

□ Procedure No.: PS/00183/2020

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 November 28, 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 several recording cameras,

one of which is directed towards our private property and our own land"

(folio no. 1).

Together with the claim, it provides documentary evidence (Annex I) that proves the

presence of the camera (s) object of complaint, specifically that they can

capture both public space and affect their private privacy.

The photograph (s) provided shows the presence of a camera on top

of a mast that could be misoriented (Frames 1-4).

SECOND. On 01/10/20, the claim was TRANSFERRED so that

the accused stated what she deemed appropriate, without any allegation having been
made to date.

THIRD. On 09/16/20, a new letter was received from the complainant, expanding the

COMPLAINT, considering that one of the chambers has been reoriented, insisting on the
alleged illegality of the system in question.

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: The database of this Agency consulted on 01/29/21 has not been

No response has been received, nor has any documentary contribution been received in this regard.

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. On 11/28/19 a claim is received by means of which the

alleged misdirection of the video surveillance camera system.

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Second. It is identified as the main person responsible for the installation of the system

Mrs. B.B.B.

Third. The presence of the cameras is accredited, being oriented both towards

public space, as well as the private property of the claimant.

-Frame No. 3 camera oriented towards transit space, outside the limits

you own private property.

Fourth. Consulted database of this Agency 01/29/21 there is no answer al-

guna about it.

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

The art. 5.1 c) RGPD 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 fulfilled comply with current legislation, proving that they comply with all two the requirements demanded by the regulations in force.

Article 22 section 2 of the LOPDGDD provides:

“Images of public roads may only be captured to the extent that it is essential for the purpose mentioned in the previous section.

The cameras must be oriented towards the particular property, not being able to affect the right of third parties who may feel intimidated with this type of device.

Security cameras installed in private spaces will not be able to obtain images public spaces, the security function of public spaces corresponding to It is exclusively for the State Security Forces and Bodies.

Therefore, capturing images of public spaces by surveillance cameras private or private lance, must be limited to what is strictly necessary, applying in any case the principle of proportionality.

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III

In accordance with the evidence available in this proceeding,

sanctioning party, it is considered that the defendant has a camera system video-surveillance that may not comply with current legislation.

The cameras cannot obtain an image of a public transit area, and must Adjust your installation to the legally required parameters.

The known facts constitute an infraction, attributable to the defendant, for violation of the content of article 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. You must, however, pay

Special attention is paid to the nature, seriousness and duration of the infraction, its character intentional ter, to the measures taken to alleviate the damages suffered, to the degree of responsibility or any relevant prior violation, the manner in which the control authority has become aware of the infraction, to the fulfillment of

measures ordered against the person in charge or in charge, adherence to codes of conduct and any other aggravating or mitigating circumstance.”

The accused party must provide a screen print of what is observed with each camera, accrediting the legality of the system in the exposed terms, without detriment of wielding the allegations that it deems necessary.

In cases like the present one, it is advisable to transfer the facts to the Forces and Security Bodies of the locality, where after the opportune investigations nas can resend the Complaint again for the appropriate legal purposes, a once these prove the effective address of the alleged perpetrator.

It is recalled that not meeting the requirements of this Agency may lead to var in the opening of a new sanctioning administrative procedure with a fine

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pecuniary (after the established legal term has elapsed) in the terms of article 72.1 of the tra o) LOPDGDD.

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: Order the respondent so that within ONE MONTH proceed to accre-

Add the following ends:

-Legality of the system, through the provision of all the precise documentation sa for it.

-Screen print (date and time) of what, in your case, is captured with the system

cameras theme installed.

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

of the proceedings to the A.A.A. claimant.

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

resorts 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

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