

□ File No.: EXP202204362

## RESOLUTION OF SANCTIONING 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 claiming party) dated April 9, 2022 in-  
filed a claim with the Spanish Agency for Data Protection. the claim  
is directed against COMMUNITY OF OWNERS \*\*\*ADDRESS.1 with NIF \*\*\*NIF.1  
(hereinafter, the claimed party). The reasons on which the claim is based are the following:  
following:

The claiming party states that it filed a prior claim with this Agency, which  
gave rise to file EXP20220XXXX and that, after that, the person claimed in different  
that complaint, Vice President of the Community claimed, withdrew the cameras object-  
claim, installing new ones through the Community of Owners  
both at the access door to your home, and on the roof.

“However, the person claimed, who, as I already mentioned in the complaint,  
occupies the position of 2nd vice-president of the community of owners, chooses to withdraw  
their private cameras in the common areas on 3/30/22, to install them now through  
from the community at the entrance door of my house and from the roof in-  
Focusing directly on the windows of my house through the interior patio. peeping in  
my private life and violating the right to privacy, being the administrator B.B.B.,  
the one that authorizes said installation” (folio nº1).

Provide two images of the cameras (Annex I).

SECOND: In accordance with article 65.4 of Organic Law 3/2018, of 5  
December, Protection of Personal Data and guarantee of digital rights (in

hereinafter LOPDGDD), said claim was forwarded to the party claimed/in dated 04/12/22, to proceed with its analysis and inform this Agency in the within one month, of the actions carried out to adapt to the prerequisites seen in the data protection regulations.

The claimant was previously transferred in accordance with the provisions of Law 39/2015 (October 1) to the claimed party, to state what deemed appropriate on the legality of the system installed or the conduct in its described case.

THIRD: On 05/10/22, a response letter was received from the claimed manifesto celebrating "irregular behavior" in neighbor / s of the property that have given rise to the installation of the cameras, being supported by the group of neighbors (as) of the property

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at an ordinary meeting convened for this purpose, stating the system with internal signage form indicating that it is a video-surveilled area.

FOURTH: On 06/16/22 and 07/04/22 new screen impressions are received of the installed system provided to this Agency by those responsible for the Community of owners.

FIFTH: On July 9, 2022, in accordance with article 65 of the LOPDGDD, the claim presented by the claimant party was admitted for processing.

SIXTH: On September 2, 2022, the Director of the Spanish Agency for Data Protection agreed to initiate disciplinary proceedings against the claimed party, in accordance with the provisions of articles 63 and 64 of Law 39/2015, of October 1,

of the Common Administrative Procedure of Public Administrations (hereinafter te, LPACAP), for the alleged infringement of Article 5.1.c) of the GDPR, typified in the Article 83.5 of the GDPR.

SEVENTH: On 09/22/22, a written statement of allegations was received from the claimed party by means of which he manifests the performance of "vandalism acts by the claimant in the Community" which has given rise to various legal pronouncements against the same.

Provide a copy of the Minutes of the Meeting that legitimizes the installation of the video surveillance (Annex Doc. I).

EIGHTH: On 01/09/23 <Proposed Resolution> is issued, considering that the measure of the presence of cameras in the property is necessary as a result of various acts of vandalism, proposing the Archive of the procedure as the commission of any infringement in the framework of data protection.

NINTH: Consulted the database of this Agency on 02/25/23, no received any response to the proposal, nor has any statement been made to such effect.

Of the actions carried out in this procedure and of the documentation in the file, the following have been accredited:

#### PROVEN FACTS

First. The facts bring cause of the claim dated 04/09/22 through the which the presence of video surveillance cameras is denounced, which the claimant considers deran invade their "personal and/or family privacy".

Second. It is identified as the main responsible COMMUNITY OF OWNERSHIP TARIOS \*\*\*ADDRESS.1.

Third. The legitimacy in the installation of the security camera system is accredited. video-surveillance by the group of neighbors (as) of the Community.

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Room. It is documented that the claimant has been declared the material author of various

These attacks on the facilities of the Community of owners (as).

For this purpose, a copy of the judgments of the corresponding Courts of

Instruction that they have had knowledge of the facts (Annex I-II Written allegation-

nes).

## FUNDAMENTALS OF LAW

Yo

In accordance with the powers that article 58.2 of Regulation (EU) 2016/679 (Re-

General Data Protection Regulation, hereinafter GDPR), grants each authori-

quality of control and as established in articles 47, 48.1, 64.2 and 68.1 of the Law

Organic 3/2018, of December 5, Protection of Personal Data and guarantee of

digital rights (hereinafter, LOPDGDD), is competent to initiate and resolve

this procedure the Director of the Spanish Data Protection Agency.

Likewise, article 63.2 of the LOPDGDD determines that: "The procedures processed

by the Spanish Data Protection Agency will be governed by the provisions of

Regulation (EU) 2016/679, in this organic law, by the regulations

comments dictated in its development and, insofar as they do not contradict them, with a sub-

sisidario, by the general rules on administrative procedures."

