

□ Procedure No.: PS/00111/2019

938-051119

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### BACKGROUND

FIRST: On July 27, 2018, it is registered at the Agency

Spanish Data Protection claim made by Mr. A.A.A. (onwards,

the claimant) against the COMMUNITY OF OWNERS R.R.R., (hereinafter, the  
claimed), located at \*\*\*ADDRESS.1, for the installation of a

video surveillance without complying with the duty to inform the interested parties affected by said

treatment through the placement of informative signs of the video-monitored area

in sufficiently visible places, both in open and closed spaces, as well

as in places with different accesses such as the pool, the social club and the area  
playground of the Community of Owners.

The claimant attaches a photographic report of the aforementioned areas of the

Urbanization in order to justify the non-existence of an informative badge in the different  
access doors to the pool and the social club or access to the playground

childish. In the photographs provided, although of poor quality and undated, no

Appreciates the existence of informative signs of the video-surveillance zone in space  
displayed by them.

Likewise, the claimant provides a copy of an email sent with

date June 20 to the account \*\*\*EMAIL.1, in which in addition to requesting information

about the purposes to which the installation of video cameras in the

mentioned areas and the reasons for their lack of signage with

informative badges, requested the minutes reflecting the agreement of the Board of Owners for the installation of video cameras in the pool, the playground children and the social club.

SECOND: In view of the facts set forth in the claim and the documents provided by the claimant, the General Subdirector for Data Inspection requested, dated October 3, 2018, certain information to the respondent in order to assess the adequacy of the installation of video surveillance cameras to the regulations of data protection, including:

Information provided on the existence of a video-monitored area through photographs of the poster or informative posters in which it is possible to appreciate both its location as the data displayed; Brand and model of the cameras, providing the documents (installation manual, technical sheet, invoice or purchase ticket,...) that allow verifying its characteristics and mode of operation; scope of the cameras and places where they are installed, accrediting by means of photography of the images captured by the cameras, as displayed on the monitor or system equivalent, that the collection space has been limited so as not to affect land and [www.aepd.es](http://www.aepd.es)

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adjoining houses, public roads or any other foreign or reserved space; contribution of a copy of a copy of the minutes of the Board of the Owners Community in which the installation of the video surveillance cameras is approved, indication of the term of conservation of the images that are registered and detail of the measures adopted to ensure that only authorized personnel access the recordings.

2.1 On November 19, 2018, entry is registered in this

Written agency of the legal representative of the claimed party providing a series of documentation from which the following facts emerge:

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That the claimed party is responsible for the treatment that responds to video surveillance purposes (access control to the site) and whose legitimate basis is the legitimate interest in maintaining and guaranteeing the security and control of access and installations. Images are stored for 30 days. The claimed, dated May 23, 2018, signed "Installation and Maintenance Contract" of the system of security analyzed with the entity ALTATEC SISTEMAS, S.L.

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That on August 12, 2017, the General Meeting was held Ordinary Community of Owners. Item No. 5 on the Agenda had as its matter, as can be deduced from the copy of the Minutes provided by the respondent: "Security Proposals. Agreements to Take", appearing in the same detail of three proposals related to the expansion of the video surveillance system. Regarding this matter, in the Minutes drawn up it is stated that in view of the result of the vote, "of 27 votes in favor of security proposals and 17 against, agrees to hold an Extraordinary Meeting for next Saturday, August 19 and re-propose these options, asking first for the YES or NO to security."

In relation to this agreement, the respondent does not provide a copy of the Minutes drawn up on the occasion of the result of the Extraordinary Meeting convened for the purposes indicated for August 19, 2017.

The respondent provides a copy of the document called "Annex for compliance with the new European Data Protection Regulation 2016/79", without date. This document does not identify the entity to which ALTATEC

SYSTEMS, S.L. provide installation and/or maintenance services for the video surveillance and/or access control as data processor, not appearing nor any information that allows to associate said Annex with the one claimed.

2.2 On November 27, 2018, the respondent is required to complement the documentation initially sent by providing the following information "images of the posters that warn of the existence of a video surveillance area in which their location can be seen, they must also provide images of the field of view of the cameras of your security system video surveillance and finally they must provide the minutes of the Owners' Meeting in which the installation of the video surveillance system is indeed approved (since the act that they presented with their last arguments left pending the approval of the facility)."

