

□ Procedure No.: PS/00127/2021

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 3, 2020

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 video-surveillance cameras in
post considering that they face public roads" (folio nº 1).

"He considers that he feels observed by the neighbor, affecting said cameras to
their intimacy, therefore the field of vision exceeds legality (...)".

Together with the claim, it provides documentary evidence (Annex I photographs 1-9) that
certifies the presence of the camera(s) facing the public transit area.

SECOND: On 11/27/20, the claim is transferred so that

states in law what it deems appropriate, without any response having been
done.

THIRD: On 02/03/21 the claim is transferred again

to express in law what it deems appropriate, without any response
has been done.

FOURTH: On 03/18/21, the claim submitted was admitted for processing
by the Director of this AEPD.

FIFTH: On May 7, 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 5.1.c) of the RGPD, typified in Article 83.5 of the

GDPR.

SIXTH: The database of this body was consulted on 07/06/21 none

Allegation has been made in this regard in relation to the installed cameras.

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. The facts bring cause of the presence of a system of video cameras-

surveillance whose orientation affects the private area of a third party without just cause.

Together with the claim, it provides documentary evidence (Annex I photographs 1-9) that

certifies the presence of the camera(s) facing the public transit area.

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Second. It is identified as the main person in charge Doña B.B.B..

Third. The presence of at least three cameras is confirmed at the top of a pole

public with excessive orientation towards the transit area and the claimant's home.

Fourth. The respondent has not made any allegation in this regard, nor has

accredited the legality of the system.

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

of the Spanish Agency for Data Protection is competent to initiate and to re-

solve this procedure.

In the present case, the claim dated 11/03/20 is examined by me-

gave from which the following is transferred as the main fact:

"Installation of video surveillance cameras on poles, considering that they focus towards public roads" (folio nº 1).

The above facts imply an affectation to art. 5.1 c) RGPD, by providing of a recording device that is obtaining images of space public / private, without just cause for it.

Article 5 section 1 GDPR "Principles related to treatment" provides that: "The personal data will be:

c) 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 more installed 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 sign informative, indicating the purposes and responsible for the treatment in your case of the data of a personal nature.

They will be installed at the different entrances to the video-monitored area and, in a visible place, one or more signs that inform that you are accessing a video-monitored area.

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In any case, the cameras must be oriented towards the particular space,

avoiding intimidating neighboring neighbors with this type of device, as well as controls

lar transit areas of the same without just cause.

With this type of device it is also not possible to obtain image(s) of space

public service, as this is the exclusive competence of the Security Forces and Corps

of the State.

III

In accordance with the "evidence" available in this proceeding,

penalty, it is considered that the defendant (a) has a vi-

deo-surveillance that is misdirected, being able to mainly affect an area

of public transit and the entrance of the complainant's home, as can be deduced from

the position of the camera(s).

The images provided confirm that the reported devices affect

private area of the claimant which is permanently controlled in its surroundings.

entrances/exits of the dwelling you own.

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

mado, for violation of art. 5.1 c) GDPR.

Article 83.5 letter a) RGD provides the following:

IV

"The infractions of the following dispositions will be sanctioned, in accordance with

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

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

of total annual global business of the previous financial year, opting for the ma-

higher amount:

a)

basic principles for treatment, including conditions for con-

sentiment under articles 5, 6, 7 and 9;

For the purposes of the limitation period for infractions, the infraction indicated on the previous paragraph is considered very serious and prescribes after three years, in accordance with article 72.1 of the LOPDGDD, which establishes that:

“Based on the provisions of article 83.5 of Regulation (EU) 2016/679, it is con-

They are considered very serious and the infractions that suppose a substantial violation of the articles mentioned therein and, in particular, the following following:

a) The processing of personal data violating the principles and guarantees established established in article 5 of Regulation (EU) 2016/679.

When motivating the sanction, the following is taken into account:

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-the nature of the infraction by having a video-surveillance system that treats data of identifiable natural persons, being the same misdirected (art. 83.5 a) GDPR).

-the intention or negligence of the infringement (art. 83.5 b) RGPD).

For all this, a sanction of €1,500 is agreed, for the infringement of art. 5.1 c)

RGPD, sanction located on the lowest scale for this type of infraction.

The denounced party must prove the legality of the system, providing photograph (s) date and time that proves what is captured with the total number of cameras installed das, as well as all that documentation that is necessary, indicating on a plate do not state the location of your home and that of the claimant.

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 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 fine of €1,500 (one thousand five hundred euros).

SECOND: ORDER the respondent so that within 1 month from the notification of this act proceed to prove the legality of the installed system provided taking screenshots of the cameras in question.

THIRD: NOTIFY this resolution to B.B.B. and REPORT the result of the performances to Doña A.A.A..

FOURTH: Warn the sanctioned party that he must make the imposed sanction effective once

Once this resolution is enforceable, in accordance with the provisions of the

art. 98.1.b) of Law 39/2015, of October 1, of the Administrative Procedure Co-

of the Public Administrations (hereinafter LPACAP), within the term of payment

voluntary established in art. 68 of the General Collection Regulations, approved

by Royal Decree 939/2005, of July 29, in relation to art. 62 of Law 58/2003,

of December 17, through its entry, indicating the NIF of the sanctioned and the number

of procedure that appears in the heading of this document, in the account

restricted number ES00 0000 0000 0000 0000 0000, opened in the name of the Spanish Agency

Department of Data Protection at the banking entity CAIXABANK, S.A.. In case of

Otherwise, it will be collected during the executive period.

Received the notification and once executed, if the date of execution is

between the 1st and 15th of each month, both inclusive, the term to make the payment

will be until the 20th day of the following month or immediately after, and if

between the 16th and last day of each month, both inclusive, the payment term

It will be until the 5th of the second following month or immediately after.

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 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

of this act, as provided for in article 46.1 of the aforementioned Law.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP,

may provisionally suspend the firm resolution in administrative proceedings if the interested party

do states its intention to file a contentious-administrative appeal. Of being

In this case, the interested party must formally communicate this fact in writing

addressed to the Spanish Agency for Data Protection, presenting it through the Re-

Electronic registry of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or to

through any of the other registers provided for in art. 16.4 of the aforementioned Law

39/2015, of October 1. You must also transfer to the Agency the documentation

that proves the effective filing of the contentious-administrative appeal. If the

Agency was not aware of the filing of the contentious-administrative appeal
tive within two months from the day following the notification of this
resolution, would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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