

□ File No.: EXP202105251

RESOLUTION OF TERMINATION OF THE PROCEDURE FOR PAYMENT

VOLUNTEER

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

BACKGROUND

FIRST: On February 28, 2022, the Director of the Spanish Agency for
Data Protection agreed to initiate a sanctioning procedure against A.A.A. (hereinafter the
claimed party). Notified of the initial agreement and after analyzing the allegations
presented, on May 23, 2022, the resolution proposal was issued that
is transcribed below:

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File No.: EXP202105251

PROPOSED RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: OLIVENZA CITY COUNCIL (*hereinafter, the complaining party) with
On November 26, 2021, he filed a claim with the Spanish Agency for
Data Protection. The claim is directed against A.A.A. with NIF ***NIF.1 (hereinafter
lante, the party claimed). The grounds on which the claim is based are as follows:
“Installation of a video-surveillance camera towards public space obtaining
images of pedestrians without just cause” (folio nº 1).
Together with the notification, a document is provided (Annex I) that certifies the capture of es-
public space and the presence of a device on the indicated property, whose owner is

B.B.B.

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-

date 12/03/21, to proceed with its analysis and inform this Agency on the

period of one month, of the actions carried out to adapt to the foreseen requirements

cough in the data protection regulations.

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THIRD: On January 17, 2022, in accordance with article 65 of the

LOPDGDD, the claim filed by the claimant was admitted for processing.

FOURTH: On 01/13/22, a reply is received from the respondent stating the

following in relation to the facts reported by this Agency:

“...it is false and corresponds to one of the many reprisals that we have to endure.

tar those of us who denounce corrupt (...) as those who lack the rights of this

part by denying the processing of more than 50 complaints, and provoking by revealing

disclosure of my personal data after revenge, threats and damage to my property.

mercy. This party is under no obligation to collaborate with corrupt organizations, nor

has to demonstrate or clarify any situation manifested by (...) who shed calum-

girls to whom you give presumption of veracity.

Rest assured that the ombudsman will be aware of this matter, as will the

European prosecutor's office, since in this shitty dictatorship there are no legal guarantees

for those of us who have been granted free justice to defend ourselves from the administration

tion”.

FIFTH: On February 28, 2022, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against the claimed party, in accordance with the provisions of articles 63 and 64 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations (hereinafter te, LPACAP), for the alleged infringement of Article 5.1.c) of the RGPD, typified in the Article 83.5 of the RGPD.

SIXTH: On 04/17/22, a brief (s) of allegations is received from the respondent legally stating the following:

“Given that the complaint received mentions the relationship between neighbors and di-
various traffic complaints, in this procedure it is recorded, and it is demonstrated,
that the police headquarters knows that on January 1 I was in the police
and that I could not file a complaint because they refused to pick it up [annex
1], a fact that motivates that on January 4 [annex 2] you have to deliver in the registry
from the town hall the same complaint. This agency knows, like the judges, that the ne-
Refusal of the local police to collect and process complaints is a crime.

In the same way, there must be a record of the attitudes of the neighbors denouncing
that cause damage to my car, and sometimes prevent me from using it by blocking-
it in areas where parking is prohibited, and that the police know perfectly well.

This is so true that a total of 54 videos have been delivered to the court where
police can be seen walking past vehicles that need to be penalized, but
they don't do it because they are corrupt (...) [annex 9].

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Another reason that forces me to protect my assets with cameras is that the companies that manipulate and forge my signature and consent to lay cables on my façade, they will not put anything on my property (...). For this fact I receive threats death rows [annex 25] and subsequent reprisals that are collected precisely in the photographs contained in this file and that is in court because the damage Continued damage caused by animals on other people's property is a crime, which is why which does not require any consent for the communication of data to third parties [annex 26], this being also a judge.