On December 10, 2018, the representative of the respondent provides photographic report showing the informative sign of the video-surveillance zone placed by the claimed in the accesses and exits, both pedestrian and vehicles, of the urbanization area. The badge identifies the person claimed as responsible of the signaled video surveillance treatment, the postal address to which the Interested parties can go to exercise their rights and it is indicated that you can [www.aepd.es](http://www.aepd.es)

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Obtain "More information on the processing of personal data in the forms corresponding informative information, which are at your disposal in these installations."

2.3 On February 11, 2019, the claimant is again required

to provide “on the one hand, the images of the field of view of all the cameras that are part of the video surveillance system of the community of owners and by another, they must provide the minutes of the Homeowners' Meeting in which the approves the installation of the video surveillance system (since the minutes presented by with his last allegations he left the approval of the installation pending).

On March 1, 2019, the representative of the respondent provided a new photographic report showing captures of images of different installations and/or urbanization entrances. One of the images was obtained on October 4, 2018 and corresponding to camera 15. The rest of the captures provided are images obtained on November 5, 2018 by cameras 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17 some of which show that they have been entered privacy masks to hide adjoining dwellings. also features capturing an image of the pool and the grassy area surrounding it obtained by camera 5 on November 5, 2018.

Notwithstanding which, the respondent did not submit, despite being requested expressly on three occasions, a copy of the Act of the Community of Owners in the that it was agreed to approve the installation of the video surveillance system in areas common to the Community of Owners, in particular, the pool chamber.

THIRD: On June 13, 2019, the Director of the Spanish Agency for Data Protection, agreed to initiate a sanctioning procedure against the claimed party, in accordance with the provisions of article 58.2.b) of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, regarding the protection of individuals with regard to the processing of personal data and the free circulation of these data, (hereinafter RGPD), for alleged infringement of the provisions of the article 6.1.f) of the RGPD, typified in article 83.5.a) of the RGPD.

Likewise, for the purposes provided in article 58.2.d) of the RGPD in said

The initial agreement notified the corrective measures that, if confirmed

existence of infraction, could be imposed in the resolution adopted,

consistent, in view of the elements of judgment available at that time, in

ORDER the implementation of appropriate technical and organizational measures to

adapt the treatment studied to the principle of legality of the treatment. Namely:

- Identify and justify the legitimate interests pursued by the respondent who

prevail over the interests or rights in terms of data protection of

the interested parties whose images are collected through the cameras of

video surveillance installed in common areas of the Community of Owners,

particularly in what affects the pool, games and social club areas.

- Provide a copy of the Minutes of the Homeowners' Meeting in which the

installation of the video surveillance system studied in common areas of the

Community of Owners, and in which the express agreement of

install video surveillance cameras in the area of the community pool(s) and its

surrounding.

- Prove that the necessary organizational measures are adopted to

effectively regularize the situation described, describing them.

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Said measures would have to be adopted, where appropriate, within the term

established for such purposes, computed from the day following the notification of

the sanctioning resolution that may fall, having to provide the means of

proof of compliance.

Trying to notify the aforementioned start-up agreement through the State Company

Correos y Telégrafos, S.A., was returned to origin by Sobrante as it was not withdrawn from the

Post Office by the claimed party, and the claimed party may be notified on the 26th of

June 2019 through a courier service.

FOURTH: On July 10, 2019, the respondent filed a written

allegations requesting the file of the sanctioning procedure based on

the non-existence of the infringement imputed to the RGPD, which justifies, in summary, in what

Whats Next:

- That due to an error in sending the documentation to be provided, at the time it was not attached a copy of the Minutes of the Extraordinary Meeting dated August 19, 2017, in which it was agreed to improve the security service of the Community through the video surveillance. This agreement was approved, not being challenged in court by any neighbor, not even by the claimant. As this is a correctable error, comes to correct at this time.

- That the proposal of security measures is due to the interest of increase security in the Community for fear of acts of vandalism. Though states that it attaches a copy of the Minutes dated 04/08/2017, 08/12/2017 and 08/19/2017 justifications of the existence of legitimate interests for its installation, such as the protection of the physical integrity of the inhabitants of the Community and the inviolability of common property, in reality I only attach a printout of capture of two emails dated July 5 and 8, 2019 linked to the provision of this documentation.

