

□ Procedure No.: PS/00451/2020

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: On August 7, 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 substantiate the claim are the placement of a camera of
surveillance on the property of the defendant that is oriented to the terrace of the
claimant.

Attach photographic report of the location of the camera.

SECOND: Prior to the acceptance of this claim for processing, it is
transferred 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), being notified on the 30th of
September 2020, without receiving any response in this regard.

THIRD: The claim was admitted for processing by means of a resolution of 30
November 2020.

FOURTH: On January 21, 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 March 02, 2021, you have to enter the Spanish Agency for

Data Protection letter of the claimed in which it shows, in summary, what

Next:

“[...] FIRST: That it is not a video surveillance camera, it is a hunting management (...)

SECOND: That it is placed on my terrace towards the façade and private space

to observe my partridges and for ornithological observation. (...)”

Provides camera photography.

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23

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: According to the photographs provided by the claimant in his brief

of August 07, 2020, in the claimed property there is installed a

camera-like device facing your terrace.

SECOND: The respondent states in his pleadings brief that he is not a

video surveillance camera, it is hunting management, which is placed on its terrace in

direction to its facade and private space to observe its partridges and for the

ornithological observation, providing photography from said camera.

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 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

The facts object of the claim filed with the Spanish Protection Agency of Data motivated the beginning of the present sanctioning procedure for assuming a possible violation of article 5.1.c) of the RGPD that indicates that personal data shall be "adequate, relevant and limited to what is necessary in relation to the purposes for those that are processed ("data minimization")".

III

The present sanctioning procedure brings its cause in the presumed illegality of the installation of a device, with the appearance of a camera, located on the property of the claimed, facing the claimant's terrace. This device could be capturing images of its property.

The proven facts show the existence at the time of the claim of a device that, according to the allegations and the images Photographs of the device presented by the respondent in his answer brief to the agreement to initiate this proceeding, it was a system of ornithological observation.

IV

In accordance with the foregoing, the device in question is not a video surveillance, so by not being able to determine the existence of an effective data processing does not fit to speak of infringing conduct within the scope of the framework of www.aepd.es

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the regulatory regulations on data protection, which is why we proceed to the file of this procedure.

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

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

SECOND: NOTIFY this resolution to 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

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.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP, may provisionally suspend the firm resolution in administrative proceedings if the

The interested party expresses his intention to file a contentious-administrative appeal.

If this is the case, the interested party must formally communicate this fact by

writing addressed to the Spanish Agency for Data Protection, presenting it through Electronic Register of the Agency [<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other registers provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. You must also transfer to the Agency the documentation proving the effective filing of the contentious appeal-administrative. If the Agency was not aware of the filing of the appeal contentious-administrative within a period of two months from the day following the notification of this resolution would end the precautionary suspension.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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