

□ Procedure No.: PS/00309/2020

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: On June 30, 2020, it had entry in this Spanish Agency of
Data Protection a document presented by A.A.A. (hereinafter referred to as the claimant),
through which he makes a claim against B.B.B. with NIF ***NIF.1 (hereinafter, the
claimed), for the installation of a video surveillance system installed in
*** ADDRESS.1, there being indications of a possible breach of the provisions of
the personal data protection regulations.

The reasons that support the claim and, where appropriate, the documents provided
by the claimant are as follows:

“He has placed a video camera from the corridor of his warehouse that gives direct access to
our corral, and focused on the back of our family home that belongs
to my mother C.C.C. (...), and focused I say directly to the bathroom and the kitchen, as well as said
corral and my lot [...]”

Attach photographic report of the location of the camera.

SECOND: Prior to the acceptance of this claim for processing, it is
transferred to the claimed, in accordance with the provisions of article 65.4 of the Law
Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of
digital rights (hereinafter, LOPDGDD) delivering the notification on
07/17/2020.

No response has been received from the respondent.

THIRD: The claim was admitted for processing by means of a resolution of 16

September 2020.

FOURTH: On December 10, 2020, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against the claimed, for the alleged infringement of article 5.1.c) of Regulation (EU) 2016/679 of the Parliament European and Council, of April 27, 2016, on the protection of people regarding the processing of personal data and the free circulation of these data and by which Directive 95/46/CE (hereinafter, RGPD) is repealed, typified in article 83.5 of the RGPD).

FIFTH: On December 30, 2020, this Agency received a document of the claimant in which, in summary, it indicates that it has not placed any camera

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video on your property, and considers that the complaint is a consequence of the conflict neighborhood between both parties and whose trial is scheduled for March 2021.

He indicates that he is left defenseless by not having been provided with the documentation in the file.

For this reason, this Agency sent him a copy of the aforementioned file. What response to this referral, the respondent confirms its previous allegations indicating that the photographs do not attest to the date they were taken, being perfectly compatible with their placement by the claimant when he made the facts of the complaint filed with the Civil Guard on August 14, 2018.

Likewise, it indicates that an amicable agreement has been reached with the claimant in the trial against him.

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: On June 30, 2020, a claim was filed with this Agency

because «He has placed a video camera from the corridor of his warehouse that gives

straight to our corral, and focused on the back of our family home that

belongs to my mother C.C.C. (...), and focused I say directly to the bathroom and the kitchen, like this

like said corral and my lot [...]"

SECOND: It is identified as the main person in charge Ms. B.B.B. with NIF

***NIF.1.

THIRD: The respondent indicates that she has not placed any video camera in her

property, and considers that the complaint is a consequence of the neighborhood conflict between

both parties.

Likewise, it provides a copy of the document addressed to the Court that indicates "(...) that

having reached an agreement in the procedure that was exposed orally in

the act of the view, the content of the text of the same is attached so that it is

embodied in the order homologating the transaction that puts an end to the lawsuit (...)"

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of

control, and as established in arts. 47 and 48.1 of the LOPDGDD, the Director of

The Spanish Agency for Data Protection is competent to resolve this

process.

II

On June 30, 2020, this Agency received a claim from the complainant

through which it is reported that «He has placed a video camera from the

corridor of his warehouse that leads directly to our corral, and focused on the back

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of our family home that belongs to my mother C.C.C. (...), and focused I say

directly to the bathroom and the kitchen, as well as to said corral and to my lot [...]»

The art. 5.1 c) RGD provides that 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 comply with current legislation.

The cameras must be oriented towards the particular space, avoiding intimidating

neighboring neighbors with this type of device, as well as control transit areas

of them without just cause.

On the part of individuals, it is not possible to install imaging devices

of public space, outside the cases allowed in the regulations, as this is

exclusive jurisdiction of the State Security Forces and Bodies.

III

On March 19, 2021, a written statement was received from the party

denounced by means of which he states that he has not put any security camera

video on your property, and considers that the complaint is a consequence of the conflict

neighborhood between both parties.

Likewise, it provides a copy of the document addressed to the Court that indicates "(...) that

having reached an agreement in the procedure that was exposed orally in

the act of the view, the content of the text of the same is attached so that it is embodied in the order homologating the transaction that puts an end to the lawsuit (...)."

Examined the file as a whole, it has not been sufficiently accredited that the claimed party had a video surveillance system installed in its property and capture images of the adjoining property of the claimant.

IV

Based on the foregoing, it cannot be concluded that there are video surveillance on the property of the defendant, so that it is not possible to speak of infringing conduct within the scope of the regulatory framework of protection data, which is why we proceed to file this procedure.

The parties are reminded of the importance of the rights at stake and must avoid instrumentalize institutions in matters beyond their competence, having to adjust the relationships between them to the minimum requirements of the good neighbor rules

Therefore, in accordance with the applicable legislation, the Director of the Agency Spanish Data Protection RESOLVES:

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FIRST: ORDER the FILE of this procedure as there is no accredited administrative infraction.

SECOND: NOTIFY this resolution to B.B.B. NIF ***NIF.1.

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

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