

□ Procedure No.: EXP202200368 (PS/0470/2022)

## RESOLUTION OF THE SANCTION PROCEDURE

Of the actions carried out by the Spanish Data Protection Agency and in

based on the following

### BACKGROUND

FIRST: Dated 11/18/21, D. A.A.A. (hereinafter, the claimant) filed

claim before the Spanish Data Protection Agency. The claim is

directed against the entity, ICNEA TECNOLOGÍA, S.L. with CIF.: B62479126 (in

hereinafter, the claimed party), for the alleged violation of the regulations of

data protection: Regulation (EU) 2016/679, of the European Parliament and of the

Council, of 04/27/16, regarding the Protection of Physical Persons in what

regarding the Processing of Personal Data and the Free Circulation of these Data

(GDPR), Organic Law 3/2018, of December 5, on Data Protection

Personal Rights and Guarantee of Digital Rights (LOPDGDD) and Law 34/2002, of 11

of July, Services of the Information Society and Electronic Commerce (LSSI).

(<https://www.alquivir.com/>)

The reasons stated in the claim related to the fact that, when making a

booking an apartment through the Alquivir Accommodation platform

tourist”

link:

<https://app.icnea.net/guests/{idNumerico}?id={idAlfanumerico}> to enter data

personal details of all guests: ID, name and surname, date of birth, photo and

handwritten signature without the web having any link to the privacy policy and the

cookies. It is also indicated that there is a confidentiality breach since in the

URL appears the identifier of the reservation number and can be easily modified

accessing personal data contained in another reservation.

receives

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SECOND: On 02/03/22, in accordance with the provisions of article 65.4

of the LOPDGDD, by this Agency, this claim was transferred to the

claimed party, to proceed to its analysis and report, within a period of

month, about what was stated in the claim document.

- According to the certificate of the Electronic Notifications and Electronic Address Service

e-mail, the application document sent to the claimed party, on 02/03/22, to

through the electronic notification service "NOTIFIC@", was rejected

at destination on 02/14/22.

- Although the notification was validly made by electronic means, giving-

the procedure is carried out in accordance with the provisions of article 41.5 of the

LPACAP, for informational purposes, a copy was sent by postal mail on the day

02/14/22, which was notified at destination on 03/02/22.

THIRD: On 02/18/22, by the Director of the Spanish Agency for

Protection of Data, an agreement is issued to admit the processing of the claim

presented, in accordance with article 65 of the LPDGDD Law, when assessing possible

rational indications of a violation of the rules in the field of competences

of the Spanish Data Protection Agency

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FOURTH: On 05/06/22, this Agency received a written response to the request made at the time to the claimed entity, in which the following is indicated:

1.- Due to the stoppage of activities, especially in the subsector of tourist accommodation a stoppage of activity due to the cessation of activity. With the reactivation, this company has proceeded to modernize the management platform of tourist accommodation and product of this company and to adapt their products of Royal Decree 933/2021. For this purpose, a beta version was introduced in development in some clients to carry out the beta-tester, without it being a exploitation platform yet. This company detected that some customer exploited, because they couldn't test otherwise due to the little computer knowledge.

In the trial version, the information of the extensions was visible in the URL window, but only a computer technician, very knowledgeable advanced would be able to decipher its content and access the code. The test phase lasted one month and the improvements detected were incorporated into the platform, which was incorporated at the exploitation level to all the teeth blocking any information in the URL window that might offer some kind of information about the system.

From the text of the complaint presented, it describes that an "id-numerical", and that therefore "it is possible to access an arbitrary reservation only changing the id-numeric by a previous one".

This id-numeric could perfectly be a hash generated by an algorithm and not an auto-incremented number, as described by the complainant computer scientist.

If you have tested it to find out that it is an autoincrementing number, that is, who has accessed the data of another client, trying different options numerical, means in our opinion that he has committed a crime of the

described in art. 197.2 of the Penal Code.

Increasingly we find ourselves with righteous assumptions in terms of informatics and data protection, which "ARE FORCED TO INTERPOSE COMPLAINTS", and based on spurious interests, as in this case.

