

□ Procedure No.: PS/00034/2020

RESOLUTION OF PUNISHMENT PROCEDURE

Of the procedure instructed by the Spanish Agency for Data Protection and

based on the following

BACKGROUND

FIRST: A.A.A. (hereinafter, the claimant) on October 5, 2019 filed

claim before the Spanish Data Protection Agency. The claim is directed

against COMMUNITY OF OWNERS R.R.R. with NIF ***NIF.1 (hereinafter, the

reclaimed).

The reasons on which the claim is based are that they have published on the bulletin board

of the community of owners claimed the personal identification data of the

claimant (name, surnames, floor and door) associated with a debt contracted with the

community, indicating the economic amount owed.

The claimant considers the president of the community responsible, for being the one who has

the key to the board and for not withdrawing the publication of their data after being notified of the

possible infringement of the data protection regulations that it supposes, but this

has declined all responsibility saying that the lock on the plank is open and that

unknown who has placed the document there.

Together with the claim, the claimant, in addition to a photograph of the bulletin board of

the community, where the document is displayed showing the personal data of the

claimant, as the only debtor of the entire building, provides a judgment of the Court of Lo

Penalty no. 12 of Malaga dated 11/20/2017 convicting his partner of a crime of

mistreatment, to prove that she is a victim of gender-based violence and that therefore her data

personal should be treated with special protection.

SECOND: Upon receipt of the claim, the Subdirector General for Inspection of

Data proceeded to carry out the following actions:

On November 17 and 27, 2019, the claim was transferred to the entity claimed.

submitted by the claimant, for its analysis as well as for it to inform this

Agency as to whether the claimant had been contacted, and the decision

taken in this regard to resolve the situation.

The respondent has not responded to any of the requests made by the

Spanish Data Protection Agency.

THIRD: On March 10, 2020, the Director of the Spanish Agency for

Data Protection agreed to initiate a sanctioning procedure against the claimant, 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: Having been notified of the aforementioned initiation agreement, the respondent submitted a written

allegations on May 25, 2020, in which, in summary, it stated that “the

previous administrator posted a list on the bulletin board with the debt of the

plaintiff by refusing to collect notification in which he was notified

that his debt would be registered in the property registry so that it would remain

recognized the same.

Said neighbor has 2 lawsuits filed and has never collected any notification.

Minutes of November 2015 are attached where all the steps that have been taken appear.

tried the former administrators regarding the communication of the debt to

said neighbor.

Also attached is the Minutes of the previous Administrator, Mr. Antonio Flores Palomo, where This fact is collected (register the debt in the registry) and Minutes with my appointment on October 4, 2019. The community documentation is delivered to me at the end of October.

I enclose a signed document with the collection of community documentation.”

Said record indicates the name and surnames of the claimant, as well as that she has a debt of €3,542.27.

FIFTH: On June 22, 2020, the instructor of the procedure agreed to the opening of a period of practice tests, considering incorporated the previous investigative actions, E/10284/2019, as well as the documents provided by the claimant.

SEX

TO: On July 1, 2020, a resolution proposal was formulated, proposing to sanction COMUNIDAD DE PROPIETARIOS R.R.R., with NIF ***NIF.1, for an infringement of article 5.1.f) of the RGPD, typified in article 83.5 of the RGPD, a fine of €10,000 (ten thousand euros)

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

PROVEN FACTS

FIRST: They have been published on the notice board of the community of owners claimed the personal identification data of the claimant (name, surnames, floor and door) associated with a debt contracted with the community, indicating of the financial amount owed.

the community of neighbors claimed, states that the previous

SECOND:

administrator posted a list on the bulletin board with the person's debt

plaintiff by refusing to collect notification in which he was notified that he was leaving to register his debt in the property registry so that the debt would be recognized. same.

FOUNDATIONS OF LAW

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Yo

The Director of the Agency is competent to resolve this procedure.

Spanish Data Protection, in accordance with the provisions of art. 58.2 of the RGD and in the art. 47 and 48.1 of LOPDGD.

II

Article 6.1 of the RGD establishes the assumptions that allow considering lawful processing of personal data.

