

□ Procedure No.: PS/00096/2021

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 July 22, 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

The grounds on which the claim is based are as follows:

“presence of two video-surveillance cameras with presumed orientation towards
private area of the claimant, affecting his personal and family privacy” (folio No. 1).

Along with the claim, provide documentary evidence that proves the presence of the
device, on the facade of the house (Doc. nº 1).

SECOND: On 08/13/20, a TRANSFER is given to the person claimed so that
express in law what it deems appropriate.

THIRD: On 11/20/20 the transfer to the claimed party is reiterated, without
any statement has been made for the appropriate legal purposes.

FOURTH: On May 5, 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.

FIFTH: On 05/21/21, a written statement was received from the claimed manifesto.
taking the following:

“The appearing party has never installed surveillance cameras in any place.
gar, nor is it the owner of a property in which there is the presence of a security camera.

surveillance, being without a doubt the agreement to initiate this file as a result of an error for which we cannot find an explanation”

“As has been said, the “claimant” does not know the “claimant” Mr. AAA, of who knows for himself that he is not a neighbor of his building located in C/ ***DI-RECTION.1, of ***LOCATION.1, nor is it known in any of the buildings in the Ile del Pilar in the same city of Murcia, to which its balcony has views.

Neither on the balcony nor on the façade of the said house in which the company resides.

recently with his family, there is no surveillance camera, as can be seen in the photographs attached. Of any other property other than your habitual residence makes use of the appearing party, so it is not understood that he has been identified

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

2/4

as the holder or owner of some cameras that, if they exist, will be installed in a dwelling or premises that are foreign to him”

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 resolve this procedure.

II

In the present case, the claim dated 07/22/20 is examined by me- gave from which the following is transferred as the main fact:

“presence of two video-surveillance cameras with presumed orientation towards private area of the claimant, affecting his personal and family privacy” (folio No. 1).

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 installed felled 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.

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

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

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.

With this type of device it is not possible to obtain image(s) of public space either. co, as this is the exclusive competence of the State Security Forces and Bodies ted.

The recording system will be located in a guarded place or with restricted access. At recorded images will be accessed only by authorized personnel, who must enter a code say username and password. Once the system is installed, it is recommended regular password change, avoiding easily deductible ones.

C/ Jorge Juan, 6

28001 – Madrid

It should be remembered that even in the case of a "simulated" camera, the same must be oriented towards private space, since it is considered that this type of devices can affect the privacy of third parties, who are intimidated by the herself in the belief of being the object of permanent recording.

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

The camera(s) cannot focus on public roads. If it is necessary to protect the entrance from a house or that of the garage or establishment, the installation must pass the judgments of proportionality, suitability and minimal intervention.

III

On 05/21/21, a written statement was received from the respondent denying the facts. chos, stating that "it does not have any video-surveillance camera", as well as "I do not know who the claimant is."

"The appearing party has never installed surveillance cameras in any place.

gar, nor is it the owner of a property in which there is the presence of a security camera. surveillance, being without a doubt the agreement to initiate this file as a result of an error for which we cannot find an explanation" (folio nº 1)

Along with the allegations, he provides documentary evidence (Annex I) of the balcony of his dwelling in which there is no installation of any device.

The presumption of innocence governs without exceptions in the sanctioning system and has to be respected in the imposition of any sanction, whether criminal or administrative (TCo 13/1981), since the exercise of the sanctioning right in any of its manifestations, is conditioned to the test game and to a procedure

contradictory environment in which their own positions can be defended.

Pursuant to this principle, no penalty may be imposed on the basis of the guilt of the accused if there is no activity to prove the charge, which in the appreciation of the authorities or bodies called to resolve, destroy this presumption (TCo Auto 3-12-81).

It should be noted that the identification of the claimed party occurs at the request of the State Tax Agency which identifies the number ***NIF.1, as associated with the same ma, being able to be a system error not attributable, neither to this organism, nor to the claimant who limits himself to conveying some generic "facts".

IV

Based on the foregoing, it can be concluded that the respondent denies being responsible installation of any camera in the home you own, providing the evidence necessary to decree the Archive of this procedure.

It is recommended that if the behavior described persists, that the claimant bring it to the attention of the State Security Forces and Bodies (vgr. Po-

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

4/4

Local Police), who have the necessary experience to act in cases such as the written, avoiding unnecessary "errors" when proving the alleged person responsible for the infraction described, being able to carry out the necessary investigations in situ.

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 person responsible for the alleged infringement described.

SECOND: NOTIFY this resolution to Doña B.B.B. and REPORT the

result of the actions to the AAA 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

Interested parties may optionally file an appeal for reconsideration before the

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

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

938-131120

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es