

Procedure No.: PS/00014/2019

RESOLUTION: R/00500/2019

In procedure PS/00014/2019, instructed by the Spanish Agency for Data Protection to Doña B.B.B., given the complaint filed by Doña A.A.A. Y under the following,

FACTS

FIRST: Mrs. A.A.A. (hereinafter, the claimant) dated September 17, 2018 filed a claim with the Spanish Agency for Data Protection, motivated by the processing of data carried out through cameras of a security system. video surveillance whose owner identifies B.B.B. (hereinafter the claimed) installed in General Caballero Rodas Street 4-Córdoba.

The reasons on which the claim is based are "installation of a security camera video-surveillance outside the house facing public roads".

Along with the claim, provide documentary evidence (photographs Annex I) that proves the camera installation.

SECOND: In view of the reported facts, in accordance with the evidence that is available, the Data Inspection of this Spanish Agency for the Protection of Data considers that the treatment of personal data that is carried out by the denounced through the chambers to which the complaint refers, does not meet the conditions imposed by the regulations on data protection, for which reason the opening of this sanctioning procedure.

THIRD: On 10/05/18, the claim was TRANSFERRED to the party denounced, so that he could allege in law what he deemed appropriate, without no reply has been made for the appropriate legal purposes.

FOURTH: On September 2, 2019, the Director of the Spanish Agency for

Data Protection agreed to submit this

warning procedure PS/00014/2019. This agreement was notified to
denounced.

FIFTH: When the database of this Agency (13710/19) was consulted, there is no
any allegation in relation to the facts that are the subject of the complaint.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

2/5

PROVEN FACTS

First. On 09/17/18, this Agency received a claim from the complainant

by means of which the following is transferred as the main fact:

“installation of a video-surveillance camera outside the house
facing public road.

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

Third. The installation of some type of device that, according to the
photographic evidence provided could be wrongly oriented towards public roads.

Fourth. There is no evidence that the corresponding information poster is available informing
that it is a video-monitored area, indicating the data controller in
your case from the pictures.

Fifth. It is not possible to specify what is observed with it, by not performing
any allegation denounced.

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 art. 47 of the Organic Law 3/2018, of 5

December, of Protection of Personal Data and guarantee of digital rights (in hereinafter LOPDGDD), the Director of the Spanish Agency for Data Protection is competent to initiate and resolve this procedure.

II

On 09/17/18 a claim was received from the complainant through which transfers as the main "fact" the following:

“installation of a video-surveillance camera outside the house oriented towards public roads” (folio nº 1).

The facts described above may affect the content of art. 5.1 c) RGPD, by having a video-surveillance device oriented towards public thoroughfares, intimidating pedestrians who feel they are being watched By himself.

Cameras installed by individuals have to be oriented preferably towards their private space, even if the camera is fake, because it can file complaints with public bodies.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

3/5

Article 4.3 of Instruction 1/2006 (AEPD) provides the following:

“Cameras and video cameras installed in private spaces may not obtain images of public spaces unless it is essential for the surveillance purpose that is intended, or it is impossible to avoid it by reason of the location of those. In any case, any data processing should be avoided.

unnecessary for the intended purpose.

III

For informational purposes only, it is worth remembering some of the requirements that must be comply with the processing of images through a video surveillance system to be in accordance with current regulations:

- Respect the principle of proportionality.
- When the system is connected to an alarm center, you can only be installed by a private security company that meets the requirements contemplated in article 5 of Law 5/2014 on Private Security, of April 4.
- The video cameras will not be able to capture images of the people who are outside the private space since the treatment of images in places public can only be carried out, where appropriate, by the Forces and Bodies of Security. Nor can spaces owned by third parties be captured or recorded without the consent of their owners, or, as the case may be, of the persons who are find.
- The duty to inform those affected provided for in article 12 of the RGPD 2016/679, of April 27, 2016, in the terms referred to both in the cited article, as in articles 13 and 14 of said rule, resulting from the application -by not contradicting the provisions of the aforementioned Regulation-, the manner provided in the Article 3 of Instruction 1/2006, of November 8, of the Spanish Agency for Data Protection, on the Processing of Personal Data for the Purpose of Surveillance through Camera Systems or Video Cameras (Instruction 1/2006, of 8 of November, of the Spanish Data Protection Agency).