- That the installation of the video cameras took place after their approval at the Homeowners' Meeting convened for those sole purposes, so in

In no way has the GDPR been violated.

FIFTH: On July 11, 2019, the claimant's written entry is registered

attaching a document related to the "Security Measures of the System of video surveillance and access control" of the Community, prepared by ALTATEC SECURITY.

Subsequently, on July 16, 2019, the written entry of the claimed reiterating the allegations made previously and attaching the following documentation: Minutes of the Extraordinary Meeting of the Community, dated 04/08/2017; Minutes of the Ordinary General Meeting of the Community, dated 08/12/2017; Minutes of the Extraordinary General Meeting of the Community, dated 08/19/2017

SIXTH: On December 10, 2019, a resolution proposal is formulated in the sense that by the Director of the Spanish Agency for Data Protection file the actions carried out in the sanctioning procedure of warning instructed to the claimed, in accordance with the provisions of article 58.2.b) of the RGPD, for an infringement of article 6.1.e) of the RGPD, typified in the article 83.5.a) of the RGPD.

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The aforementioned proposal was addressed both to the defendant and to society MEDITERRANEAN SERVICES OF INTEGRAL MANAGEMENT, SAU, (hereinafter, MSGI), entity that had been acting in legal representation of the claimed in some of the acts involved in the procedure.

On December 21, 2019, the document was returned due to automatic rejection.



notification of the proposed resolution made available to the company MSGI

by electronic means.

On December 26, 2019, the State Post and Telegraph Company,

S.A. returned the notification of the proposed resolution to origin as "Surplus"

sent to the claimant, as the shipment was not withdrawn from the post office by the

claimed, this after having been "Absent" in the two delivery attempts

carried out at the postal address set by the person claimed for the purposes of notifications.

On January 2 and 3, 2020, the Instructor reiterated the attempt to

notification of said proposed resolution to MSGI and the respondent, respectively,

through the Sociedad Estatal Correos y Telégrafos, S.A., stating in the

procedure that the aforementioned act was notified to MSGI on January 8,

2020 and that the State Post and Telegraph Society, S.A. returned the shipment to origin

for "Surplus" dated January 17, 2020, as it was not withdrawn from the

Post office by the claimed after notification attempts

carried out at the domicile of the claimant.

#### PROVEN FACTS

First.- On July 27, 2018, the entry is registered in the Agency

Spanish Data Protection Claim made by the claimant against the

COMMUNITY OF OWNERS R.R.R., (the claimed), whose location appears in

the Antecedent of Fact First of this act, for the installation of a system of

video surveillance without complying with the duty to inform the interested parties affected by said

treatment through the placement of informative signs of the video-monitored area

in sufficiently visible places, both in open and closed spaces, as well

as in places with different accesses such as the pool, the social club and the area

playground of the Community of Owners.

Second.- On May 23, 2018, the defendant and the security company

ALTATEC SYSTEMS, S.L. signed "Installation and Maintenance Contract" of the security system in which the aforementioned video surveillance cameras are integrated in the claim.

Third.- The claimed party is responsible for the treatment of the images obtained through the video surveillance system installed in the Urbanization in question to maintain and guarantee the security and control of goods and people at the entrances and common facilities. The images captured by the cameras that integrate the video surveillance system are recorded and stored for 30 days.

Fourth.- Through photographic report provided on December 10, 2018, the defendant has proven that in the accesses and exits, both pedestrian and vehicles, the Urbanization enclosure has placed an informative sign of video-monitored area, in which the person claimed is identified as responsible for the signaled video surveillance treatment, the postal address to which the

Interested parties can go to exercise their rights and it is noted that you can

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obtain "More information on the processing of personal data in the corresponding informative forms, which are at your disposal in these installations." .

Fifth.- On July 16, 2019, the respondent has submitted a copy of the following documentation:

- Minutes of the Extraordinary Meeting of the Community, dated April 8, 2017.

- Minutes of the Ordinary General Meeting of the Community, dated August 12

of 2017, in which item No. 5 of the Agenda, under the title "Security Proposals.