2º.- The beta test version of our product took a month to be tested by some clients and then passed to the exploitation version, which was installed as the final version and no longer provides any information on the url.

3.- We understand that there has been no access to the data of our clients, apart from the illegal and criminally punishable access that the complainant when testing that the number that appears in the url is an auto number incremental. We do not know if you have tried one or more numbers previous registrations, which can be found in the procedure of criminal investigation to be initiated.

4.- The data that is collected in a customer registration when you purchase a tourist accommodation are merely identifying and mandatory that

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citizen security and, as well as the adaptation that has been made in our product to comply with the provisions of Royal Decree 933/2021. Therefore, the Information is collected with the consent of the interested party and by legal obligation, as legal bases of treatment.

5º.- We believe that the complainant, who in turn has committed the crime of

art.197,2, has not proceeded to use or alter the data to which it has had access for his computer manipulation, for which he would have aggravated his crime, and for both the unauthorized access to the data by the complainant, has not had any consequence.

6.- At the time of knowing the facts through this file, it had already been launched the operating version of our computer system and therefore we have not had to make further modifications to the platform.

7.- Attached as document number 1, the risk report of the company, which describes the security measures adopted in the processing of personal data.

8.- The Records of Treatment Activities are attached as annexes 2 and 3 as Responsible and as Treatment Manager.

9.- The security breach has not been communicated to anyone affected, given that have reviewed the access logs, and the only access has been the one made by the complainant computer scientist having carried out the test to find out that the number that appears in the URL is not a hash but an auto number incremental, therefore, there have not been affected.

10.- The security violation has not been communicated since it has not there was such a gap. The trial version was not installed for use as an exploitation version with real data, as we have previously repeated, and therefore no breach could have been recorded (apart from illegal and criminally reprehensible accesses made by the complainant).

11.- No new substantial updates of our platform, since we do not know that the Administration is going to impose new control requests to the tourism/hotel sector and our software

It is currently adapted to the new Royal Decree that comes into force in April.

12.- The last statement that we want to make is to specify again that the only illegal action that has been carried out here, and that is criminally punishable as indicated in art. 197.2 of our Penal Code, is access to information from third parties without the consent of the computer scientist submitting the complaint, and that is fully proven by the documentation that he himself presents (as much as he tries to blur sensitive information). Ha accessed third-party data without consent, you have entered the code source of the platform and also informs the

Administration, in proof of your honesty and good citizenship. not only us

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it is clear that he has committed a crime, but on top of that he gives us the proof of his commission.

FIFTH: On 10/04/20, this Agency accesses the website,

<https://www.alquivir.com/> verifying the following characteristics on its

"Privacy Policy" and about its "Cookies Policy":

-

a).- On obtaining the personal data of users.-

Through the link <<Book>>, the web redirects the user to a new page,

<https://workandfunsevilla.icnea.net/> where there is a list of apartments that

They are offered for your vacation rental. If you click on any of the apartments

offered, the website opens a form for the user to enter their data

personal, such as name, surname, email, address, phone number

telephone number and credit card number in order to reserve the apartment

chosen, but there is no field where you can obtain or observe the "id-

numerical" denounced in the claim.

Before being able to send the reservation form, you must click on the option:

"\_ I have read and accept the <<general contracting conditions>>"

If you click on this link: <<general contracting conditions>>, the website

displays a document with information related to the prepayment; the reservation of

apartment, the number of occupants; its cleaning; the equipment that

they will find the tenants; contract modifications; the guarantee or cancellation.

Regarding the information provided in relation to the personal data obtained from the

reservation form, the following is indicated:

"5th DATA.- All the data entered by the user are recorded in a

secure server and we guarantee that access to this information is exclusive

by the reservation staff and will only be done for the purposes of the reservation itself.

reservation and to communicate to the customer future promotions and offers".

DATA PROTECTION: all data requested is as part of the

contract.

ELECTRONIC PROCUREMENT: the contract is made exclusively

through

the parts.

emails sent between

FILE OF THE CONTRACT: the parties agree that Ictea Tecnología SL

(Mandri 38, Barcelona) acts as a trusted third party and takes custody of

contract records.