For its part, article 5 of the RGD establishes that personal data will be:

“a) processed in a lawful, loyal and transparent manner in relation to the interested party ("legality, loyalty and transparency");

b) collected for specific, explicit and legitimate purposes, and will not be processed subsequently in a manner incompatible with those purposes; according to article 89, paragraph 1, the further processing of personal data for archiving purposes in public interest, scientific and historical research purposes or statistical purposes are not deemed incompatible with the original purposes ("purpose limitation");

c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ("data minimization");

d) accurate and, if necessary, updated; all measures will be taken

reasonable to eliminate or rectify without delay the personal data that

are inaccurate with respect to the purposes for which they are processed ("accuracy");

e) maintained in a way that allows the identification of the interested parties

for no longer than is necessary for the purposes of data processing

personal; personal data may be kept for longer periods

provided that they are treated exclusively for archiving purposes in the public interest, purposes of

scientific or historical research or statistical purposes, in accordance with article

89, paragraph 1, without prejudice to the application of technical and organizational measures

measures imposed by this Regulation in order to protect the rights and

freedoms of the interested party ("limitation of the conservation period");

f) treated in such a way as to ensure 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").

The data controller will be responsible for compliance with the

provided for in section 1 and able to demonstrate it ("proactive responsibility")."

III

Although it is true that if the respondent is unaware of the restraining order of the

claimant, you cannot take special precautions with your data, however, it is

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You must take into account that for the display of personal data on the board

of announcements of the Community, has to adjust to a series of principles in order to not violate the 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 "Communicate whoever exercises the functions of secretary of the community, for any medium that allows proof of receipt, the address in Spain for the purposes of citations and notifications of all kinds related to the community. In defect of this communication will be taken by domicile for citations and notifications the apartment or premises belonging to the community, having full legal effects delivered to the occupant. If a summons or notification to the owner is impossible to practice it in the place provided for in the preceding paragraph, 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 by 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, states: "The minutes of the meetings shall be will send to the owners in accordance with the procedure established in article 9."

According to the available evidence, it is considered proven public exposure of a document on the bulletin board of the aforementioned community, showing the personal data of the claimant, and therefore it is understood that the claimed entity has violated article 5.1 f) of the RGPD, which governs the

principles of integrity and confidentiality of personal data, as well as the proactive responsibility of the controller to demonstrate its compliance".

IV

Article 72.1.a) of the LOPDGDD states that "according to what is established

Article 83.5 of Regulation (EU) 2016/679 are considered very serious and

Infractions that suppose a substantial violation will prescribe after three years.

of the articles mentioned therein and, in particular, the following:

a) The processing of personal data violating the principles and guarantees

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

Article 58.2 of the RGPD provides the following: "Each supervisory authority

shall have all of the following corrective powers listed below:

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

warning when the processing 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;

i) impose an administrative fine under article 83, in addition to or in

instead of the measures mentioned in this paragraph, depending on the circumstances

of each particular case;

SAW

This infraction can be sanctioned with a fine of €20,000,000 maximum.

or, in the case of a company, an amount equivalent to a maximum of 4% of the

global total annual turnover of the previous financial year, opting for the

of greater amount, in accordance with article 83.5 of the RGPD.

Likewise, it is considered appropriate to graduate the sanction to be imposed in accordance with

with the following criteria established in article 83.2 of the RGPD:

As aggravating the following:

☐ In the present case we are dealing with unintentional negligent action, but significant active (article 83.2 b)

☐ Basic personal identifiers are affected, according to the article 83.2g)

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:

FIRST: IMPOSE the COMMUNITY OF PROPRIETORS R.R.R., with NIF ***NIF.1, for an infringement of article 5.1.f) of the RGPD, typified in article 83.5 of the RGPD, in relation to article 72.1 a) a fine of €10,000 (TEN THOUSAND euros).

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

THIRD: Warn the sanctioned party that he must make the imposed sanction effective once

Once this resolution is enforceable, in accordance with the provisions of the

art. 98.1.b) of Law 39/2015, of October 1, on Administrative Procedure

Common Public Administrations (hereinafter LPACAP), within the payment term

voluntary established in art. 68 of the General Collection Regulations, approved

by Royal Decree 939/2005, of July 29, in relation to art. 62 of Law 58/2003,

of December 17, through its entry, indicating the NIF of the sanctioned and the number

of procedure that appears in the heading of this document, in the account

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restricted number ES00 0000 0000 0000 0000 0000, opened on behalf of the Agency

Spanish Department of Data Protection in the banking entity CAIXABANK, S.A.. In case

Otherwise, it will be collected in the executive period.

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

is between the 1st and 15th of each month, both inclusive, the term to carry out the

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

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

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

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
through the
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