

□ Procedure No.: PS/00058/2021

## RESOLUTION OF PUNISHMENT PROCEDURE

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

### BACKGROUND

FIRST: On October 6, 2020, it had entry in this Spanish Agency  
of Data Protection a document presented by A.A.A. (hereinafter the  
claimant), through which he makes a claim against COMMUNITY OF  
OWNERS R.R.R. with NIF \*\*\*NIF.1 (hereinafter, the claimed one), for the  
installation of a video surveillance system installed in \*\*\* ADDRESS.1, existing  
indications of a possible breach of the provisions of article 13 of the RGPD.

The complainant states that two video surveillance cameras have been installed in the  
building, one inside, on the door of a house recording the landing of the 4th  
plant, and another outside on the rear facade, without any informative poster of  
video surveillance area.

Likewise, it indicates that it does not know if the file has been registered with the Spanish Agency for  
Data Protection.

Attach photographic report of the location of the cameras.

SECOND: Prior to the acceptance of this claim for processing, it is  
transferred the claimed, in accordance with the provisions of article 65.4 of the Law  
Organic 3/2018, of December 5, on the Protection of Personal Data and guarantee of  
digital rights (hereinafter, LOPDGDD), being returned by the service of  
mails for absent in the distribution.

Therefore, said transfer was reiterated, being returned again for the same reason.

THIRD: The claim was admitted for processing by resolution of February 5

of 2021.

FOURTH: On February 22, 2021, the Director of the Spanish Agency for Data Protection agreed to initiate a sanctioning procedure against the claimant, for the alleged infringement of article 13 of Regulation (EU) 2016/679 of the Parliament European and Council, of April 27, 2016, on the protection of people regarding the processing of personal data and the free circulation of these data and by which Directive 95/46/CE (hereinafter, RGPD) is repealed, typified in article 83.5 of the RGPD.

FIFTH: On March 8, 2021, this Agency entered the arguments presented by the respondent, which, in summary, indicates that the COMMUNITY OF OWNERS R.R.R. is not responsible for the object cameras of this claim.

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“The video surveillance cameras are owned by a co-owner of the Community and their placement has been duly communicated and submitted to the corresponding approval of the Board of Owners. We attach the documentation that would prove this agreement in meeting of March 10, 2020, in which the placement is allowed of cameras that cover the access and on the clothesline of this home, provided that comply with current regulations on surveillance cameras and data protection personal. (...)”

Provide a copy of said Minutes.

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: On October 6, 2020, it entered this Spanish Agency for

Data Protection claim for the installation of two video surveillance cameras

in the building, one inside, on the door of a house recording the landing of

the 4th floor, and another outside on the rear facade, without any sign

informative video surveillance area.

SECOND: The respondent, in his pleadings brief, has indicated that he is not the

responsible for the installation of said cameras.

To prove this circumstance, a copy of the minutes of the General Meeting has been provided

Extraordinary in which it is stated that "(...) the owners of the 4th Left request

authorization to install, at its expense, video surveillance cameras in the area of the

entrance to the house and in the clothes line area. All Owners Attending

Except for the owner of the 3rd Left who opposes, they authorize the installation. (...)”

## 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

On October 6, 2020, it entered this Spanish Protection Agency

of Data claim for the installation of two video surveillance cameras in the

building, one inside, on the door of a house recording the landing of the 4th

plant, and another outside on the rear facade, without any informative poster of

video surveillance area.

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

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“adequate, relevant and limited to what is necessary in relation to the purposes for which that are processed ("data minimization").

It should be remembered that individuals are responsible for ensuring that the systems installed comply with current legislation.

The cameras must be oriented towards the particular space, avoiding intimidating neighboring neighbors with this type of device, as well as control transit areas of them without just cause.

On the part of individuals, it is not possible to install imaging devices of public space, outside the cases allowed in the regulations, as this is exclusive jurisdiction of the State Security Forces and Bodies.

The treatment of images through a video surveillance system, to be

In accordance with current regulations, it must meet the following requirements:

- Respect the principle of proportionality.
- When the system is connected to an alarm center, it can only be installed by a private security company that meets the requirements contemplated in article 5 of Law 5/2014 on Private Security, of April 4.
- The video cameras will not be able to capture images of people who are outside the private space where the video surveillance system is installed, since the treatment of images in public places can only be carried out, unless Government authorization concurs, by the Security Forces and Bodies. Either

spaces owned by third parties may be captured or recorded without the consent of their owners, or, where appropriate, of the people who are in them.

This rule admits some exceptions since, on some occasions, for the protection of private spaces, where cameras have been installed on facades or inside, it may be necessary to guarantee the security purpose the recording of a portion of public road. That is, cameras and video cameras installed for the purpose of security will not be able to obtain images of public roads unless it is essential for said purpose, or it is impossible to avoid it due to the location of those and, extraordinarily, the minimum space for said purpose. Therefore, the cameras could exceptionally capture the portion minimally necessary for the intended security purpose.

- The duty to inform those affected provided for in articles 12 and 13 of the RGPD and 22.4 of the LOPDGDD.

Specifically, at least one badge must be placed in video-monitored areas. informative located in a sufficiently visible place, both in open spaces and closed, which will identify, at least, the existence of a treatment, the identity of the person in charge and the possibility of exercising the rights foreseen in said precepts. Likewise, the information must be kept available to those affected. to which the aforementioned RGPD refers.

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- The person in charge must keep a record of treatment activities carried out under its responsibility, including the information to which it makes

reference article 30.1 of the RGPD.

- Installed cameras cannot get images from third-party proprietary space

and/or public space without duly accredited justified cause, nor can they affect

the privacy of passers-by who move freely through the area. not allowed, for

Therefore, the placement of cameras towards the private property of neighbors with the purpose

to intimidate them or affect their privacy without just cause.

- In no case will the use of surveillance practices beyond the environment be admitted.

object of the installation and in particular, not being able to affect public spaces

surrounding buildings, adjoining buildings and vehicles other than those accessing the space

guarded.

III

The respondent, in his pleadings brief of March 8, 2021, has indicated that

is not responsible for the installation of said cameras.

To prove this circumstance, a copy of the minutes of the General Meeting has been provided

Extraordinary in which it is stated that "(...) the owners of the 4th Left request

authorization to install, at its expense, video surveillance cameras in the area of the

entrance to the house and in the clothes line area. All Owners Attending

Except for the owner of the 3rd Left who opposes, they authorize the installation. (...)"

After examining the file as a whole, it has been proven that the person responsible

of the installation of the video surveillance system object of this procedure

sanctioning party is not the Community of Owners, but the owner of the 4th floor

left, which must be the one who meets the requirements established in the regulations of

Personal data protection.

Therefore, according to the above,

the Director of the Spanish Data Protection Agency RESOLVES:

FIRST: ORDER the ARCHIVE of these proceedings as there is no

accredited the commission of any administrative infraction.

SECOND: NOTIFY this resolution to the COMMUNITY OF OWNERS

R.R.R.

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.

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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 month from

counting 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.

Sea Spain Marti

Director of the Spanish Data Protection Agency

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