

□ Procedure No.: PS/00083/2020

938-300320

RESOLUTION OF PUNISHMENT PROCEDURE

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

FACTS

FIRST: Don A.A.A. (*hereinafter, the claimant) dated December 10,
2019 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 reasons on which the claim is based are "installation of a video camera-
surveillance" with alleged orientation towards common areas, without just cause.

Along with the claim, a report is provided (Annex I) that proves the installation
of the device (s) although it is not specified that it affects third-party areas.

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
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 01/31/20, the claim was TRANSFERRED to the party

denounced, alleging in his right the following:

-That the data controller is Doña C.C.C.

-That the term of conservation of the same is 30 days.

-That the reason for the installation is the protection of people and goods. Contribute

Convicting judgment against the complainant of this proceeding Mr. A.A.A.

(Sentence no. ***SENTENCE.1).

-It has the mandatory informative poster in a visible area indicating that it is

of a video-monitored area.

FOURTH: On June 9, 2020, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the claimant, for the

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alleged infringement of Article 5.1.c) of the RGPD, typified in Article 83.5 of the

GDPR.

FIFTH: ON 07/15/20, this Agency received a written statement of allegations from the

defendant stating the following:

“Due to some threats from a neighbor of the building that damaged our

goods, we were forced to place security cameras focusing

exclusively at the entrance of my home and my parking space (as shown in the

images contributed to this process).

The cameras were installed a few days after these events and the

The claimant filed the Complaint before this body after being sentenced in

the Court of First Instance ... and after having been denied in December the

Appeal filed”.

Documentary evidence is provided (Doc. No. 1) authorization of the President of the Community of neighbors, for the temporary installation of the camera (s) before the facts described.

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 10/12/19, this Agency received a claim from the complainant for means of which transfers as main fact the following:

“installation of a video-surveillance camera” with an alleged orientation towards common areas, without just cause.

Second. It is identified as the main responsible for the installation of the system Doña C.C.C., who wields reasons of personal protection for the installation.

Third. By virtue of Judgment No. *** JUDGMENT.1 of the Court of First Instance and Instruction No. 2 (***LOCATION.1) contains a Judgment for a Mild Crime of Damages (art. 263.2 CP) and Mild Crime of Threats (art. 171.7 CP) against Mr. A.A.A..

“That I must and do condemn A.A.A. as the author of a minor crime of damage years of article 263.2 CP to the penalty of (...)”.

Fourth. According to the documentary evidence provided (Annex I), the accused party has the temporary authorization of the President of the community of neighbors—Doña D.D.D.--.

Fifth. The video-surveillance system has the corresponding information poster, indicating that it is a video-monitored area.

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By virtue of the powers that article 58.2 of the RGPD recognizes to each authority, 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 12/10/19 is examined by me- gave from which the following is transferred as the main fact:

"Installation of cameras towards common areas of the community of owners" (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 fulfilled 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.

In any case, the cameras should preferably be oriented towards the space particular, avoiding intimidating neighboring neighbors with this type of device, as well how to control their transit areas 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 intimidated 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, ensuring that they are oriented towards their private area (e.g. parking space, etc).

In any case, care must be taken not to affect the right of third parties (s) that are oblivious to the conflicts between the parties, limiting the scope of the camera (s) to what is necessary for the protection of people/goods.

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For the accused party, the installation of the device is justified based on its own conduct of the complainant, who has been sentenced by Judgment No. ***SENTENCIA.1 of the Court of First Instance and Instruction No. 2 (**LOCATION.1) consists Sentence for Mild Crime of Damages (art. 263.2 CP) and Mild Crime of Threats (art. 171.7 PC).

It should be noted that acts of vandalism sometimes occur against the property private property (e.g. graffiti, damage to house doors, scratching a car door) che, etc) that are carried out furtively based on the belief that the author

material of the same, will not have any legal reproach.

By installing security cameras it is intended to avoid this type of conduct, being a measure proportionate to the end pursued, which is none other than avoid/prevent new criminal conduct.

The cameras are oriented towards the main access of the housing of the de-announced, where there have been threats and in the face of the "fear" that something according to a sneak attack and the parking space, as the vehicle could be the object of property damage. monials.

Furthermore, the accused party provides a copy of the authorization tion of the President (a) of the neighborhood community, Doña D.D.D., where they are granted of temporary authorization for the installation of the camera (s) due to the seriousness of the events that occur in the property.

There are numerous cases in which the requirement of a contribution of proof of video is basic to reach the judge's conviction that the facts have occurred as which is claimed or reported.

Ordering the withdrawal of this type of device can lead to unjust solutions. tas for the "victim" of the sneak attacks, who would be affected again by the same.

Remember that the tests obtained with this type of device can be contributed both to the State Security Forces and Bodies, as well as to the Judge of Instruction closest to the scene of the events, this being the one in charge of assessing briefly the same.

Therefore, the installation of the camera is an ideal measure (judgment of suitability). ity) to prevent further damage to your vehicle, as well as to fulfill a di-suasoria before new criminal acts that could occur.

Based on the foregoing, it can be concluded that the camera(s) installed is a measure provided for the personal and patrimonial protection of the denounced party, before the condemned acts of the complainant, without there being a reason to order the withdrawal Of the same.

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The parties are reminded of the importance of the rights at stake, and must avoid the instrumentalization of this body, for issues that have been settled in court, having to adjust their behavior to the minimum rules of good ne neighborhood required in these cases.

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 in the framework of the protection of data.

SECOND: NOTIFY this resolution to Don B.B.B. and INFORM the party complainant Mr. A.A.A.

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.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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