Agreements to Take", detailed three proposals that were based on the expansion of the

Video surveillance system "for the main entrances, central common areas and

all the perimeter corridors connected to an Alarm Receiving Center" and

complemented with other services in each of them. In view of the result of

the vote taken in relation to said point, "of 27 votes in favor of proposals

of security and 17 against" it is stated in said Minutes that it was agreed "to hold a Meeting

Extraordinary for next Saturday, August 19, and re-propose these

options, asking first for the YES or NO to security."

- Minutes of the Extraordinary General Meeting of the Community, dated 19

August 2017, which had as the only item on the agenda the following:

1. SECURITY PROPOSALS. AGREEMENTS TO BE TAKEN.

A) Do you want improvements in the Community Security Service?(...)

B) What improvement of the following proposals meets your expectations? (If the

vote in section A has been positive, we will proceed to vote on this section

that it will entail to integrate in the budget of expenses for 2017/2018 the proposal

approved)". This section detailed three proposals that, at a minimum,

contemplated the extension of the Video Surveillance system for the entrances

main, central common areas and all perimeter corridors connected to

an Alarm Receiving Center, a minimum option that was complemented by other

services in the remaining proposals, each of them assuming an increase

Determined monthly per owner.

This Minutes state that the majority approved the proposal to improve the

Community Security Service, goes to section B) and that, once the

vote of section B) is approved "by majority of those attending OPTION a)". It is

In other words, the "expansion of the Video Surveillance system for the main entrances, areas central commons and all perimeter corridors connected to a central Alarm Receiver". Likewise, "the integration of the expense of this approved proposal in the expense budget for the fiscal year 2017/2018, which represents an increase of approximately between (...) per owner and month, depending on your coefficient"

## FOUNDATIONS OF LAW

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By virtue of the powers that article 55.1, 56.2 and 58.2 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, regarding the protection of natural persons with regard to data processing

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personal information and the free circulation of these data (General Protection Regulation of Data, hereinafter RGPD) recognizes each control authority, and according to what established in articles 47 and 48.1 of Organic Law 3/2018, of December 5, of Protection of Personal Data and guarantee of digital rights (hereinafter LOPDGDD), the Director of the Spanish Data Protection Agency is competent to resolve this procedure.

II

The facts analyzed were qualified in the Initiation Agreement of this disciplinary proceedings as constituting an infraction of section f) of the article 6.1 of the RGPD, typified in article 83.5.a) of the same regulation. Nevertheless,

at this stage of the procedure it is considered appropriate to modify the qualification carried out accusing the defendant of an infraction of section e) of article 6.1 of the RGPD, also typified in article 83.5.a) of the RGPD.

Regarding whether or not it is appropriate to change the rating in the proposal phase of the facts object of the claim made in the Initiation Agreement, and to the impact that such a change may have on the defendant's right to defense, It should be noted that nothing prevents making this modification as long as, as Now it happens, the facts on which the imputation is based remain unchanged formulated.

Article 53.2 of Law 39/2015, of the Common Administrative Procedure of Public Administrations, regarding the "Rights of the interested party in the administrative procedure", establishes the following:

"two. In addition to the rights provided for in the previous section, in the case of administrative procedures of a punitive nature, the alleged responsible will have the following rights:

a)

To be notified of the facts that are imputed to him, of the infractions that such facts may constitute and of the sanctions that, if applicable, are could impose, as well as the identity of the Instructor, the competent authority to impose the sanction and of the norm that attributes such competence.

b)

To the presumption of non-existence of administrative responsibility Until the contrary is proven."

The Constitutional Court has been pointing out that "the essential content of the constitutional right to be informed of the accusation refers to the facts considered punishable that are imputed to the accused" (STC 95/1995). (The underline is

of the AEPD).

On the contrary, and unlike what happens with the facts, the TC, in Judgment 145/1993 warns that the communication to the alleged offender of the legal qualification and the eventual sanction to be imposed does not integrate the essential content the right to be informed of the accusation. To this extent it is important to put in knowledge of the constitutive facts of the administrative infraction, that the T.C. has declared that the requirements of article 24.2 of the EC are satisfied fundamentally with the sole communication of the imputed facts in order to defend against them (STC 2/1987 and 190/1987).

In this line, the Supreme Court, Judgment of March 3, 2004, indicates that "the primary purpose of the initiation agreement is to report on the facts

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imputed and not on the legal qualification, of which the proposal of resolution". (The underlining is from the AEPD).

