

□ Procedure No.: PS/00190/2020

RESOLUTION OF PUNISHMENT PROCEDURE

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

BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) dated December 30, 2019

filed a claim with the Spanish Data Protection Agency. The

claim is directed against COMMUNITY OF OWNERS B.B.B. with NIF

***NIF.1 (hereinafter, the claimed one).

The reasons on which the claim is based are that your personal data (flat, letter,
name and surname) appear on a list of debtors published on the board of
announcements, located on the portal of the building in which you reside.

SECOND: In view of the reported facts, on 02/21/2020, it was transferred
the claim to the respondent so that it "analyzes said claim and informs the
claimant the decision adopted in this regard.

Also, within a month from the receipt of this letter, you must
send this Agency the following information:

1. Copy of the communications, of the adopted decision that has been sent to the
claimant regarding the transfer of this claim, and proof that the
claimant has received communication of that decision.

2. Report on the causes that have motivated the incidence that has originated the
claim.

3. Report on the measures adopted to prevent incidents from occurring
Similar.

In response to the aforementioned request, on March 12, 2020, the president of the

community of owners object of this claim, responds stating that the decision to expose the personal data of the claimant, has been by agreement of all the neighbors to pressure him to pay a debt that he has for more than a year year, due to disagreements that it has with the community of owners for a breakdown you had at home.

THIRD: On September 1, 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.f) of the RGPD, typified in article 83.5 of the GDPR.

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FOURTH: On October 7, 2020, the agreement to start this procedure, becoming the same in resolution proposal in accordance with articles 64.2.f) and 85 of Law 39/2015, of October 1, on Procedure Common Administrative System of Public Administrations (LPACAP), by not carrying out claims within the specified period.

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 personal data of the claimant (floor and letter of her address, and name and surname) appear on a list of debtors published on the board of announcements, located on the portal of the building in which you reside.

SECOND: The respondent has not presented any allegation.

FOUNDATIONS OF LAW

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By virtue of the powers that article 58.2 of the RGPD recognizes to each authority of control, and as established in arts. 47 and 48.1 of the LOPDGDD, the Director of The Spanish Agency for Data Protection is competent to resolve this process.

II

In this case, the claimed reveals personal data of an owner. (floor, letter, name and surname) placing themselves on the bulletin board, located in the portal of the building in which you reside.

It must be taken into account that for the display on the bulletin board of the Community, of personal data must comply with a series of principles in order not to violate data protection regulations.

As a means of personal and individualized notification to the owner, the Law of Horizontal Property, indicates the assumptions in which the exposure of data is authorized of a personal nature related to matters arising from the management of the Community of owners.

Its article 9. h) indicates as an obligation of the owner "Notify whoever exercises the functions of secretary of the community, by any means that allows to have proof of its receipt, the address in Spain for the purpose of citations and notifications of all kinds related to the community.

In the absence of this communication, the address will be used for citations and notifications the apartment or premises belonging to the community, having full effect legal those delivered to the occupant of the same. If you tried a summons or notification it was impossible for the owner to practice it in the place provided for in the previous paragraph,

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shall be understood to be carried out by placing the corresponding communication in

the community bulletin board, or in a visible place of general use enabled at

effect, with expressive diligence of the date and reasons why this is done.

form of notification, signed by the person who exercises the functions of Secretary of the

community, with the approval of the President. Notification made in this way

It will produce full legal effects within three calendar days.

Article 19.3 of the LPH, second paragraph, indicates: "The minutes of the meetings shall be

will send to the owners in accordance with the procedure established in article

9."

In the present case, there is no evidence that the exposed note comes from a

call, meeting or minutes, but rather the desire to want to inform the

owners, although the community board should not serve as a board for

notify or inform when personal data is exposed, if the

requirements in each case indicated for said exhibition and its functions being those of

notice or citation.

In the present case, an informative note is being exposed to the owners,

making an exhibition in a space or place of transit of a note, which makes

identifiable to a person and attributes to him the quality of debtor, which may affect his

honor. This note with the data as a means of information, in this case does not fit

to the LPH and violates the claimant's right to data protection, for not

proceed the exhibition in any of the cases provided for in the aforementioned LPH.

For this reason, the COMMUNITY OF OWNERS B.B.B. with NIF ***NIF.1, the

commission of an infringement of article 5.1. f) of the RGPD “1. Personal information will be: f) “treated in such a way as to guarantee adequate security of the personal data, including protection against unauthorized or unlawful processing and against its loss, destruction or accidental damage, through the application of measures appropriate technical or organizational (“integrity and confidentiality”).”

Article 83.5 a) of the RGPD, considers that the infringement of “the basic principles for processing, including the conditions for consent under the articles 5, 6, 7 and 9” is punishable, in accordance with section 5 of the aforementioned Article 83 of the aforementioned Regulation, with administrative fines of €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.

The LOPGDD in its article 5.1 indicates: "Duty of confidentiality":

Those responsible and in charge of data processing, as well as all persons that intervene in any phase of this will be subject to the duty of confidentiality referred to in article 5.1.f) of Regulation (EU) 2016/679.”

Its article 72.1.a) considers it: “Infringements considered very serious

"1. Based on the provisions of article 83.5 of Regulation (EU) 2016/679, considered very serious and will prescribe after three years the infractions that suppose

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

The processing of personal data violating the principles and guarantees established

a)

established in article 5 of Regulation (EU) 2016/679".

Article 58.2 of the RGPD provides: "Each control authority will have all the

following corrective powers indicated below:

b) sanction any person responsible or in charge of the treatment with a warning

when the treatment operations have violated the provisions of this

Regulation;

d) order the person in charge or in charge of the treatment that the operations of

treatment comply with the provisions of this Regulation, where appropriate,

in a certain way and within a specified period of time.

In this sense, the actions taken by the respondent to the

know the claim of which it was informed by this AEPD and the measures

adopted, having to report on them within the procedure, being able to

in the resolution, adopt the appropriate ones for its adjustment to the regulations.

Therefore, in accordance with the applicable legislation and having assessed the criteria for

graduation of sanctions whose existence has been proven,

the Director of the Spanish Data Protection Agency RESOLVES:

1. FIRST: IMPOSE THE COMMUNITY OF OWNERS B.B.B. with NIF

***NIF.1, for an infringement of article 5.1 f) of the RGPD, punishable in accordance with the provisions

put in art. 83.5 of the aforementioned RGPD, and classified as very serious in article 72.1 a)

of the LOPDGDD, a sanction of warning.

SECOND: TO REQUIRE the claimed party so that within one month they certify

before this body the adoption of the necessary measures to guarantee a

adequate security of the personal data processed, in accordance with the requirements

in article 5.1 f) of the RGPD that regulates the principles of integrity and confidentiality

of the data.

THIRD: NOTIFY this resolution to the COMMUNITY OF OWNERS B.B.B.

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

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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

through the

Sea Spain Marti

Director of the Spanish Data Protection Agency

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