

Procedure No.: PS/00377/2019

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) dated June 10, 2019
filed a claim with the Spanish Data Protection Agency. The
claim is directed against JOJAGAMA, S.L. with NIF B87474821 (hereinafter, the
reclaimed).

The reasons on which the claim is based are public exposure, on the board of
announcements of the community of owners, of a list of neighbors with receipts
pending payment including identification data of each one (floor, door, name
and surnames), as well as the amount owed.

Along with the claim, photographs of the notice board and the
mentioned list.

SECOND: In view of the facts denounced in the claim and the
documents provided by the claimant, the Subdirector General for Inspection of
Data proceeded to carry out preliminary investigation actions for the
clarification of the facts in question, by virtue of the investigative powers
granted to the control authorities in article 57.1 of the Regulation (EU)
2016/679 (General Data Protection Regulation, hereinafter RGPD), and
in accordance with the provisions of Title VII, Chapter I, Second Section, of the Law
Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of
digital rights (hereinafter LOPDGDD).

The claimant is informed of this claim on July 22, 2019,

requiring you to submit to this Agency, within a period of one month, information on the response given to the claimant for the facts denounced, as well as the causes that have motivated the incidence and the measures adopted for its correction in accordance with article 5.1 f) of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 (RGPD).

In response to such request, the administrator of the Community of Owners affirms that they are aware that this information cannot be published in view of everyone and that at all times they respect the regulations, sending the neighbors the documentation to be discussed at each Meeting via email.

However, it points out that only the call for the General Meeting is posted on the portal.

Ordinary, and notes that the paper with the personal data of the debtors is outside the locked display case, while, inside it, is

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published the minutes of the Meeting, so he suspects that a neighbor may have printed the sheet and pasted on the glass outside, since it defends that no neighbor belonging to the governing body of the community of neighbors has published it.

Despite everything, it is found that inside the board there is a document with a list of debtors, which although it does not indicate the name and surnames of the neighbors, it does relate them with a plant and door.

THIRD: On December 18, 2019, the Director of the Spanish Agency of Data Protection agreed to initiate a sanctioning procedure against the claimed, for the alleged infringement of Article 5.1.f) of the RGPD, typified in Article 83.5 of the

GDPR.

FOURTH: Once the aforementioned initial agreement was notified, on December 19, 2019, the

The respondent filed a pleadings brief on December 31, 2019 in which, in synthesis, stated that the document displayed on the bulletin board, object of this claim, has not been placed by any of the members of the Board Government of the Community, unknown who could have been the author.

FIFTH: On December 31, 2019, allegations are presented by the claimed alleging that the document that works outside the bulletin board was not placed there by none of the members of the Governing Board of the Community, unknown who could have been the author, not making reference to it in the response to the request for information presented because this was not one of the facts stated in the complaint.

In relation to the document that works inside the bulletin board, the claimed states that it is a list of debtors, but that it does not include indicate the name and surnames of the neighbors, but it does relate them to a plant and gate.

Finally, it is considered that the photograph provided by the claimant cannot know the content of the document that works inside the showcase of the board of announcements, and in any case, the claimed party neither possesses nor custody the keys of said board and, therefore, is not responsible for what is exposed there.

SIXTH: On January 9, 2020, the instructor of the procedure agreed to the opening of a period of practice tests, considering incorporated the previous investigative actions, E/07057/2019, as well as the documents provided by the claimant.

FOUNDATIONS OF LAW

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The Director of the Agency is competent to resolve this procedure.

Spanish Data Protection, in accordance with the provisions of art. 58.2 of the RGPD and in the art. 47 and 48.1 of LOPDGDD.

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After the detailed study of the documents in the present procedure, and the allegations of the defendant, it is considered that the photograph provided by the claimant does not allow verifying whether the content of the data of the document inside bulletin board display case contains data of a personal nature and violates the data protection regulations for a treatment misuse of personal data, nor is it sufficiently proven who placed both outside and inside the display case on the bulletin board the document subject of this claim.

Therefore, the alleged violation of article 5.1 f) of the GDPR, which governs the principles of integrity and confidentiality of personal data.

In view of the foregoing, the Director of the Spanish Agency for the Protection of Data RESOLVES:

FIRST: ARCHIVE sanctioning procedure PS/00377/2019 upon proving that JOJAGAMA, S.L., with NIF B87474821, is exempt from liability that could constitute an infringement of article 5.1.f) of the RGPD, typified in the article 83.5 of the RGPD.

SECOND: NOTIFY this resolution to JOJAGAMA, S.L.

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 process as prescribed

by art. 114.1.c) of Law 39/2015, of October 1, on Administrative Procedure

Common of Public Administrations, and in accordance with the provisions of arts.

112 and 123 of the aforementioned Law 39/2015, of October 1, interested parties may file,

optionally, an appeal for reconsideration before the Director of the Spanish Agency for

Data Protection within a 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 13

of July, regulating the Contentious-Administrative Jurisdiction, within two

months from the day following the notification of this act, as provided in the

Article 46.1 of the aforementioned Law.

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