This agency must know that the (...) that transfers information to the delegation tion of the government in Extremadura affirms that it placed a camera to record the road public and neighborhood What (...) it hides is that it is denying the processing of complaints traffic accidents, and non-compliance with the municipal ordinance of coexistence due to continuous discharge of organic fluids on public roads. It should be equally clear ro that the refusal to process complaints is a crime, and that he himself sets the requirements that the complainant must comply with, being precisely one of them that attaches ele-audiovisual evidence [Annex 24]. On the other hand, and given that they are pro-causing damage to my property, a lawsuit was filed in court and also processing is being made as difficult as possible. The photos that are collected in this denunciation are proof of the revenge and reprisals that those of us who denounce We thank officials (...) and all their allied neighbors.

For all the above, I REQUEST: The file of the file 202105251 for existing legitimacy to obtain images that demonstrate before the judiciary litigate the damages and reprisals produced by the absolute incompetence of the (...) co-Rrupts of the disgusting town hall of Olivenza. Demonstrating their abuses of po-der, arbitrariness, and prevarication before this agency.”

SEVENTH: Attached as an annex is a list of documents in the procedure, remembering full accessibility to the content of the file administrative.

Of the actions carried out in this procedure and the documentation in the file, the following have been accredited:

PROVEN FACTS

First. The facts bring cause of the claim dated 11/26/21 through the which translates as the main fact the following:

“Installation of a video-surveillance camera towards public space obtaining images of pedestrians without just cause” (folio nº 1).

Second. It is accredited as the main responsible A.A.A., with NIF ***NIF.1.

Third. The presence of an image capturing device installed do on the balcony of the house where the claimed person lives, with obvious orientation

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towards public space, dealing with data from neighbors who are affected by the themselves.

Photographic material is provided (Annex I) by the complaining party that confirms the presence of the device.

Fourth. There is no evidence of the presence of an informative poster in a visible area indicating that It is a video-monitored area, informing how to exercise the rights collected. two in articles 15-22 GDPR.

Fifth. There is no record of the period of time in which the images are stored by the

claimed, although it states that its intention is to contribute them to the forces and bodies of locality security.

FOUNDATIONS OF LAW

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In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (Re-General Data Protection Regulation, hereinafter RGPD), grants each authority control and as established in articles 47, 48.1, 64.2 and 68.1 of the Law Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve this procedure the Director of the Spanish Data Protection Agency.

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

II

In the present case, we proceed to examine the claim sent by the City Council Olivenza (Local Police) informing this body of the presence of a video-surveillance camera installed by an individual on public roads, obtaining keeping personal data of passers-by and vehicle license plates.

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Article 5.1.c) of the RGPD provides that personal data will be "adequate, pertinent,

limited 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 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, indicating the purposes and responsible for the treatment, where appropriate, of the data of each personal character.

Article 22.4 of the LOPDGDD provides that:

"The duty of information provided for in article 12 of the Regulation (EU) 2016/679 will be understood to be fulfilled by placing an informative device in a sufficiently visible place identifying, at least, the existence of the treatment, the identity of the person in charge and the possibility of exercising the rights provided for in the Articles 15 to 22 of Regulation (EU) 2016/679. It may also be included in the informative device a connection code or internet address to this information".

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.

Nor can images of public spaces be obtained with this type of device, as this is the exclusive competence of the State Security Forces and Bodies.

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

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On the part of individuals, it is not possible to install imaging devices of public space, outside the cases allowed in the regulations.

III

On 04/17/22, an extensive written statement was received from the respondent party, knowing that he was responsible for installing the camera, arguing in essence "neglect of functions" of the State security forces and bodies, previously diverse Those behaviors considered in the judgment of the defendant as criminal.

It should be noted that the alleged "neglect of functions" in some of the events them that could be considered as alleged administrative infractions, of members of the security forces and bodies, does not cover a priori the installation of a camera towards public space, because otherwise it would be protected a situation of permanent surveillance of public space by any citizen of the State, which it deems necessary.

This body is aware of the uncivic conduct of some citizens.

us (as) that damage public or private furniture without just cause (e.g. graffiti on facades, uncollected excrement, bottle remains, destruction of enclosures, music outside permitted hours, etc) and the difficulty of obtaining objective evidence that may give rise to sanctions of an administrative nature included in the corresponding teeth regional or local regulations.

