

□ Procedure No.: PS/00271/2020

RESOLUTION OF PUNISHMENT PROCEDURE

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

FACTS

FIRST: Don A.A.A. (*hereinafter, the claimant) dated January 29, 2020

filed a claim with the Spanish Data Protection Agency. The

claim is directed against COMMUNITY OF OWNERS ***ADDRESS.1,

ALCALÁ DE HENARES, with NIF ***NIF.1 (hereinafter, the claimed). The reasons in

that bases the claim are “in this community he settled a couple of months ago

video intercom mode that focused on the window of a bedroom in the residence of the

Under b, of which I am the owner” (folio nº 1).

Along with the claim, provide documentary evidence (Doc. No. 1) that proves the

presence of the device as a video door entry system.

SECOND: On 03/31/20, the claim is TRANSFERRED to the entity

denounced so that it can allege in law what it deems appropriate, without manifesting

no tation has been made to date.

THIRD. On November 20, 2020, 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.c) of the RGPD, typified in Article 83.5 of the

GDPR.

FOURTH. On 11/05/20, a response was received from the President of the Community

of owners, pointed out that there are no cameras in the building, but that it has been

proceeded to install a video intercom.

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. The installation of a video intercom in the building located at ***DIREC-TION.1 (Alcalá de Henares).

Second. No "data processing" is found, so it does not store the images obtained in your case.

Third. There is no response to this Agency's request for a detailed explanation of the installed system.

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Fourth. It has not been proven that the data of any inhabitant of the dwelling under B, of the mentioned building has been subject to treatment outside the cases permitted by the law.

FOUNDATIONS OF LAW

Yo

By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of control, and according to the provisions of articles 47 and 48 of the LOPDGDD, the Director of the Spanish Agency for Data Protection is competent to initiate and to resolve this procedure.

II

In the present case, the claim dated 01/29/20 is examined by me-gave from which the following is transferred as the main fact:

“Installation of a video door entry system that could obtain images of my space

exclusive" (folio nº 1).

The art. 5.1 c) RGD provides the following: The personal data will be:

"adequate, relevant and limited to what is necessary in relation to the purposes

for which they are processed" ("data minimization").

It should be remembered that individuals are responsible for ensuring that the systems installed

comply with current legislation, proving that it complies with all

the requirements demanded by the regulations in force.

The installation of this type of device must have the mandatory informative sign.

indicating the purposes and responsible for the treatment, where appropriate, of the data of each

personal character.

Article 22 section 4 of LO 3/2018, December 5, provides the following:

"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 cameras must be oriented towards the particular space, avoiding

intimidate neighboring neighbors with this type of device, as well as control areas

transit of the same without just cause.

The purpose of the video intercoms is for the verification by the pro-

owners of the real estate to verify who is calling the house, having to differentiate

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the assumptions of mere visualization of images of those cases of obtaining (translation treatment) of images in your case.

In the case of video intercoms, the regulations in force establish certain obligations to the communities of owners, who will be responsible for the treatment of the personal information.

III

On 11/05/20, this Agency received a letter from the President of the Community of owners denounced stating that the installed system is a video intercom.

Article 28.7 Law 39/2015 (October 1) provides the following:

“The interested parties will be responsible for the veracity of the documents that present”.

In the case of video intercoms, they are installed to verify the person who calls a given floor, at which time the possibility of viewing that floor is activated. who wants to enter the building (vgr. delivery people, friends, etc).

The visualization is limited to being able to see on the monitor the person who wants to enter in the building, on a temporary basis and without the possibility of "data processing", as captured images are recorded.

The data protection regulations do not apply when it comes to processing held by natural persons in the exercise of activities exclusively personal or domestic, as occurs, for example, when the treatment is carried out do through video intercoms.

In this case, to affect the privacy of the residents of the dwelling located on the bass, recording would be necessary (something that does not occur in the present case) being recommendable in your case, the placement of a curtain, which makes it difficult in his case the observation of the interior of the house, which is only affected in a small

queña portion by the monitor in question.

The substantive issue must be raised in the corresponding Project Board.

owners or by writing to the President of the Community of Owners.

for the purposes, where appropriate, of analyzing the question raised, which could have repercussions

arguments for affecting privacy in other areas of law, being recommended

ble a review of the installed system, to technically limit the capture angle

if applicable, to the area of the access door of the building.

The art. 7 of LO 1/1982, May 5, Civil Protection of the Right to Honour,

Personal and Family Privacy and Self-Image.

“They will be considered illegitimate interference in the field of protection.

tion delimited by art. 2 of this law:

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-The placement in any place of listening devices, filming,

optical devices or any other means suitable for recording or reproducing the inner life

scam of the people (...).”

The system installed as a video intercom must comply with what is described, this

is, activation at the time of knocking on the access door, limited temporarily-

mind at the specific moment when a floor of the building is called, not being per-

The use as a camera by any neighbor of the property has been permitted.

Under the established criteria, as described, it would not be

affectation of the privacy of the accused, since the window would be covered

by the image of anyone who calls the video intercom, remembering that the affectation

of it is partial and that in order to be observed it is necessary that it be

in the window and that it is devoid of any curtain or blind.

IV

In accordance with the foregoing, with the evidence provided, it can be concluded that there is no

administrative infraction in the matter of data protection, reason for which it proceeds

order the File of this procedure.

It is recalled that a lack of collaboration with this Agency may lead to

the opening of a new procedure for infringement of article 72.1 letter o) LO-

PDGDD; where non-compliance with the "recommendations" can be taken into account.

tions" used in this resolution, when imposing a penalty of ca-

pecuniary nature.

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ORDER the FILE of this procedure as there is no evidence

It gives administrative infraction in the matter that occupies us.

SECOND: NOTIFY this resolution to the COMMUNITY OF OWNERS

***ADDRESS.1, ALCALÁ DE HENARES, AND REPORT the result of the actions

tions to the complainant Mr. A.A.A.

Received the notification and once executed, if the date of execution is

between the 1st and 15th of each month, both inclusive, the term to make the payment

will be until the 20th day of the following month or immediately after, and if

between the 16th and last day of each month, both inclusive, the payment term

It will be until the 5th of the second following month or immediately after.

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

Resolution will be made public once it has been notified to the interested parties.

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

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

resents may optionally file an appeal for reconsideration before the Director
of the Spanish Agency for Data Protection within a month from the date of
the day following the notification of this resolution or directly contentious appeal

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before the Contentious-Administrative Chamber of the National High Court,
in accordance with the provisions of article 25 and section 5 of the additional provision
Final fourth of Law 29/1998, of July 13, regulating the Contentious Jurisdiction-
administrative, within a period of two months from the day following the notification
tion of this act, as provided for in article 46.1 of the aforementioned Law.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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