AUTHORIZATION OF PROMOTIONAL COMMUNICATIONS: the client

authorizes that they can send promotional communications by mail

email as long as you can unsubscribe at any time.

COMPLAINTS PROCEDURE: The complaints procedure

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is by email, putting the reservation number and the reason for the

claim, addressed to [proprietors@workandfunsevilla.com](mailto:proprietors@workandfunsevilla.com).

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b).- About the "Privacy Policy".-

There is no information or link on this web page to the "Policy of

Privacy". The information provided to users about the treatment of

your personal data is provided in the document, "General Conditions of

Hiring", indicated in the previous point.

-

c).- About the "Cookies Policy".-

in

get in

the web by

first time to

To the

the website

<https://workandfunsevilla.icnea.net/> denounced, once the terminal equipment of

browsing history and cookies, without accepting new cookies or making any



action on the page, it has been verified that only the technical cookie is used:

"JSESSIONID" whose domain belongs to ".nr-data.net" and whose mission is to maintain the

session in anonymous mode. Cookies that are not technical or necessary.

SIXTH: On 10/26/22, by the Board of Directors of the Spanish Agency for Data Protection, a sanctioning procedure is initiated against the claimed entity, at appreciate reasonable indications of violation of the provisions of articles: 5.1.f of the GDPR, for the processing of personal data without adequate security for it, because they were available to users who modified the number in the field correspondent; of article 32 of the GDPR, for not applying the technical measures necessary to guarantee an adequate level of security when managing the personal data of article 13 of the GDPR, due to the lack of information provided to users, as established in the aforementioned article.

SEVENTH: On 11/14/22, the claiming entity submits a written statement to the initiation of the file in which, among others, it indicates:

FIRST.- ICNEA TECNOLOGÍA SL, is not the owner of the domain or the page website <https://www.alquivir.com/>.

This domain and web is a franchise of its client WORKANDFUN SEVILLA, which is dedicated to the rental of tourist apartments in various cities of Andalusia.

ICNEA TECNOLOGÍA SL, is a provider of computer solutions, in specific to an online booking platform (as there are other companies that provide payment platforms, such as Paypal or Stripe), which is integrated into its clients' web pages.

The client is WORKANDFUNSEVILLA (B.B.B.) who subleases the use of the

platform to ALQUIVIR MANAGEMENT OF TOURIST APARTMENTS

(alquivir.com).

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Therefore, ICNEA TECNOLOGÍA is only MANAGER OF

TREATMENT, which does not decide on the collection of customer data, its

use, information or protection of the rights of the interested parties (it does not have to comply with

the requirements of art. 12 and following GDPR, not being responsible) and so

You only have to follow the instructions of your principal, which are summarized in the

custody of the data that is captured through the technological platform that

uses alquivir.com on ICNEA servers, where its clients have

reserved a storage space (charges for its use and depending on the

occupied space), in the extension reserved for them to which

accessed through the url workandfunsevilla.icnea.net and to which the measures of

necessary security (restricted access, encryption and logical measures

necessary). ICNEA is a mere provider of services and space of

storage and complies with the necessary security measures.

As can be seen on the alquivir.com website itself, it is indicated that

This page has been made by B.B.B. (see the footer of the web), which is the

Fiscal name that invoices under the brand WORKANDFUNSEVILLA. In the

mentioned platform, a space is enabled so that the person in charge of

treatment, in this case alquivir.com, place your own privacy policy

and the contracting conditions of its services, on which it neither advises nor

ICNEA TECNOLOGÍA does not intervene in any way.

Attached as Doc. 1, service contract in which it is clearly indicated that WORKANDFUNSEVILLA undertakes to comply with the provisions laws in force at all times regarding the content of their databases data.

The document itself specifies that the platform is planned for the maintenance of 20 apartments, for which €175 per month is charged, which which is an important fact since it shows that we do not

We are dealing with a "high volume of data" as indicated in the sanction proposal, but that WORKANDFUNSERVILLA is a small owner who manages his apartments and those of some franchisee, as is the case of alquivir.com.