III

In the present case, it is a matter of elucidating whether the defendant's conduct conforms to what is established in the aforementioned article 6 of the RGPD, a precept that establishes the Specific assumptions under which the processing of data is considered lawful interested parties. The aforementioned precept establishes the following:

"Article 6. Legality of the treatment

"1. The treatment will only be lawful if at least one of the following is met conditions:

(...)

e) the treatment is necessary for the fulfillment of a mission carried out in public interest or in the exercise of public powers vested in the person responsible for the treatment;

For these purposes, it is recalled that article 4 of the RGD, under the rubric

“Definitions”, provides that:

“For the purposes of this Regulation, the following shall be understood as:

1) "personal data": any information about an identified natural person or identifiable ("the interested party"); An identifiable natural person shall be deemed to be any person

whose identity can be determined, directly or indirectly, in particular by

an identifier, such as a name, an identification number,

location, an online identifier or one or more elements of the identity

physical, physiological, genetic, psychic, economic, cultural or social of said person;

2) "processing": any operation or set of operations carried out

about 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, broadcast or any other form of enabling of

access, collation or interconnection, limitation, suppression or destruction;”

7) «responsible for the treatment» or «responsible»: the natural person or

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

determine the purposes and means of the treatment; if the law of the Union or of the

Member States determines the purposes and means of processing, the data controller

treatment or the specific criteria for their appointment may be established by the

Law of the Union or of the Member States; >>

10) «third party»: natural or legal person, public authority, service or

body other than the interested party, the data controller, the person in charge of treatment and of the persons authorized to treat personal data under the direct authority of the person in charge or the person in charge;

In accordance with these definitions, the capture of images concerning to natural persons through the video surveillance cameras that make up the system of security installed in the different accesses and common areas of the Urbanization, as well as the subsequent visualization, storage and recording of said images, constitutes a treatment of personal data with respect to the

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which the person responsible for it, in this case the defendant, must comply with the principle of legality of the treatment collected in article 6.1 of the RGPD.

For its part, Organic Law 3/2018, of December 5, on the Protection of Personal Data and Guarantee of Digital Rights (LOPDGDD), in its article 22, regarding “Processing for video surveillance purposes”, in its sections 1, 3 and 4, establishes that:

"1. Natural or legal persons, public or private, may carry out the processing of images through camera systems or video cameras with the purpose of preserving the safety of people and property, as well as their installations.

(...)

3. The data will be deleted within a maximum period of one month from its collection, except when they had to be kept to prove the commission of



acts that threaten the integrity of persons, property or facilities. In that case, the images must be made available to the competent authority within a maximum period of seventy-two hours from the date of knowledge of the existence of the recording.

The planned blocking obligation will not apply to these treatments.

in article 32 of this organic law.

4. The duty of information provided for in article 12 of the Regulation (EU)

2016/679 will be understood to be fulfilled by placing an informative device

in a sufficiently visible place identifying, at least, the existence of the treatment,

the identity of the person in charge and the possibility of exercising the rights provided for in the

Articles 15 to 22 of Regulation (EU) 2016/679. It may also be included in the

informative device a connection code or internet address to this

information.

In any case, the data controller must keep available to

those affected the information referred to in the aforementioned regulation.”

#### IV

Considering that the purpose of video surveillance is to guarantee the security of the

people, goods and facilities, the legitimacy of the analyzed treatment is given

by section e) of article 6.1 of the RGPD. In this way, capturing images

by video surveillance cameras in the accesses and common spaces of a community

of owners is incardinated in the sphere of public interest to guarantee the

security of the same, both of the people who use these common areas, as well as

of goods and facilities

On the other hand, given that capturing video surveillance images is

produced in common areas or elements of the Community of Owners, the

installation of the video surveillance system for security purposes must be agreed upon

Board of Owners in accordance with the provisions of articles 14 and 17.3 of Law 49/1960, of July 21, of Horizontal Property, (hereinafter, LPH).

