

□ Procedure No.: PS/00486/2020

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### FACTS

FIRST: CEIP VIRGEN DEL ROSARIO (hereinafter, the claimant) dated March 5,  
October 2020 filed a claim with the Spanish Agency for the Protection of  
Data. The claim is directed against CITY COUNCIL OF POZO CAÑADA with NIF  
P0200010G (hereinafter, the claimed one). The grounds on which the claim is based are  
succinctly the following:

“Five cameras have been installed that control all the patios and accesses to the  
downtown buildings. We do not understand the recording measure to be necessary or proportional  
during school hours, even more so, when there are people (parents of students and  
teachers) who have explicitly stated their NO authorization to be recorded  
at school” (folio nº 1).

SECOND: On 10/30/20, the respondent is transferred to claim  
in law what it deems pertinent on the facts in question.

THIRD: On 12/11/20, a reply was received stating the following:  
following:

“The company responsible for the installation of video surveillance cameras  
of the School was: Security \*\*\*COMPANY.1(...).

“Regarding the number of cameras, photographs of the monitor in which it is appreciated  
areas that remain within their field of vision in the Office Report.  
aforementioned police report, a photographic report is collected that gives  
set to the required aspects (...)

“The term of conservation of the images recorded by the video-surveillance system  
lance is 14 days as indicated in the Report issued by the company in charge.  
maintenance fee (..)

“...regarding the reasons why the video system is permanently active  
continued 24 hours a day (...) tell you that the images obtained by the system  
they are only viewed in case of theft or incident”.

Local Police Report E/8791/2020 is attached at the request of the AEPD (Doc.  
Annex I).

FOURTH: On March 11, 2021, the Director of the Spanish Agency for  
Data Protection agreed to initiate a sanctioning procedure against the defendant, with  
C/ Jorge Juan, 6  
28001 – Madrid  
[www.aepd.es](http://www.aepd.es)  
[sedeagpd.gob.es](http://sedeagpd.gob.es)

2/5

glo to the provisions of articles 63 and 64 of Law 39/2015, of October 1, of the Pro-  
Common Administrative Procedure of Public Administrations (hereinafter, LPA-  
CAP), 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 05/06/21 has not been  
made any response in relation to the facts subject to transfer.

SIXTH: Attached as an annex is a list of documents in the  
process.

SEVENTH: On 05/10/21, a Resolution proposal is issued in which it is agreed  
declare the infraction in the absence of argument(s) of the claimed one, confirming  
the infringement of art. 51 c) RGPD, proposing a sanction of Warning.

Of the actions carried out in this procedure and the documentation

in the file, the following have been accredited:

## PROVEN FACTS

First. On 10/05/20 a claim is received through which the

The main fact is the following:

“Five cameras have been installed that control all the patios and accesses to the downtown buildings. We do not understand the recording measure to be necessary or proportional during school hours, even more so, when there are people (parents of students and teachers) who have explicitly stated their NO authorization to be recorded at school” (folio nº 1).

Second. The company is accredited as the main responsible for the installation.

Security: Security \*\*\*COMPANY.1

Third. The system has an informative sign indicating that it is a zone video-surveillance.

Fourth. The defendant alleges reasons of permanent security to avoid "robbery or some incident.

Fifth. The installed video-surveillance system obtains images of the users of the Center (parents, students, service personnel, etc.) without just cause, controlling the main accesses of the same in an uninterrupted way.

## 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

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

of the Spanish Agency for Data Protection is competent to initiate and to resolve this procedure.

## II

In the present case, the claim dated 10/05/20 is examined by me-  
gave from which the following is transferred as the main fact:

“Five cameras have been installed that control all the patios and accesses to the downtown buildings. We do not understand the recording measure to be necessary or proportional during school hours, even more so, when there are people (parents of students and teachers) who have explicitly stated their NO authorization to be recorded at school” (folio nº 1).