A great manager of apartments and who in turn handles a large volume of data is Airbnb that manages more than 200,000 apartments throughout the Peninsula. Therefore, such a serious and harmful sanction proposal, due to the large amount of data that it handles is absolutely disproportionate because based on two false premises: that ICNEA is a large owner and that ICNEA is responsible for treatment, when it is only a service provider computers for a small holder of tourist apartments.

In short, ICNEA TECNOLOGÍA SL is not responsible for data processing and does not is obliged in this case to provide information and notices about privacy of art. 12 and following GDPR on the alquivir.com website, nor in that of workandfunsevilla.icnea.net, so it has not committed any infraction and is not punishable for this reason, indicated in the proposal for sanction.

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SECOND.- The sanction proposal does not correctly analyze or evaluate the

facts presented in the malicious complaint made by the technician

IT D.A.A.A., from the company (...). The reservation suite was delivered to

B.B.B., from Workandfunsevilla to evaluate it, since it was in the

beta, and he unilaterally installed it in operational mode with real data in

the website that it managed for its smallest franchisee, alquivir.com.

When ICNEA realized the facts, it took the suite offline and replaced it

by the current one, which had already completed its internal testing phase. I just know

is aware, from the access logs, that a single user (the computer

complainant) had accessed the data of the previous reservation.

Therefore, ONE DATA, would have been exposed, and without ICNEA having

knowledge, since the reservation suite was not delivered to be

used in exploitation, if not in demo mode. And this data, which was accessed,

carried out by an expert computer scientist, with the sole purpose of harming ICNEA, which did not

had wanted to hire your company as a protection advisor

of data. Needless to say, that unauthorized access is a criminal offence, and more

Using your professional skills.

A normal user, who accesses the platform, it is impossible for there to be

able to view the data. The possibility of visualizing that single piece of information was not

ICNEA's fault, but its client WORKANFUNSEVILLA, who installed it in the

website of one of its franchisees, alquivir.com. And you can't even access

to this data individually, because it only offers the service of

storage. Therefore, this procedure must be archived because it is not caused an infringement by ICNEA TECNOLOGIA.

THIRD.- At the legal level and application of art. 5.1 and 32.1 both of the European Regulation 679/2016 (GDPR), despite considering this part that are not applicable since there has not been a fact that could be contained in both articles, it must be considered that its application individualized to the same event radically violates the principle of proportionality of article 29.5 of the LRJAP.

If both norms were applicable to the fact that concerns us here, we we would find ourselves before a medial contest of administrative sanctions and not both must prevail, if not only one of them, since both are cause effect. When an infraction is carried out as a means or instrument necessary to carry out a different one, only the most serious of the crimes can be punished. infractions in contest, and not both.

FOURTH.- In this sanction proposal, a erroneous application of articles 83 GDPR and 70 et seq. LOPD, in addition of not taking into account recital 148 GDPR, nor Art. 58.2 b GDPR. No only, as we have already alleged, there has not been a punishable act, neither willful nor malicious conduct, but rather that we are not dealing with an alleged seriousness, nor a large volume of data processed (in addition to never this company has been sanctioned or even investigated by this Agency).

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ICNEA is not responsible for the treatment of the data obtained through through alquivir.com or that are stored in workandfunsevilla, therefore, they do not there is an obligation to inform pursuant to art. 12 and following GDPR by of the person in charge of treatment, but the obligation is of the person in charge of the web alquivir.com and workandfunsevilla, that is, from D.B.B.B., which is its owner.

ICNEA is not responsible for the open use of its platform that

It was in the testing phase, because it was delivered for testing outside the operating environment and it was his client who installed it on alquivir.com.

the intrusion into a single customer data of alquivir.com, was carried out by a

computer technician maliciously, using means that are not up to

reach of a normal user of a reservation platform (or of any kind

of platforms), therefore, at the level of risk analysis, the risk has been

minimum. In no case has there been a serious risk affecting a large

data volume. It has affected a single piece of data, and it has been accessed

unlawful manner by the complainant. Impose a sanction on this

course is to bless the illegal actions of third parties, which precisely

They make this type of complaint for the benefit or revenge of their activities

commercial (by analogy if the evidence has been obtained illegally, it is not

applicable sanctioning rule).

