

[doc. web no. 9045252]

Injunction order - 28 June 2018

Register of measures

no. 398 of 28 June 2018

THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

IN today's meeting, in the presence of Dr. Antonello Soro, president, of dott.ssa Augusta Iannini, vice president, of dott.ssa Giovanna Bianchi Clerici and of prof.ssa Licia Califano, members and of dott. Giuseppe Busia, general secretary;

CONSIDERING the art. 1, paragraph 2, of the law of 24 November 1981, n. 689, pursuant to which the laws that provide for administrative sanctions are applied only in the cases and for the times considered in them;

NOTING that the Office of the Guarantor for the protection of personal data, in the light of the note from the Public Prosecutor's Office c/o the Court of Rome of 26 September 2017, ascertained that Dr. Luigi Di Cesare code fisc.: DCS LGU 60H15 I838G, born in Sora (FR) on 15 June 1960, has failed to adopt the minimum security measures envisaged by articles 33 and 34 of the Code regarding the protection of personal data (hereinafter referred to as the "Code") and by rules no. 20-22 of the technical specification referred to in Annex B) of the Code and, in particular, has delivered to a third party, a computer support (USB key) containing, among other things, the reports relating to the medical examinations carried out, in exercise of one's health profession, towards one's own patients;

HAVING REGARD TO the report drawn up by the Guarantor's Office on 6 October 2017, with which Dr. Luigi Di Cesare, the administrative violation, which cannot be briefly defined pursuant to art. 16 of the law of 24 November 1981, n. 689, provided for by art. 162, paragraph 2-bis of the Code, in relation to the measures indicated in art. 33;

CONSIDERING that the party does not appear to have made use of the faculties provided for by art. 18 of the law n. 689/1981 (by not presenting defense writings to the Authority or asking to be heard);

NOTING, therefore, that Dr. Luigi Di Cesare has processed personal data (art. 4 paragraph 1, letter a) and b) of the Code) of personal data by delivering to a third party, an IT support (USB key) containing, among other things, the reports relating to medical examinations carried out, in the exercise of one's health profession, with respect to one's patients, failing to adopt the minimum safety measures pursuant to art. 33 of the Code, in violation of the provisions of Annex B to the Code, rules no. 20 and 22;

CONSIDERING the art. 162, paragraph 2-bis, of the Code which punishes the violation of the provisions indicated by art. 167, among which the art. 33 of the Code with the administrative sanction of the payment of a sum from ten thousand euros to one hundred and twenty thousand euros;

CONSIDERING that, for the purposes of determining the amount of the pecuniary sanction, it is necessary to take into account, pursuant to art. 11 of the law of 24 November 1981 n. 689, of the work carried out by the agent to eliminate or mitigate the consequences of the violation, of the seriousness of the violation, of the personality and economic conditions of the offender and that, therefore, the amount of the pecuniary sanction with reference to the violation referred to in art. 162, paragraph 2-bis must be quantified as 10,000.00 (ten thousand) euros;

HAVING REGARD to the documentation in the deeds;

HAVING REGARD to the law of 24 November 1981 n. 689, and subsequent modifications and additions;

HAVING REGARD TO the observations of the Office, formulated by the Secretary General pursuant to art. 15 of the Guarantor's regulation n. 1/2000;

SPEAKER Dr. Augusta Iannini;

ORDER

to dr. Luigi Di Cesare code tax .: DCS LGU 60H15 I838G, born in Sora (FR) on 15 June 1960, to pay the sum of 10,000.00 (ten thousand) euros as a pecuniary administrative fine for the violation envisaged by art. 162, paragraph 2-bis of the Code, as indicated in the justification;

ENJOYS

to the same subject to pay the sum of 10,000.00 (ten thousand) euros according to the methods indicated in the annex, within 30 days of notification of this provision, under penalty of the adoption of the consequent executive acts pursuant to art. 27 of the law of 24 November 1981, n. 689, prescribing that, within 10 (ten) days from the payment, receipt of the payment must be sent to this Authority, in original or certified copy.

Pursuant to articles 152 of the Code and 10 of Legislative Decree lg. no. 150/2011, opposition to this provision may be lodged with the ordinary judicial authority, with an appeal lodged with the ordinary court of the place where the data controller has his residence, within the term of thirty days from the date of communication of the provision itself or sixty days if the appellant resides abroad.

Rome, 28 June 2018

PRESIDENT

Soro

THE SPEAKER

Iannini

THE SECRETARY GENERAL

Busia