II

In the present case, we proceed to examine the claim that is the object of transfer to this

body where the "presence of video-surveillance cameras aimed at

das towards my private property (window of my house)" (folio nº1).

The facts are therefore specified in the installation of video-vi-camera(s)

vigilance that according to the claimant could be oriented towards its sale-

particular, having been installed presumably by governing bodies of the province.

pia Community without further explanation to that effect.

The art. 5.1 c) GDPR provides the following: Personal data will be:

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

for those who are processed ("data minimization").

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

felled comply with current legislation, certifying 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 poster

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

personal character.

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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 thereof without just cause.

Neither with this type of device can you obtain an image(s) of public space.

since this is the exclusive competence of the Security Forces and Bodies of the State

tado.

It should be remembered that even if it is a "simulated" camera, the same

should preferably be oriented towards private space, since it is considered that this type of device can affect the privacy of third parties, who are intimate measured by it in the belief of being the object of permanent recording.

On the part of individuals, it is not possible to install devices for obtaining images of public space and/or traffic of third parties, outside the cases allowed in the normative.

The purpose of this type of device must be the security of the property and its inhabitants, avoiding the affectation of the rights of third parties who are intimidated two with the same

The installation of cameras in Communities of owners must be done in accordance with accordance with what is established in the LPH, and must be limited to the common areas of the same. ma, the residents of the property must be informed by means of an informative poster vo and having embodied the will of the community members in the corresponding Act of the Community.

II

On 09/22/22, a new pleadings letter was received from the defendant in the exercise cio to the right to defense, stating the situation of "repeated abuse and vandalism" mo of the claimant before the Community".

Provides a copy of various judicial pronouncements condemning the claimant for a crime of patrimonial damages (art. 263 CP).

The main rectors of the Community illustrate this body in the various acts of vandalism carried out in the Community, which justified the installation of video-surveillance devices, with the pressure to dissuade them from behaviors illegal.

The images provided from the display monitor cover common areas, including an access door to housing, although the privacy of the same is not affected.

mo, since the concept of "privacy" would cover the interior space of the house.

This organism has pronounced widely on the null tolerance to ac-

vandalism of various kinds, carried out against people and belongings of Communal

communities of owners, by those who consider that their behaviors

They will get away with being carried out furtively.

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The extensive casuistry analyzed by this body even includes throwing objec-

coughs and fluids of various kinds from the windows or doors of the house, in order to

common possibility of clouding the rules of neighborhood coexistence, which has justified in

similar cases the presence of the cameras given the null possibility of other actions

dissuasive and/or preventive.

The presence of cameras has been a proportionate measure to avoid

certain types of behaviors of those who do not want to live in accordance with the

minimum standards of neighborhood coexistence, allowing a certain flexibility before the

impossibility of adopting other measures that prevent further causing damage and per-

lawsuits in the belongings or facilities of the Communities of owners.

The recordings of the video-surveillance cameras are valid evidence in the

criminal proceedings and have the nature of documentary evidence. The Penal Code develops

the consideration of a document in its article 26 defining it as: "all material support

material that expresses or incorporates data, facts or narratives with probative or

any other type of legal relevance".

Therefore, the measure is considered suitable for the intended purpose,

which is none other than to prevent and demonstrate the various acts of vandalism, considering that the withdrawal of the same can suppose a situation of unfair interpretation of the regulations in force, having to suffer again from acts of vandalism with the following material damage to it.

IV.

According to the foregoing, once the arguments of both parties have been analyzed, it is considered that the conduct of the claimant himself with permanent damage to property of the Community of owners (as), justifies the weighted presence of the cameras (s), in order to avoid new acts of vandalism against it.

Lastly, the parties are reminded of the importance of rights in court go, having to avoid the instrumentalization of this Agency in matters prosecuted or resolving them before the appropriate judicial instances.

Therefore, in accordance with the applicable legislation and assessed the graduation criteria tion of the sanctions whose existence has been accredited, the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: TO ORDER the ARCHIVE of the present procedure since the facts described constituting an administrative offense within the framework of protection of data.

SECOND: NOTIFY this resolution to the COMMUNITY OF OWNERS

\*\*\*ADDRESS 1.

In accordance with the provisions of article 50 of the LOPDGDD, this Resolution will be made public once the interested parties have been notified.

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Against this resolution, which puts an end to the administrative process in accordance with art. 48.6 of the LOPDGDD, and in accordance with the provisions of article 123 of the LPACAP, the interested parties

Respondents may optionally file an appeal for reinstatement before the Director

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

the day following the notification of this resolution or directly contentious appeal

before the Contentious-Administrative Chamber of the National Court,

in accordance with the provisions of article 25 and section 5 of the additional provision

fourth clause of Law 29/1998, of July 13, regulating the Contentious Jurisdiction-

administration, 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.

Mar Spain Marti

Director of the Spanish Data Protection Agency

938-181022

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