FIFTH.- Nor have the moderating rules been applied correctly

administrative sanctions (seriousness, damage, assiduity, repair of the

damage, etc): it has been established that it is a tourist reservation company and therefore

Therefore, they handle a large volume of data, as if we were talking about

Airbnb, rather than a local company that exclusively manages 13

tourist apartments (remember that ICNEA does not carry out this

activity, if not just a technological platform that facilitates the

management to its clients).

Recital 148 of the GDPR clearly indicates (and is included in article 58.2, b)

GDPR) that, depending on the severity, volume of data, repair of damage,

means by which the Control Authority has learned, in the case

that the penalty would be a disproportionate burden, a penalty may be imposed

warning. Impose a penalty of €23,000 on an SME, which

billing barely exceeds €500,000, it means, at the moment

of crisis and recession, not only a disproportionate burden, but the

leads to its demise.

By virtue of the foregoing, I REQUEST THE AGENCY FOR THE PROTECTION OF

DATA, consider these allegations made against the proposal of

sanction EXP202200368 (PS/0470/2022), and on its merits render said

proposal, archiving this procedure and alternatively, apply the

art. 58.2,b GDPR, issuing a warning to ICNEA TECNOLOGIA, all

this by virtue of the foregoing.

The service contract presented by the entity ICNEA TECNOLOGÍA SL contains,

among others, the following information:

Booking manager and channel manager contract:

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C.C.C.

ICNEA TECHNOLOGY SL

Mandry 38

Name.-

Company

Address

Population.- Barcelona 08022

NIF

Phone

E-mail

(...)

(...)

admin@icnea.com

Customer:

Name

Company

Address

Population,

NIF

Phone

E-mail:

B.B.B.

WORK & FUN SEVILLE

C / BOGOTA No. 11

41701 - TWO SISTERS

(...)

(...)

proprietors@workaanunsevilla.com workaanunsevilla.com

By this contract, the Client hires Icnea for the use, accommodation and



maintenance of reservation programs and channel manager: Number  
maximum of properties or units 20; Search engine and booking engine in  
iFrame \$0; System maintenance and channel manager, basic training and  
support service €175/month. (...)

NATURE: Based on this contract, Icnea will provide the services of  
hosting of web pages and associated databases, email  
email, images, documents and programs. Icnea contracts this service  
exclusively to companies and professionals, not to individuals, for what it does  
the maximum efforts within their reach and that current technology allows for  
that the level of response is optimal; as well as the security level of the  
data in custody. (...)

EIGHTH: On 04/02/23, this Agency accesses the website  
<https://www.alquivir.com/> obtaining the following information about its ownership:

- At the bottom of the page there is the following information:

ALQUIVIR is a company specialized in the Management and Rental of  
Tourist Apartments in Córdoba, born from the concern of B.B.B. and  
D.D.D for offering a close service to travelers and owners who  
They want to make their home profitable as a tourist rental. (...)

We will be happy to answer any questions you have.

(...) / (...)

Web made with love by B.B.B..

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NINTH: On 04/02/23, this Agency accessed the information

existing in the Central Mercantile Registry, which obtains, among other things, the following information:

REGISTRY DATA: Company Name: ICNEA TECNOLOGIA SL

CIF: B62479126

SOCIAL PURPOSE: "THE DEVELOPMENT AND COMMERCIALIZATION OF SOFTWARE AND COMPUTER PRODUCTS AND THE PROVISION OF PROFESSIONAL COMPUTER SERVICES AND CONSULTING".

TENTH: On 04/06/23, the requested entity is notified of the proposed

resolution in which it was proposed that, by the Director of the Agency

Spanish Data Protection Agency proceed to ARCHIVE this

disciplinary proceedings against the entity, ICNEA TECNOLOGÍA, S.L. with CIF.:

B62479126, in accordance with the provisions of articles 63.3 of Law 39/2015, of 1

October, of the Common Administrative Procedure of Public Administrations

(LPACAP), for the alleged violations of articles: 5.1.f of the GDPR; from the article

32 of the GDPR, and article 13 of the GDPR, as it is not the owner-responsible for the page

website <https://www.alquivir.com/> but a provider of computer solutions, where its

customers have reserved a storage space (charges for its use and in

function of the occupied space).