Specifically, it must:

- 1 Place in the video-monitored areas, at least one informative badge located in a sufficiently visible place, both in open spaces and

closed.

In accordance with the provisions of articles 13 and 14 of the Regulation (EU)

2016/679, of April 27, 2016, in the informative sign previously

mentioned must identify, at least, the existence of a treatment, the

identity of the person in charge and the possibility of exercising the rights provided in

these precepts.

2 Keep available to those affected the information referred to in the

cited Regulation (EU) 2016/679, of April 27, 2016.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

4/5

IV

In accordance with the evidence available in this

sanctioning procedure, and given the lack of allegations of the accused party,

considers that the respondent has a "device" oriented towards space

disproportionately public, affecting the right of neighbors who are seen

intimidated by himself.

The known facts could constitute an infraction, attributable to the

claimed, for violation of the content of art. 5.1 c) GDPR.

The art. 83.5 RGD provides the following: "Infringements of the provisions

following will be sanctioned, in accordance with section 2, with administrative fines

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

equivalent to a maximum of 4% of the total global annual turnover of the

previous financial year, 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;

v

Without prejudice to the provisions of article 83 of the RGPD, the aforementioned Regulation has in its art. 58.2 b) the possibility of sanctioning with a warning, in relation with what is stated in Considering 148:

“In the event of a minor offence, or if the fine likely to be imposed would constitute a disproportionate burden for a natural person, rather than sanction by means of a fine, a warning may be imposed. must however Special attention should be paid to the nature, seriousness and duration of the infringement, its intentional nature, to the measures taken to alleviate the damages suffered, the degree of liability or any relevant prior violation, the manner in which that the control authority has been aware of the infraction, compliance of measures ordered against the person responsible or in charge, adherence to codes of conduct and any other aggravating or mitigating circumstance.”

For the denounced party, the characteristics of the camera must be accredited in issue (even if it is a fake camera) providing reliable documentation that accredits such character or proceeding to the immediate withdrawal of the camera in issue (providing a photograph with date/time), assuming, failing that, the consequences of lack of collaboration with this Agency.

The denouncing party, it is recalled, has the possibility of transferring the facts to the State Security Forces and Bodies of the locality, if after the term set by this body, the device continued in its current place of location, which can carry out the appropriate inquiries and, where appropriate, transfer them back to this Agency.

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es

5/5

According to what was stated,

By the Director of the Spanish Data Protection Agency,

HE REMEMBERS:

1.- WARN (PS/00014/2019) Mrs. B.B.B. for the infringement of article 5.1 c)

RGPD, by having a device oriented towards public space without cause

justified, infringement typified in art. 83.5 a) RGPD, being punishable by

in accordance with article 58.2 RGPD.

2.- REQUEST Doña B.B.B. so that, within ONE MONTH, from the notification

of this administrative act, proceed:

-Prove the characteristics of the installed device, also in the case of

be a fake or non-operational camera.

-Prove, where appropriate, the removal of the reported device (providing

photograph with date and time) that demonstrates the uninstallation of it.

3.- NOTIFY this Agreement to B.B.B. and REPORT the result of the

actions to the denouncing party Mrs. A.A.A.

Against this resolution, which puts an end to the administrative procedure (article 48.2 of the

LOPD), and in accordance with the provisions of articles 112 and 123 of the Law

39/2015, of October 1, of the Common Administrative Procedure of the

Public Administrations, the interested parties may optionally file

appeal for reconsideration before the Director of the Spanish Data Protection Agency

within one month from the day following the notification of this

resolution, or, directly contentious-administrative appeal before the Chamber of the

Contentious-administrative of the National Court, in accordance with the provisions of the Article 25 and in section 5 of the fourth additional provision of Law 29/1998, of July 13, regulating the Contentious-Administrative Jurisdiction, within the period of two months from the day following the notification of this act, as provided for in article 46.1 of the aforementioned legal text.

Sea Spain Marti

Director of the Spanish Data Protection Agency

C/ Jorge Juan, 6

28001 – Madrid

www.aepd.es

sedeagpd.gob.es