In some municipalities, corrective measures are being established for this type of conduct through the new typification of administrative infractions, for not pick up pet droppings or do not pour water to dilute the pet's urine.

wrong, whose action can, apart from the logical inconvenience, cause damage to

public and private furniture (eg doors, business enclosures, etc.) that can be subject to civil damages.

In these cases, punctual capture is allowed (including with a hidden camera).

ta) of these uncivil acts, to be made available to the competent authority

in order to process the corresponding administrative complaint or even

as evidence in order to be presented in the appropriate judicial instances.

goods belonging to individuals are affected.

However, the permanent installation of cameras is not covered.

of video-surveillance that affect the rights of third parties as a measure of pressure

to exercise control over public space reserved exclusively for the Forces and

State Security Corps.

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In accordance with the evidence available in this proceeding

sanctioning party, the party complained against is considered to have installed a camera in the

balcony of your property in order to control the "irregular" actions of

some of their neighbors (as), capturing the width of the street, producing a

"data processing" of third parties without legal support allowed, supplying this

way the work reserved to the Forces and Bodies of security of the locality.

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.

Obtaining images of pedestrians, even in the case of pretending

denounce administrative infractions, you must weigh the rest of the rights at stake, being the installation of this type of devices an exceptional measure when less invasive measures exist and taking into account that this is a task assigned to the State Security Forces and Bodies.

The Private Security Law (Law 5/2014, April 5), in its Article 42, on the Services Video surveillance services establishes:

"Cameras or video cameras may not be used for private security purposes to take images and sounds of roads and public spaces or public access except in the cases and under the terms and conditions provided in its regulations. specific requirement, prior administrative authorization by the competent body in each case".

Therefore, capturing images of public spaces by surveillance cameras private lance, must be limited to what is strictly necessary, applying in any case the principle of proportionality, without being able to install a camera of the type that is supplying the functions of the State Security Forces and Bodies, and without having take into account the rest of the rights that are limited with this type of measure.

There is another series of measures to denounce this type of behavior and even to draw attention to situations that do not receive the treatment that any Any citizen in a rule of law would demand from the public authorities, the that they should be required to be exemplary and make an effort to mitigate certain types of behavior cough clearly uncivil.

The known facts constitute an administrative infraction, imputed table to the claimed party, for violation of the content of art. 5.1 c) GDPR.

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.

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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;

In this case, when motivating the sanction, the following is taken into account:

-the nature of the infringement, as it is affecting the right of third parties who have

seen intimidated by them, obtaining images of a public area (art. 83.2

a) GDPR).

-The intentionality or negligence of the conduct, existing an "intentionality" of the

claimed, given that it has been warned by the acting force, which qualifies the con-

conduct as gross negligence.

In accordance with the "evidence" available in this proceeding

sanctioning party, it is considered that the claimed party has proceeded to install a system of

video-surveillance cameras poorly oriented towards the public area, creating a situation

of a certain social alarm in the neighborhood in the presence of it.

According to the above, it is considered correct to propose a sanction encrypted in the

amount of €600 (six hundred euros), for the infringement of art. 5.1 c) RGPD, sanction if-

ranked on the lower scale for this type of infraction.

v

Among the corrective powers contemplated in article 58 of the RGPD, in its section 2

d) it is established that each control authority may “order the person in charge or of the treatment that the treatment operations comply with the provisions of this Regulation, where appropriate, in a certain way and within a specified period...”. The imposition of this measure is compatible with the sanction consisting of an administrative fine, as provided in art. 83.2 of the GDPR.

MOTION FOR A RESOLUTION

That the Director of the Spanish Data Protection Agency sanction

A.A.A., with NIF ***NIF.1, for an infringement of Article 5.1.c) of the RGPD, typified in

Article 83.5 of the RGPD, with a fine of €600 (Six hundred euros).