Thus, article 14 of the aforementioned Law 49/1960 establishes that:

“It corresponds to the Board of Owners:

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- a) Appoint and remove the persons who hold the positions mentioned in the previous article and resolve the claims that the owners of the flats or premises formulate against their actions.
- b) Approve the plan of foreseeable expenses and income and the accounts corresponding.
- c) Approve the budgets and the execution of all the repair works of the farm, whether ordinary or extraordinary, and be informed of the urgent measures adopted by the administrator in accordance with the provisions of article 20.c).
- d) Approve or amend the statutes and determine the rules of the internal regime.
- e) Know and decide on other matters of general interest for the community, agreeing on the necessary or convenient measures for the best service common."

Article 17.3 of the aforementioned law, which regulates the Quorums and regime of the approval of agreements by the Board of Owners, states that:

“The agreements of the Board of Owners will be subject to the following regulations:

(...)

3. The establishment or suppression of porter services, concierge,

surveillance or other common services of general interest, whether or not they involve modification of the constitutive title or the statutes, will require the favorable vote of the three fifths parts of the total owners who, in turn, represent three-fifths of the participation fees.

The same regime will apply to the lease of common elements that are not assigned a specific use in the property and the establishment or suppression of equipment or systems, not included in section 1, whose purpose is to improve the energy or water efficiency of the property. In the latter case, the agreements validly adopted in accordance with this rule bind all owners. Nope

However, if the equipment or systems have a private use, for the adoption of the agreement will suffice the favorable vote of a third of the members of the community that represent, in turn, a third of the participation quotas, applying, in this case, the cost repercussion system established in said pulled apart."

v

By virtue of the provisions of article 58.2 of the RGPD, the Spanish Agency of Data Protection, as a control authority, has a set of corrective powers in the event of an infraction of the precepts of the GDPR.

Article 58.2 of the RGPD provides the following:

"2 Each supervisory authority shall have all of the following powers corrections listed below:

(...)

b) sanction any person responsible or in charge of the treatment with warning when the processing operations have violated the provisions of this Regulation;"

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(...)

“d) order the person responsible or in charge of the treatment that the operations of treatment comply with the provisions of this Regulation, where appropriate, in a specified manner and within a specified period;”

“i) impose an administrative fine in accordance with article 83, in addition to or in instead of the measures mentioned in this paragraph, depending on the circumstances of each particular case;

Article 83 of the RGPD, under the heading “General conditions for the imposition of administrative fines”, in sections 1 and 5.a) states that:

“1. Each control authority will guarantee that the imposition of fines administrative actions under this article for violations of this

Regulation indicated in sections 4, 5 and 6 are in each individual case effective, proportionate and dissuasive.”

“5. Violations of the following provisions will be sanctioned, according to paragraph 2, with administrative fines of EUR 20,000,000 as maximum or, in the case of a company, an amount equivalent to 4% as maximum of the overall annual total turnover of the previous financial year, opting for the highest amount:

“a) the basic principles for the treatment, including the conditions for the consent under articles 5, 6, 7 and 9”

At the same time, article 72.1.b) of the LOPDGDD, under the heading “Infringements

considered very serious", provides:

"1. Based on the provisions of article 83.5 of Regulation (EU) 2016/679

are considered very serious and will prescribe after three years the infractions that suppose

a substantial violation of the articles mentioned therein and, in particular, the

following:

b) The processing of personal data without the concurrence of any of the conditions

of legality of the treatment established in article 6 of Regulation (EU) 2016/679."

SAW

In the present case, in view of the evidence available in the

moment in which it was agreed to initiate the present sanctioning procedure, it was imputed

to the claimed a possible violation of the principle of legality of the treatment collected

in article 6.1 of the RGPD, infringement typified in article 83.5.a) of the aforementioned

Regulation and classified as a very serious infringement for purposes of prescription in the

article 72.1.b) of the LOPDGDD, since it had not proven that the

installation of the video surveillance system in question would have been agreed at the Board

of Owners in the terms provided in the Horizontal Property Law

In relation to this matter, it is pointed out that the defendant was requested in

repeatedly, specifically, through writings dated October 3, 2018, 27

November 2018 and February 11, 2019, to contribute within the term

indicated a copy of the Minutes of the Community and Owners Meeting in which

approved the installation of video surveillance cameras at entrances and areas

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of the same, stating in the procedure the effective reception by

of the claimed of said requests for documentation.

