

□ Procedure No.: PS/00461/2019

938-300320

RESOLUTION OF PUNISHMENT PROCEDURE

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

FACTS

FIRST: LOCAL POLICE OF *** LOCATION.1 (*hereinafter, the claimant) with
dated November 11, 2019 filed a claim with the Spanish Agency for
Data Protection. The claim is directed against Don A.A.A. with NIF ***NIF.1 (in
later, the claimed one).

The reasons on which the claim is based are "installation of a video camera-
surveillance oriented towards public space without just cause" affecting the right
of third parties. (folio nº 1).

Along with the claim, provide documentary evidence (Document No. 1) that
proves the presence of the camera in question.

SECOND: In view of the facts denounced in the claim and the documents
data provided by the claimant, the Subdirector General for Data Inspection pro-
vided to carry out preliminary investigation actions for the clarification
of the facts in question, by virtue of the powers of investigation granted to the
control authorities in article 57.1 of Regulation (EU) 2016/679 (Regulation
General Data Protection, hereinafter RGPD), and in accordance with the provisions
ed in Title VII, Chapter I, Second Section, of Organic Law 3/2018, of 5
December, of Protection of Personal Data and guarantee of digital rights (in
hereinafter LOPDGDD).

As a result of the research actions carried out, it is confirmed

that the data controller is the claimed party.

THIRD: On January 9, 2020, 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.

FOURTH. The computer system of this Agency records the double attempt to notification at the address provided by the Security Forces and Bodies of the State recorded as "Absent in distribution", as well as the publication of the Agreement of Start in the BOE (10/02/20).

FIFTH. The database of this organization consulted on 08/02/20 does not contain any allegation in relation to the facts that are the subject of the complaint.

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

PROVEN FACTS

First. On 11/11/19, this agency receives a claim from the Forces and State Security Bodies, transferring as main fact:

“Installation of a video-surveillance camera oriented towards public space without just cause” affecting the right of third parties. (folio nº 1).

Second. The local resident, Mr.

A.A.A., which has a video-surveillance device oriented towards public space altering citizen coexistence.

Third. The following ***ADDRESS.1 is provided by force acting as domicile

Fourth. Attached as main proof is a photograph (Doc. No. 1) that accredits the installation.

tion of a video-surveillance camera with obvious orientation towards public space

and a nearby school area.

Fifth. The system does not have an informative poster indicating the person in charge of the treatment of the data to which you can address.

Sixth. According to the manifestation of the acting force, the citizen has been widely warned dadano in question, "ignoring" the recommendations.

FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of the RGPD recognizes to each authori-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 solve this procedure.

II

In the present case, the claim dated 11/11/19 is examined by me- from which it is transferred as a fact "the presence of a camera oriented towards public space" without just cause by an individual, ignoring the warnings Local Police Offices (***LOCATION.1).

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

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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.

In any case, the cameras should preferably be oriented towards the private space, avoiding intimidating neighboring neighbors with this type of device, as well as control their transit areas 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.

It should be remembered that even in the case of a "simulated" camera, the

It should preferably be oriented towards private space, since it is considers that this type of device may affect the privacy of third parties, which they are intimidated by it in the belief of being permanently recorded tea.

III

In accordance with the evidence available in this proceeding, sanctioning procedure, it is considered that the defendant has a video camera Deo-surveillance that affects the privacy of third parties, treating their personal data without consent.

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

Article 77 section 5 of Law 39/2015 (October 1) provides the following:

“The documents formalized by the officials who are recognized as condition of authority and in which, observing the corresponding legal requirements, teeth the facts verified by those are collected will prove them except prove the contrary”.

According to the acting force, the camera “is oriented towards public roads”, specifically directly towards the public primary school located in front of his home (folio no. 1).

Consequently, the set of indications point to the operability of the camera. ra, being oriented towards the nearby school area, lacking an information poster, the own observations of the local police and to “ignore” the recommendations tions of the State Security Forces and Bodies.

The art. 83.5 RGPD provides the following: “Infringements of the provisions following will be sanctioned, in accordance with section 2, with administrative fines

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EUR 20,000,000 maximum or, in the case of a company, an equivalent amount.

equivalent to a maximum of 4% of the total global annual turnover of the fiscal year previous financial statement, 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;

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

-That the device in question is oriented towards public space without cause justified, causing a situation of discomfort in the residents of the town (art.

83.2 a) GDPR).

-That the same facts have already been the subject of a complaint, so it is possible to-
blat of intentionality in the persistence of the conduct (art. 83.2 b) RGPD).

The above facts advise imposing a sanction encrypted in the amount of
€3,000 (Three Thousand Euros) given the recurrence of the events and the seriousness of the
duct described; as well as the obligation to reorient the camera towards the interior of its vi-
sale.

The accused is warned that a new Complaint for the facts described,
may lead to the opening of a new sanctioning procedure, for failing to comply with the
requirements of this body, specifically the legalization of the system, with guidance
tion to their private space.

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: IMPOSE Don A.A.A., with NIF ***NIF.1, for a violation of Article
5.1.c) of the RGPD, typified in Article 83.5 of the RGPD, a fine of €3,000 (Three
A thousand euros).

SECOND: ORDER the accused to proceed to the reorientation of the camera
installed in your home, avoiding the affectation of public space and/or third parties, in
the terms of art. 58.2 d) GDPR.

THIRD: NOTIFY this resolution to Don A.A.A. and REPORT the
result of the actions to the denouncing party LOCAL POLICE OF

***LOCATION.1

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, on Administrative Procedure

Common Public Administrations (hereinafter LPACAP), within the payment term
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
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of procedure that appears in the heading of this document, in the account
restricted number ES00 0000 0000 0000 0000 0000, opened on behalf of the Agency
Spanish Department of Data Protection in the banking entity CAIXABANK, S.A.. In case
Otherwise, it will be collected in the executive period.

Received the notification and once executed, if the date of execution is
is between the 1st and 15th of each month, both inclusive, the term to carry out the
voluntary payment will be until the 20th day of the following month or immediately after, and if
is between the 16th and last day of each month, both inclusive, the term of the
payment will be until the 5th of the second following month or immediately after.

In accordance with the provisions of article 50 of the LOPDGDD, the

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 period of

month 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.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP, the firm resolution may be provisionally suspended in administrative proceedings if the interested party expresses his intention to file a contentious appeal-administrative. If this is the case, the interested party must formally communicate this made by writing to the Spanish Agency for Data Protection, introducing him to the agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other records provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. Also must transfer to the Agency the documentation that proves the effective filing of the contentious-administrative appeal. If the Agency were not aware of the filing of the contentious-administrative appeal within two months from the day following the notification of this resolution, it would end the precautionary suspension.

Electronic Registration of
through the
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