SEVENTH: Notification of the proposed resolution to the claimed party, as of today

This Agency has not received any type of allegations to it.

PROVEN FACTS.

Of the actions carried out in this procedure and of the information and

documentation presented by the parties, the following have been accredited

facts:

First: On 10/04/20, in the verification that this Agency made on the page

website, <https://www.alquivir.com/> the following characteristics were found

1º.- On obtaining the personal data of users.- The website

could obtain personal data from users through the form

existing in the link <<Reserve>>, (<https://workandfunsevilla.icnea.net/>)

Obtaining data such as name, surname, email, address,

phone number and credit card number, but there is no

field where you can obtain or observe the "id-numeric" indicated in the

claim.

Before being able to send the reservation form, you must click on the option,

located at the bottom of the form: "\_ I have read and accept the

<<general contracting conditions>>"

2º.- About the "Privacy Policy".- There is no such thing on this web page

information or link to the "Privacy Policy".

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3º.- About the "Cookies Policy".- When entering the web for the first time at the

web page without accepting new cookies or performing any action on the

page, it has been verified that only the technical cookie is used:

"JSESSIONID" whose domain belongs to ".nr-data.net" and whose mission is

keep the session in anonymous mode.

Second: In the brief of allegations presented as a consequence of the opening

of the disciplinary file against the entity ICNEA TECNOLOGÍA, S.L., it states,

among others that:

- The domain <https://www.alquivir.com/> is a franchise of your client

WORKANDFUN SEVILLA, which is dedicated to renting apartments

tourist in various cities of Andalusia.

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ICNEA TECNOLOGÍA SL, is a provider of computer solutions, in

specific to an online booking platform and your client is

WORKANDFUNSEVILLA (B.B.B.) that subleases the use of its platform

<https://www.alquivir.com/> to your franchisee ALQUIVIR GESTION OF

TOURIST APARTMENTS ([alquivir.com](https://www.alquivir.com/)).

ICNEA TECNOLOGÍA SL attaches the service contract in which it appears

as the logo of the entity "ICNEA" and contains, among other things, the following

information:

Booking manager and channel manager contract:

C.C.C.

ICNEA TECHNOLOGY SL

Mandry 38

Name.-

Company

Address

Population.- Barcelona 08022

NIF

Phone

E-mail

(...)

(...)

admin@icnea.com

Customer:

Name

Company

Address

Population,

NIF

Phone

E-mail:

B.B.B.

WORK & FUN SEVILLE

C / BOGOTA No. 11

41701 - TWO SISTERS

(...)

(...)

proprietors@workaanunsevilla.com workaanunsevilla.com

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By this contract, the Client hires Icnea for the use, accommodation and

maintenance of reservation programs and channel manager: Number

maximum of properties or units 20; Search engine and booking engine in

iFrame \$0; System maintenance and channel manager, basic training and

support service €175/month. (...)

NATURE: Based on this contract, Icnea will provide the services of hosting of web pages and associated databases, email email, images, documents and programs. Icnea contracts this service exclusively to companies and professionals, not to individuals, for what it does the maximum efforts within their reach and that current technology allows for that the level of response is optimal; as well as the security level of the data in custody. (...)

Third: If you access the website <https://www.alquivir.com/> you can obtain

Relevant information about your ownership:

- At the bottom of the page there is the following information:

ALQUIVIR is a company specialized in the Management and Rental of Tourist Apartments in Córdoba, born from the concern of B.B.B. and D.D.D. for offering a close service to travelers and owners who They want to make their home profitable as a tourist rental.

(...)

We will be happy to answer any questions you have.

(...) / (...). Web made with love by B.B.B..

Fourth: the existing information in the Central Mercantile Registry about the entity ICNEA TECNOLOGIA SL, is, among other things, the following information:

- REGISTRY DATA: Company Name: ICNEA TECNOLOGIA SL CIF:

B62479126

- SOCIAL PURPOSE: "THE DEVELOPMENT AND COMMERCIALIZATION OF SOFTWARE AND COMPUTER PRODUCTS AND THE PROVISION OF PROFESSIONAL COMPUTER SERVICES AND CONSULTING".