Considering that the respondent did not present the Minutes of the Community Meeting

of Owners requested, dated June 13, 2019 the Director of the AEPD

agreed to initiate a sanctioning procedure against the person claimed as allegedly responsible

of the processing of personal data of those affected, consisting of the collection,

storage, visualization and recording of the images corresponding to the

people who are in the areas controlled by the security cameras

video surveillance installed at the entrances and common areas of the Community of

Owners, given that the defendant had not accredited, in the form

irrefutable, that the Board of Owners had agreed to install the system of

video surveillance in the common areas in question.

It will not be until July 16, 2019, the date you check in at

this Agency written of allegations of the claimed to the agreement of initiation of the

procedure, which the Community of Owners presents, among other documentation,

copy of the Minutes of the Extraordinary General Meeting held by the respondent with

dated August 19, 2017, in which it appears as approved by a majority of the

attendees the "expansion of the video surveillance system for the main entrances,

central common areas and all perimeter corridors connected to a central

Alarm Receiver".

Therefore, provided by the respondent the aforementioned Minutes dated 19

August 2017, it is considered that the respondent has justified the legality of the treatment

of personal data that has been carried out through video surveillance cameras

located at the entrances to the Community of Owners and in the areas and

common facilities of the same, - such as the swimming pool, the social club and the

children's games of the Urbanization-, devices that were placed after

dated May 23, 2018, the defendant and the security company ALTATEC SYSTEMS, S.L. signed "Installation and Maintenance Contract" of the system of security in which the video surveillance cameras outlined in the claim.

Thus, accrediting the approval in accordance with the provisions of the LPH of the agreement in Owners' Meeting regarding the installation of video surveillance cameras in the places indicated and justified, also, in the Foundations of Law II and III above that the public interest legitimizes the processing of images with data information obtained by said chambers, it must be concluded that the person claimed is not is responsible for the commission of the infraction to the principle of legality of the treatment charged to him in this proceeding.

Accordingly, the provisions of article 28.1 of the Law 40/2015, of October 1, on the Legal Regime of the Public Sector, which establishes as one of the principles of the sanctioning power that of "Responsibility", determining in this regard that: "They can only be sanctioned for constitutive acts of administrative infraction natural and legal persons, as well as, when a Law recognize their capacity to act, the affected groups, the unions and entities without legal personality and independent or autonomous estates, which result responsible for the same by way of fraud or negligence".

Notwithstanding the foregoing, and reasoned that the treatment of data studied is legitimized in letter e) of section 1 of article 6 of the RGPD, the claimed must rectify the information contained in the informative form that is

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finds the willingness of the interested parties to complete the information on the treatment of personal data that is offered to those interested in the posters of video surveillance area. Specifically, the one that states that "The basis of the treatment is the legitimate interest in guaranteeing the security of these facilities on the part of its holder, which justifies that the data is necessarily captured by the fact of access this enclosure.

Consequently, it is considered opportune to agree to file the proceedings practiced in this sanctioning procedure against the defendant.

Therefore, in accordance with the applicable legislation,

The Director of the Spanish Data Protection Agency RESOLVES:

FIRST: FILE the actions carried out in the sanctioning procedure

of warning instructed to the COMMUNITY OF OWNERS R.R.R., with NIF

\*\*\*NIF.1, in accordance with the provisions of article 58.2.b) of the RGPD, for a infringement of article 6.1.e) of the RGPD, typified in article 83.5.a) of the RGPD.

SECOND: NOTIFY this resolution to the COMMUNITY OF OWNERS R.R.R.

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.

Finally, it is pointed out that in accordance with the provisions of art. 90.3 a) of the LPACAP, the firm resolution may be provisionally suspended in administrative proceedings if the interested party expresses his intention to file a contentious appeal-administrative. If this is the case, the interested party must formally communicate this made by writing to the Spanish Agency for Data Protection, introducing him to the agency

[<https://sedeagpd.gob.es/sede-electronica-web/>], or through any of the other records provided for in art. 16.4 of the aforementioned Law 39/2015, of October 1. Also must transfer to the Agency the documentation that proves the effective filing of the contentious-administrative appeal. If the Agency were not aware of the filing of the contentious-administrative appeal within two months from the day following the notification of this resolution, it would end the precautionary suspension.

Electronic Registration of  
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Sea Spain Marti

Director of the Spanish Data Protection Agency

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