

[doc. web no. 9090257]

Injunction against Democratic Party - Abruzzo - 25 October 2018

Register of measures

no. 474 of 25 October 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 with note 11672 of 18 April 2018, the Department of public freedom and health of the Guarantor for the protection of personal data (hereinafter Guarantor) defined the administrative procedure relating to a report, ascertaining that the Democratic Party - Abruzzo cod.fisc. : 90042750472, with headquarters in Pescara, via Lungaterno sud n. 76, in the person of the pro-tempore legal representative, has failed to provide suitable information to the whistleblower for the processing of personal data carried out by sending by paper mail "[...] a brochure of a propaganda nature [...]", however, since the case in question does not fall within the specific conditions of exemption provided for by the "Provision regarding the processing of personal data at political parties and exemption from information for electoral propaganda purposes", adopted by the Guarantor on 6 March 2014 (available on the institutional website of the Guarantor [www.garanteprivacy.it](http://www.garanteprivacy.it), web doc. n. 3013267), for the purpose of exemption from the information to interested parties pursuant to art. 13, paragraph 5, lett. c) of Legislative Decree 30 June 2003, no. 196 laying down the Personal Data Protection Code (hereinafter referred to as the Code);

CONSIDERING the report n. 19018/113534 of 22 June 2018 with which the Democratic Party - Abruzzo was challenged for the violation provided for by art. 161 of the Code, in relation to art. 13, informing you of the right to make a reduced payment pursuant to art. 16 of the law of 24 November 1981, n. 689;

DETECTED from the report prepared pursuant to art. 17 of the law of 24 November 1981, n. 689, relating to the aforementioned dispute report, that the reduced payment does not appear to have been made;

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 that the Democratic Party - Abruzzo, as owner of the processing of personal data (articles 4 paragraph 1, letter a), b) and f) and 28 of the Code) has failed to provide appropriate information to the whistleblower for processing of personal data carried out by sending "[...] a brochure of a propaganda nature [...]", the case in question not falling within the specific conditions of exemption provided for by the "Provision on the processing of personal data at political parties and exemption from disclosure for electoral propaganda purposes", adopted by the Guarantor on 6 March 2014, for the purpose of exemption from disclosure to interested parties pursuant to art. 13, paragraph 5, lett. c. of the Code;

CONSIDERING the art. 161 of the Code which punishes the violation of the provisions of art. 13 with the administrative sanction of the payment of a sum from six thousand euros to thirty-six thousand euros;

CONSIDERED, as noted in the dispute report in question, that the conditions for applying art. 164-bis, paragraph 1, of the Code which provides that if any of the violations referred to in art. 161, 162-ter, 163 and 164 is less serious, the minimum and maximum limits established in the same articles are applied in an amount equal to two fifths;

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, the seriousness of the violation, the personality and economic conditions of the offender;

CONSIDERED having to determine, pursuant to art. 11 of the law n. 689/1981, the amount of the fine for the violation of art. 161 of the Code in conjunction with art. 164-bis, paragraph 1, in the amount of Euro 2,400.00 (two thousand four hundred);

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 general secretary pursuant to art. 15 of the Guarantor's regulation n. 1/2000;

SPEAKER Dr. Augusta Iannini;

ORDER

a Democratic Party – Abruzzo tax code: 90042750472, with headquarters in Pescara, via Lungaterno sud n. 76, to pay the sum of Euro 2,400.00 (two thousand four hundred) as a pecuniary administrative sanction for the violation provided for by art.

161 of the Code;

ENJOYS

to the same subject to pay the sum of Euro 2,400.00 (two thousand four hundred) 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.

Pursuant to articles 152 of the Code and 10 of Legislative Decree 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, 25 October 2018

PRESIDENT

Soro

THE SPEAKER

Iannini

THE SECRETARY GENERAL

Busia