Likewise, in accordance with the provisions of article 85.2 of the LPACAP,

informs that you may, at any time prior to the resolution of this pro-

ceeding, carry out the voluntary payment of the proposed sanction, which will entail

a reduction of 20% of the amount of the same. With the application of this reduction

tion, the sanction would be established at [Enter the text corresponding to 480 eu-

ros and its payment will imply the termination of the procedure. The effectiveness of this reduction

tion will be conditioned to the abandonment or renunciation of any action or resource in

administrative route against the sanction.

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In the event that you choose to proceed with the voluntary payment of the amount specified above,

subsequently, in accordance with the provisions of article 85.2 cited, it must be carried out

tive by depositing it in restricted account number ES00 0000 0000 0000 0000 0000

opened in the name of the Spanish Agency for Data Protection in the banking entity CAIXABANK, S.A., indicating in the concept the reference number of the procedure that appears in the heading of this document and the cause, for voluntary payment voluntary, reduction of the amount of the penalty. You must also send proof admission to the Subdirector General for Inspection to proceed to close the tooth.

By virtue of this, you are notified of the foregoing, and the procedure is made clear to you. so that within TEN DAYS you can allege whatever you consider in your defense and present the documents and information that it considers pertinent, in accordance with Article 89.2 of the LPACAP.

RRR

INSPECTOR/INSTRUCTOR

926-050522

EXHIBIT

File index EXP202105251

11/26/2021 Complaint from OLIVENZA CITY COUNCIL HEADQUARTERS OF POLICE-

LOCAL CIA

12/03/2021 Transfer claim to B.B.B.

12/03/2021 Transfer claim to A.A.A.

12/17/2021 Request for a copy of the A.A.A.

12/27/2021 Communication to A.A.A.

01/13/2022 Response to request from A.A.A.

01/17/2022 Admission for processing to OLIVENZA CITY COUNCIL

03/02/2022 A. opening to A.A.A.

03/14/2022 Request for a copy of the A.A.A.

03/16/2022 Transfer to A.A.A.

03/26/2022 Request to extend the term of A.A.A.

04/17/2022 Allegations of A.A.A.

>>

SECOND: On June 16, 2022, the claimed party has proceeded to pay the sanction in the amount of 480 euros making use of the reduction foreseen in the motion for a resolution transcribed above.

THIRD: The payment made entails the waiver of any action or resource in via against the sanction, in relation to the facts referred to in the resolution proposal.

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In accordance with the powers that article 58.2 of Regulation (EU) 2016/679

(General Data Protection Regulation, hereinafter RGPD), grants each

control authority and as established in articles 47 and 48.1 of the Law

Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of

digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve

this procedure the Director of the Spanish Data Protection Agency.

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

Article 85 of Law 39/2015, of October 1, on Administrative Procedure

Common to Public Administrations (hereinafter LPACAP), under the rubric

"Termination in sanctioning procedures" provides the following:

"1. Started a sanctioning procedure, if the offender acknowledges his responsibility,

the procedure may be resolved with the imposition of the appropriate sanction.

2. When the sanction is solely pecuniary in nature or it is possible to impose a

pecuniary sanction and another of a non-pecuniary nature, but the

inadmissibility of the second, the voluntary payment by the alleged perpetrator, in

any time prior to the resolution, will imply the termination of the procedure,

except in relation to the replacement of the altered situation or the determination of the

compensation for damages caused by the commission of the infringement.

3. In both cases, when the sanction is solely pecuniary in nature, the

competent body to resolve the procedure will apply reductions of, at least,

20% of the amount of the proposed sanction, these being cumulative with each other.

The aforementioned reductions must be determined in the notification of initiation

of the procedure and its effectiveness will be conditioned to the withdrawal or resignation of

any administrative action or recourse against the sanction.

The reduction percentage provided for in this section may be increased

regulations."

According to what was stated,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: TO DECLARE the termination of procedure EXP202105251, of

in accordance with the provisions of article 85 of the LPACAP.

SECOND: NOTIFY this resolution to 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.

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Against this resolution, which puts an end to the administrative procedure as prescribed by

the art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of the Public Administrations, the interested parties may file an appeal

contentious-administrative 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

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