

□ Procedure No.: PS/00265/2021

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 March 17, 2021

filed a claim with the Spanish Data Protection Agency. The

claim is directed against the one identified as B.B.B. with NIF ***NIF.1 (in

later, the claimed one). The grounds on which the claim is based are "installation of
video-surveillance cameras affecting the rights of third parties without just cause"

(folio no. 1).

Together with the claim, it provides documentary evidence that proves the presence of
devices (Doc. No. 1).

SECOND: On 04/16/21, the Claim is admitted for processing to
effects of clarifying the facts set forth therein.

THIRD: There is a prior sanction associated with the claim in procedure no.

A/00265/2017, which ended with the "Warning against the person claimed" by the same hein-
guys exposed.

FOURTH: On June 3, 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 07/06/21, a written statement is received from the claimed argument.
Mentioning the following in its exercise of the right to defense:

"From 2007 to 2017 I was enduring damage to my property,

threats, harassment of both myself and my son, who was a child at the time.

I am the owner of a property that is adjacent to the single-family home

of the claimant and it is an open space to which he only has access from his terrace.

the claimant throws from it all kinds of dead bugs (mice) rats, etc.

in addition to their own garbage, tomato cans (...)

On 06/09/21 a trial was held in which the claimant was accused of all

these facts.

I consider that I have enough justification to install cameras to protect

germe, at least in the environment closed to my properties and I promise to contribute to

the AEPD the images from the cameras once they are programmed and recording

(...)"

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Provides as Doc. No. 4 photos of the rats in my property for several days and

I refer to the Archives and records of the Courts (...)"

In view of everything that has been done, by the Spanish Data Protection Agency

In this proceeding, the following are considered proven facts:

First. The facts bring cause of the claim dated 03/17/21 through the

which translates as the main fact the following:

"Installation of video-surveillance cameras affecting the rights of third parties

without just cause" (folio nº 1).

Second. It is identified as the main person in charge Doña B.B.B., who does not deny

the installation of the cameras.

Third. The defendant alleges reasons of harassment and acts of vandalism for having installed a video-surveillance system, which it says is not yet operational.

Fourth. There is no evidence of damage to the private area of the claimant, complying on the day of the date cameras a mere deterrent function.

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

“The camera that was denounced has been reinstalled, plus another just opposite you” (folio nº 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").

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.

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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.

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.

It should be remembered that even in the case of a "simulated" camera, the same should preferably be oriented towards private space, since it is considered that this type of device can affect the privacy of third parties, that they are intimated by it in the belief of being the subject of permanent recording.

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

III

The respondent party submits a brief of allegations on 07/06/2021 in which narra a situation of personal harassment by the complainant, which includes "throwing waste verses" from its ownership.

This Agency has stated on several occasions about its total rejection of the acts of vandalism, carried out surreptitiously in the belief that the alleged author of the same will not be identified, for this reason the presence of the cameras that allow such acts to be accredited.

There are multiple claims examined by this Agency where describe acts of vandalism of various kinds (e.g. graffiti, breaking doors, verbal threats, etc) that are made on various occasions in a furtive manner

with a clear intention to cause harm to the affected party in the belief that no responsibility will be taken.

This type of situation described justifies the presence of video cameras. surveillance that have proven useful in preventing the continuation of the behaviors described, being at least a dissuasive means that allows the victim to defend themselves from acts of vandalism.

However, the exceptional measure is justified in a use weighted of the same in its function of dissuading attacks on private property and under the premise of transferring the images to the Security Forces and Corps of the State or, failing that, to the competent judicial authority.

The purpose pursued in the criminal process with the evidentiary activity is "to form the intimate conviction of the Court about the existence or not of the punishable act and the

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participation of the author, with all its circumstances, just as it happened in reality. historical reality prior to the process".

This body is not going to comment on the number of cameras it has installed.

lar for the one claimed because such a measure falls within their personal freedom, remembering that they should preferably be oriented towards their private space.

On occasions, in situations such as those described in which they throw themselves surreptitiously various objects (liquids, garbage, dead animals, etc.) can be ins-

to cut down a hidden camera that allows the alleged perpetrator of the events described to be proven.

in order to their contribution to the Security Forces and Bodies or Court of Ins-

construction closest to the scene.

In the event of a new claim, it is advisable to provide this Agency with im-
screen pressure of what is captured with the camera (s) that you install, indicating in a
situation plan everything related to them or how it has been committed

Do provide the images indicating the current procedure number for your file
in the file (vgr.PS/00265/2021).

Since the cameras are not operational, it is not possible to prosecute a "trafficker"
data processing" that does not comply with current legislation, being the same for mo-
I am merely a dissuasive instrument.

IV

Based on the foregoing, it is considered that the measure adopted by the respondent is
proportional to the purpose pursued, as long as it conforms to the parameters described and
not invading areas reserved for the privacy of the neighbor, all of them reasons that
they advise the File of the present procedure.

The rest of the issues are related to neighborhood "problems" being the
State Security Forces and Bodies, which in their case should be the
competent to assess them.

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 any administrative infraction.

SECOND: NOTIFY this resolution to Doña B.B.B..

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

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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

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