FUNDAMENTALS OF LAW

YO.-

Competence:

The Director of the Spanish Agency is competent to resolve this procedure of Data Protection, by virtue of the powers that article 58.2 of the GDPR recognizes each Control Authority and, as established in arts. 47, 64.2 and 68.1 of the Law LOPDGDD.

II.-

Summary of the facts:

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According to the claimant, when making a reservation, through the platform

“AirBnB”, of an apartment in the company “Alquivir Alojamientos Turísticos”,

([www.alquivir.com](http://www.alquivir.com)) the website forwarded the user to another address:

<https://app.icnea.net/guests/{idNumerico}?id={idAlfanumerico}> where you should enter

your personal data to complete the reservation and stated that the field

named “idNumerico” that appeared in the URL was auto-incremental and that it was

It is possible to modify it by accessing the reservation file of another client. Also

stated that there was no privacy policy and cookie policy.

Initially, information on the claim was requested from the ICNEA entity

TECNOLOGÍA, S.L., considering it the owner of the website [www.alquivir.com](http://www.alquivir.com), as it is

root page of the URL <https://app.icnea.net> ..., it stated, among other things, that, with the

With the objective of adapting its products to Royal Decree 933/2021, a version was introduced

beta in development in some clients to carry out the beta-tester, without it being a

exploitation platform yet. In the trial version, the

extensions information in the URL window, but only one technician computer, with very advanced knowledge would be able to decipher its content and access to the code. As they state, the test phase lasted a month and was incorporated the improvements detected to the platform, which was incorporated at the level of exploitation to all clients by blocking any information in the window URL popup that could offer some kind of information about the system.

On behalf of this Agency, it was verified that, on the website [www.alquivir.com](http://www.alquivir.com), if wanted to rent one of the apartments offered, it redirected to a new page, <https://workandfunsevilla.icnea.net> for the management of reservations and where they had to enter the personal data of the clients, without the page there is any link to the "Privacy Policy".

The sanctioning file against the entity ICNEA TECNOLOGÍA, S.L. to the consider it responsible and owner of the root website ([www.alquivir.com](http://www.alquivir.com)) it manifests in their allegations that the domain <https://www.alquivir.com/> is a franchise of one of its clients, the entity WORKANDFUN SEVILLA, which is dedicated to the rental of tourist apartments and that ICNEA TECNOLOGÍA SL is only a provider IT solutions, specifically an online booking platform and its client is WORKANDFUNSEVILLA (B.B.B.) subleases the use of its platform <https://www.alquivir.com/>

franchisee ALQUIVIR MANAGEMENT OF TOURIST APARTMENTS ([alquivir.com](http://alquivir.com)).

to its

To corroborate this statement, ICNEA TECNOLOGÍA SL attaches the contract of service in which he appears as a client B.B.B. (WORK & FUN SEVILLA) and where specifies that the nature of the contract is that ICNEA will provide the services of hosting of the website and associated databases, email,



images, documents and client programs, on your server:

Booking manager and channel manager contract:

Name.-

Company

Address

C.C.C.

ICNEA TECHNOLOGY SL

Mandry 38

C / Jorge Juan, 6

28001 – Madrid

[www.aepd.es](http://www.aepd.es)

[sedeagpd.gob.es](http://sedeagpd.gob.es)

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Population.- Barcelona 08022

NIF

Phone

E-mail

(...)

(...)

[admin@icnea.com](mailto:admin@icnea.com)

Customer:

Name

Company

Address

Population,

NIF

Phone

E-mail:

B.B.B.

WORK & FUN SEVILLE

C / BOGOTA No. 11

41701 - TWO SISTERS

(...)

(...)

proprietors@workaanunsevilla.com workaanunsevilla.com

By this contract, the Client hires Icnia for the use, accommodation and maintenance of reservation programs and channel manager: Number maximum of properties or units 20; Search engine and booking engine in iFrame \$0; System maintenance and channel manager, basic training and support service €175/month. (...)