The recording of the image of a person is a data treatment and therefore, it is application of the General Data Protection Regulation and also as ex-  
this organism “The image of a person to the extent that it identifies or can identifies it constitutes personal data”.

The known facts constitute an infraction, attributable to the defendant, for violation of the content of art. 5.1 c) GDPR.

“Personal data will be: c) adequate, pertinent and limited to what is necessary  
ary in relation to the purposes for which they are processed (“data minimization”).

The cameras must be oriented towards those areas presumably  
“conflictive” although weighing in its installation the protection of other fundamental rights  
mental (eg image or intimacy), being especially cautious in an excess of  
recording of prohibited areas.

This principle is also projected through the number and type of cameras that  
is intended to be used, it is not the same as capturing images through a camera

fixed than the one made through cameras that allow 360-degree recordings.

One option to apply the principle of minimization is the use of "masks of privacy" so as to avoid recording and capturing excessive images.

III

In accordance with the "evidence" available in this proceeding, sanctioning procedure, it is considered that the defendant has proceeded to install a system of video-surveillance cameras that capture space in a School Center, affecting with the "processing" of third-party data (students and teachers).

The arguments initially put forward are insufficient to specify the reason for capturing images in a teaching center and the suitability of the measure adopted, given that it involves capturing images from third parties without the consent feeling of them.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

4/5

The respondent has not made any additional statement to the Initial Agreement.

cio of this body dated 03/11/21.

The installation of security cameras should be limited to public spaces.

that make their presence necessary (e.g. acts of vandalism, theft etc), remembering in any case the proportionality of the measure when entering collisions.

sion with other fundamental rights.

The known facts constitute an infraction, attributable to the claimant.

mado, for violation of the content of article 5.1 c) RGPD, previously cited.

The behavior described is subsumable in the offending type of art. 83.5 a) GDPR,

which prescribes the following:

“Infractions of the following provisions will be sanctioned, in accordance

with paragraph 2, with administrative fines of a maximum of EUR 20,000,000 or, alternatively,

being from a company, of an amount equivalent to a maximum of 4% of the volume

overall annual total turnover of the previous financial year, opting for the

greater amount:

a)

the basic principles for the treatment, including the conditions for the

consent under articles 5, 6, 7 and 9;

Article 77 section 1 LOPDGDD provides:

IV

“The regime established in this article will be applicable to treatments

of which they are responsible or entrusted:

c) The General State Administration, the Administrations of the autonomous communities

tónomas and the entities that make up the Local Administration.

2. When those responsible or in charge listed in section 1 committed

any of the infractions referred to in articles 72 to 74 of this organic law

nica, the competent data protection authority will issue a resolution

sanctioning them with a warning. The resolution will also establish

the measures that should be adopted to stop the conduct or correct the effects

of the offense that had been committed.

The resolution will be notified to the person in charge or in charge of the treatment, to the body of the

that depends hierarchically, where appropriate, and to those affected who had the condition

of interested, in his case (...)”.

4. The data protection authority must be notified of the resolutions that

fall in relation to the measures and actions referred to in the sections

previous.

5. They will be communicated to the Ombudsman or, where appropriate, to similar institutions of the autonomous communities the actions carried out and the resolutions issued under this article.

C/ Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

5/5

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.

For the claim, the reasons for

the installation of the camera system, remembering that it is a measure of

affectation of the rights of third parties with whom it enters into collision or adopt the

measures necessary to reconcile conflicting interests.

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 POZO CAÑADA CITY COUNCIL, with NIF P0200010G,

for an infringement of Article 5.1.c) of the RGPD, typified in Article 83.5 of the RGPD,

a warning sanction.

SECOND: NOTIFY this resolution to the CITY COUNCIL OF POZO CAÑA-

DA and report the result of the actions CEIP VIRGEN DEL ROSARIO.

THIRD

in accordance with the provisions of article 77.5 of the LOPDGDD.

: COMMUNICATE this resolution to the Ombudsman,

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

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

C/ Jorge Juan, 6

28001 – Madrid

938-131120

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)