

□ Procedure No.: PS/00358/2021

RESOLUTION OF PUNISHMENT PROCEDURE

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

FACTS

FIRST: ***COMPANY.1 (*hereinafter, the complaining party) dated March 17

2021 filed a claim with the Spanish Data Protection Agency. The

claim is directed against A.A.A. (RESTAURANTE R.R.R.) with NIF ***NIF.1 (in

hereafter, the party claimed). The grounds on which the claim is based are

following as stated in the claim the following:

“The R.R.R. restaurant, despite warnings from the police and petitions

verbal relations of passers-by and customers of neighboring businesses, maintains several

cameras directed towards the premises next door (...) and public area excessively

(...)”

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

presence of the cameras that can affect the adjoining area excessively.

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 (s) 04/05/21, 04/15/21 and 05/10/21, 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 data protection regulations.

No response to this letter has been received after consulting the database of this
Agency.

THIRD: On July 6, 2021, the Director of the Spanish Agency for

Data Protection agreed to admit for processing the claim presented by the party claimant.

FOURTH: On August 24, 2021, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against the claimant, for the alleged infringement of Article 13 of the RGPD, typified in Article 83.5 of the RGPD.

FIFTH: On 09/28/21 it is required by the Instructor of the procedure collaboration of the State Security Forces and Bodies so that displaced to the scene of the events verify the presence and operation of the cameras.

SIXTH: On 10/21/21, this Agency received a Report from the Local Police (Chiclana de la Frontera) who, displaced to the scene of the events, carried out the opportune investigations, verifying the withdrawal of the cameras by the previous responsible for the reported establishment.

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2/4

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. This claim is caused by the following facts "bad cameras oriented" that can obtain data from third parties without just cause.

Second. The entity *** COMPANY.1 is accredited as the main responsible entity.

Third. The withdrawal of the cameras from their previous location is accredited, so that to date the video system has been dismantled

surveillance.

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 resolve this procedure.

II

In the present case, the claim dated 03/17/21 is examined by me- from which the presence of video-surveillance cameras that could be be misguided, affecting the rights of third parties without just cause, which So for public area.

Article 5.1 c) RGPD provides the following: Personal data will be: "adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed. two ("data minimization").

Individuals are responsible for the installed video-surveillance systems to be comply with current legislation, and must be able to prove such extremes.

We report to the competent authority.

Cameras installed by individuals must be oriented towards their private space.

vative avoiding the capture of private area of third parties without just cause.

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

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

contiguous buildings and vehicles other than those accessing the guarded space.

Likewise, in the case of false cameras, they must be oriented

to a private area, avoiding intimidation of neighboring neighbors who are unaware

know whether or not they process personal data.

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3/4

The premises must have an informative poster indicating that it is a video-monitored area, with express mention of the data controller, as well as informative form (s) available to the clients of the same for, if applicable, formulate your rights within the framework of data protection.

III

In the investigation phase, the collaboration of the Local Police (Chiclana de la Frontera) so that those displaced to the scene of the events verify the presence and operability of the cameras that are the subject of the complaint.

On 10/21/21, this body received a Report from the Local Police (Chiclana de la Frontera) who, displaced to the scene of the events, carried out the appropriate investigations, verifying the withdrawal of the cameras by the previous person in charge of the establishment denounced.

“The establishment currently has another name, ***EMPRESA.2.

Put in contact with the owner, it is verified that the cameras that are in- were on the terrace when the incident was reported, they were already removed by the previous owner. At the time of the visit, the complaining party was present. telling the agents that those cameras are no longer there” (*bold belongs to this organization).

In accordance with the evidence available in the proceeding sanctioning party, it is considered that the party claimed at the time proceeded to "withdraw the cameras in their current location.

Based on the foregoing, it is considered that the

"irregularity" in the system object of claim, being aware of the part

claimant of the withdrawal of the same, which justifies the Archive of these

performances.

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:

FIRST: ORDER the FILE of this procedure as there is no

accredited the commission of the administrative infraction object of claim.

SECOND: NOTIFY this resolution to A.A.A. (R.R.R. RESTAURANT).

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

Interested parties may optionally file an appeal for reconsideration before the

Director of the Spanish Agency for Data Protection within a month from

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4/4

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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