NATURE: Based on this contract, Icnia will provide the services of hosting of web pages and associated databases, email email, images, documents and programs. Icnia contracts this service exclusively to companies and professionals, not to individuals, for what it does the maximum efforts within their reach and that current technology allows for that the level of response is optimal; as well as the security level of the data in custody. (...)

On the other hand, if you access the website [https://www.alquivir.com /](https://www.alquivir.com/), in the part

At the bottom of the page there is the following information: "ALQUIVIR is a company specialized in the Management and Rental of Tourist Apartments in Córdoba, which born from the restlessness of B.B.B. and D.D.D. for offering a close service to travelers and owners who want to make their home profitable in tourist rental." We will be

happy to answer any questions you have. (...) / (...) and indicates that: "Web made with love by B.B.B."

In addition, if the registration data of the entity ICNEA TECNOLOGIA SL is accessed, can be read, as the Corporate Purpose of the entity "THE DEVELOPMENT AND MARKETING OF COMPUTER PROGRAMS AND PRODUCTS AND THE PROVISION OF PROFESSIONAL COMPUTER SERVICES AND CONSULTANCY".

III.-

As specified in article 4.2 of the GDPR, we must understand data processing personal like:

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“Any operation or set of operations performed on data

personal data or sets of personal data, either by procedures

automated or not, such as the collection, registration, organization, structuring,

conservation, adaptation or modification, extraction, consultation, use,

communication by transmission, diffusion or any other form of authorization of

access, collation or interconnection, limitation, deletion or destruction;

Points 7 and 8 of said article also specify what should be understood

by data controller and data processor. Thus we have, as:

7) "responsible for the treatment" or "responsible" is the natural person or

legal entity, public authority, service or other body which, alone or together with

others, determine the purposes and means of processing; if Union law or

of the Member States determines the purposes and means of processing, the responsible for the treatment or the specific criteria for its appointment they may be established by law of the Union or of the Member States;

8) "in charge of the treatment" or "in charge" is the natural or legal person, public authority, service or other body that processes personal data for account of the data controller;

In short, the data controller is the natural or legal person or authority public, which decides on the processing of personal data, determining the purposes and means of such processing. Under the principle of responsibility proactively, the data controller has to apply technical measures and organizational measures for, in response to the risk involved in the processing of the data personal, comply and be able to demonstrate compliance.

For its part, the person in charge of the treatment is the natural or legal person, authority public, service or other body that provides a service to the person in charge that entails the processing of personal data on its behalf.

In this case, the website <https://www.alquivir.com/> is owned by WORKANDFUN SEVILLA, which is dedicated to the rental of tourist apartments and ICNEA TECNOLOGÍA SL, is a provider of computer solutions, whose mission is to provide hosting services for the website and associated databases, email email, images, documents and programs from your client WORKANDFUN SEVILLE .

Therefore, according to the available evidence, after the analysis carried out on the documents provided by the entity ICNEA TECNOLOGÍA SL, can verify that there is no evidence of the violation of the GDPR by this entity by acting, in this case, as data processor data obtained on the website <https://www.alquivir.com/>.

In view of the foregoing, it is:

RESOLVES:

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ARCHIVE: this sanctioning procedure against the entity

ICNEA

TECHNOLOGY, S.L. with CIF.: B62479126, for the alleged violations of the

Articles: 5.1.f of the GDPR; of Article 32 of the GDPR, and Article 13 of the GDPR, by not

be the owner-responsible for the website <https://www.alquivir.com/> but a provider

of computer solutions, where the person in charge of said page has reserved a

storage space.

NOTIFY: this resolution to the entity, ICNEA TECNOLOGÍA, S.L. and

inform the claimant.

In accordance with the provisions of article 50 of the LOPDPGDD, this

Resolution will be made public once the interested parties have been notified.

Against this resolution, which puts an end to the administrative process in accordance with art. 48.6 of the

LOPDPGDD, and in accordance with the provisions of article 123 of the LPACAP, the

Interested parties may optionally file an appeal for reversal before the

Director of the Spanish Agency for Data Protection within a period of one month from

count 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 for in article 46.1 of the referred Law.

Mar Spain Marti

Director of the Spanish Data Protection Agency.

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