to intimidate them or affect their privacy without just cause.

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

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

surrounding buildings, adjoining buildings and vehicles other than those accessing the space guarded.

III

The respondent, in his pleadings brief dated July 6, 2022, has provided a

document stating, since February 2021, ownership of the home

where the video surveillance system is installed, and that does not coincide with the reclaimed.

Examining the file as a whole, it has not been proven that the

responsible for the installation of the video surveillance system is the one claimed.

Therefore, according to the above,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ORDER the ARCHIVE of these proceedings as there is no accredited the commission of any administrative infraction.

SECOND: NOTIFY this resolution to D.B.B.B..

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.

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Against this resolution, which puts an end to the administrative procedure in accordance with article 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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