

□ Procedure No.: PS/00237/2020

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) on June 3, 2020 filed
claim before the Spanish Data Protection Agency. The claim is
directs against B.B.B. with NIF ***NIF.1 (hereinafter, the claimed one). The reasons in which
the claim is based on are “several image recording cameras and
sound on the facade of his home and plot which focus (...) towards the public road
blica and my home (...)”-folio nº 1--.

Along with the claim, provide documentary evidence of the aforementioned
cameras, as well as a police report that determines the obvious orientation of the
cameras into public space.

SECOND. On 06/16/20, the claim is TRANSFERRED to the
denounced so that he has knowledge of the facts and alleges in law what
deem relevant.

THIRD. On 07/27/20, a reply was received from the defendant stating that
following succinctly:

“The identification sign is located at the entrance of the house, (it is the only
entrance that there is), the old one (1999) coexists with the new one (2016) both have the
same data.

“When in 2010, due to attempted robberies, large bottles and others,
He proposed installing video-surveillance cameras. For this, they were consulted by telephone and
they were raised the problem that existed (...)

The rest of the cameras are inside and focus around the house, all the wooded area that can be seen belongs to us and is practically inaccessible from the outside a double fence, one surrounds the part of the house and another the perimeter.

The police have been here on occasion to see them for a robbery, I think because of the surroundings in case something was seen, and they have never told us that they were wrong; the poster It has been on since you registered the file for us, with my data, and so they can check by talking to the postman or neighbors or the police themselves.

In 2018, three dogs were poisoned with rodenticide at this address, the police was here we reviewed the plot and I provide them with the copies of the cameras as well as the veterinary analysis report.

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2/5

I remain at your entire disposal for any clarification you may need or contribution of documents and physical visit if they deem it appropriate” (folio nº 1-2).

FOURTH: On November 3, 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.

FIFTH: On 11/27/20, a written statement was received from the legal representative of the accused party, alleging the following:

“That Mr. B.B.B. has 8 video surveillance cameras installed in his ownership, as was already made clear in his previous communication in response to the request for information sent by the AEPD (N/Ref.:

E/05013/2020), of which only Cameras 1 and 3 record part of the exterior of your plot of land, which is not your property, as will be made clear and will be credited later.

That, despite all this, in order to show the will of this party to cause the least possible impairment, and even assuming a waiver of the security of the property, camera No. 1 has been reoriented, as can be seen in the frame that we attach to this letter as No. 3.

That as it has been revealed throughout this writing, and is credited in the images that are attached and that have been mentioned, it has been proceeded to reconfigure camera No. 1, given that there was not enough sufficiently accredited if it was completely configured correctly, so way that this part understands that all installed cameras adapt and comply perfectly with the regulations on data protection, which is why it is not possible rather than file this proceeding, given that the scant footage that can be obtained from the public sidewalk, once the fact of ownership has been clarified private of Mr. B.B.B. of the space of 3 linear meters from the access door to the property, is proportionate and sufficient to protect the dwelling and not to control the public sidewalk, but only his property.”

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 06/03/20 a claim was filed with this AEPD through the which was transferred as the main fact the following:

"It has several image and sound recording cameras placed on the facade- of his home and plot of land which focus (...) towards the public highway and my home (...)"-folio nº 1--.

Second. It is identified as the main responsible Mr. B.B.B., who wields

reasons of your home security for the installation of the cameras.

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3/5

Third. The installed system has the mandatory informative poster informing

It is a video-monitored area.

Fourth. The installed system has a total of 8 cameras, whose purpose is to

give the protection of housing and residents of the plot.

-Camera 1. (Exterior) has a privacy mask, it only obtains the image

minimum entry to the defendant's home.

-Camera 3. (Exterior) has a privacy mask, it only obtains the image

minimum entry to the defendant's home.

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 re-

solve this procedure.

II

On 06/03/20, this Agency received a claim from the complainant through

from which he transfers the following:

"It has several image and sound recording cameras placed on the facade-

of his home and plot of land which focus (...) towards the public highway and my home,

among others, recording the entire public street and the windows of my home, including the
of my double bedroom, having to always have the blinds down to
prevent me from seeing the interior of my home, with the damage that this entails”
(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.

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.

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4/5

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.

III

On 11/27/20, a written statement was received from the accused party through which states the following:

"In order to show the willingness of this party to cause the least possible impairment to the security of property, and even supposing a renunciation of the security of property, has been reoriented camera No. 1, as can be seen in the frame that we attach to the pre-Sentence written as No. 3"

The denounced party has proceeded to the reorientation and revision of all those women who could have incurred some "doubt" regarding their orientation, procedures, masking the foreign and unnecessary areas of your property.

The camera(s) can fulfill a dissuasive function to protect the visual sale, although making sure not to obtain images of public/private space of third without just cause.

It should be noted that what is essential is what is observed on the monitors, not so much the mere visualization of the cameras that from the outside can produce the sensation of bad orientation.

The art. 22 section 2 of the LOPDGDD (LO 3/2018) provides:

"Images of public roads may only be captured to the extent that it is essential for the purpose mentioned in the previous section.

Examining the file as a whole, it is not possible to prove the commission of an infraction. any administrative requirement, since there is no record of obtaining images of the dwelling. denounced, the exterior chambers have been modified according to the criteria

technicians of this organization, although the way of installing the camera located in the main gate (chamber no. 3) is not the most suitable, after minor corrections carried out, are sufficient to comply with current legislation.

The principle of presumption of innocence prevents imputing an administrative infractionative when proof of charge accrediting the facts that motivate the imputation or of the intervention in the same of the presumed

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5/5

offender. Applying the principle "in dubio pro reo" in case of doubt regarding a concrete and determined fact, which obliges in any case to resolve said doubt in the manner more favorable to the interested party.

Full collaboration with this body is taken into account when carrying out make the necessary corrections to avoid affecting the rights of third parties, the necessary to preserve the security of the property and its inhabitants.

IV

In accordance with the above, having examined the modifications of the system installed on itself is considered adjusted to the right, the front camera capturing the least impressive Cindible for your home protection work.

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

Therefore, in accordance with the applicable legislation and after assessing the graduation criteria

tion of the sanctions whose existence has been proven,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ORDER the ARCHIVE of these proceedings as they are not accredited

all the commission of any administrative infraction.

SECOND: NOTIFY this resolution to B.B.B. and REPORT the result

of the actions to the plaintiff A.A.A.

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

resents may optionally file an appeal for reconsideration before the Director

of the Spanish Agency for Data Protection within a month from the date of

the day following the notification of this resolution or directly contentious appeal

before the Contentious-Administrative Chamber of the National High Court,

in accordance with the provisions of article 25 and section 5 of the additional provision

Final fourth of Law 29/1998, of July 13, regulating the Contentious Jurisdiction-

administrative, within a period of two months from the day following the notification

tion of this act, as provided for in article 46.1 of the aforementioned Law.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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