

[doc. web n. 9713735]

Injunction order against the Municipality of Sora - 16 September 2021

Record of measures

n. 323 of 16 September 2021

THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

IN today's meeting, which was attended by prof. Pasquale Stanzione, president, Professor Ginevra Cerrina Feroni, vice president, dr. Agostino Ghiglia and the lawyer Guido Scorza, members and dr. Claudio Filippi, Deputy Secretary General;

GIVEN the Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016, concerning the protection of individuals with regard to the processing of personal data, as well as the free circulation of such data and which repeals Directive 95/46 / EC, "General Data Protection Regulation" (hereinafter "RGPD");

GIVEN the d. lgs. June 30, 2003, n. 196 containing the "Code regarding the protection of personal data (hereinafter the " Code ");

GIVEN the general provision n. 243 of 15/5/2014 containing the "Guidelines on the processing of personal data, also contained in administrative deeds and documents, carried out for the purpose of advertising and transparency on the web by public entities and other obliged entities", published in the Official Gazette. n. 134 of 12/6/2014 and in [www.gpdp.it](http://www.gpdp.it), doc. web n. 3134436 (hereinafter "Guidelines on transparency");

GIVEN the Regulation n. 1/2019 concerning internal procedures with external relevance, aimed at carrying out the tasks and exercising the powers delegated to the Guarantor for the protection of personal data, approved by resolution no. 98 of 4/4/2019, published in the Official Gazette n. 106 of 8/5/2019 and in [www.gpdp.it](http://www.gpdp.it), doc. web n. 9107633 (hereinafter "Regulation of the Guarantor no. 1/2019");

GIVEN the documentation in the deeds;

GIVEN the observations made by the Secretary General pursuant to art. 15 of the Guarantor Regulation n. 1/2000 on the organization and operation of the office of the Guarantor for the protection of personal data, in [www.gpdp.it](http://www.gpdp.it), doc. web n. 1098801;

Rapporteur the lawyer Guido Scorza;

WHEREAS

## 1. Introduction

This Authority has received a report, with which a violation of the legislation on the protection of personal data by the Municipality of Sora has been contested, caused by the dissemination of personal data on the institutional website. Specifically, as emerged from the preliminary verification carried out by the Office, from the institutional website of the aforementioned Municipality, through the link located on the «Albo pretorio» homepage, it is possible to select the area dedicated to the «Historical deeds» through which, by filling in the specific search mask, it was possible to view the determination XX, having as object «XX».

With the aforementioned resolution, the ranking of subjects entitled to an economic contribution for the payment of the fee was approved, reserved for those who - as reported in the relative public notice - were owners of a "total family income equal to or less than € 28,000.00 gross for the year XX and a reduction of more than 30% of the total income of the family unit due to causes attributable to the epidemiological emergency from Covid-19 in the period XX ».

Attached to the aforementioned determination was the file, freely viewable and downloadable, called "XX", which clearly reported all the personal data contained therein, such as name, economic contribution assigned, amount of the monthly and annual housing rent of the 210 beneficiaries, as well as the name of n. 15 subjects who, on the other hand, had not been admitted to the economic benefit with indication of the relative reasons (eg: request received after the deadline or resubmitted, lack of signature, etc.).

The aforementioned ranking was also directly downloadable from the url: [https: // ...](https://...)

## 2. The legislation on the protection of personal data

Pursuant to the relevant regulations, "personal data" is "any information concerning an identified or identifiable natural person ("interested")" and "the natural person who can be identified, directly or indirectly, with particular reference to a identifier such as the name, an identification number, location data, an online identifier or one or more characteristic elements of its physical, physiological, genetic, psychic, economic, cultural or social identity "(art. 4, par. 1, No. 1, of the GDPR).

In this regard, with particular reference to the case submitted to the attention of this Authority, it is recalled that public entities, such as the Municipality, may disclose "personal data" only if this operation is provided for "by a law or, in the cases provided for by law, regulation "(Article 2-ter, paragraphs 1 and 3, of the Code), in compliance - in any case - with the principles of data protection, including that of "minimization", based on which personal data must be "adequate, relevant and limited to what is

necessary with respect to the purposes for which they are processed" (Article 5, paragraph 1, letter c, of the GDPR).

The state legislation of the sector on transparency provides, with reference to the "obligations of publication of the deeds of granting grants, contributions, subsidies and attribution of economic advantages to individuals and public and private entities", that "Public administrations publish the deeds of granting of grants, contributions, subsidies and financial aids [...], and in any case of economic advantages of any kind to persons [...] of an amount exceeding one thousand euros »during the calendar year. In any case, "The publication of the identification data of the natural persons recipients of the measures referred to in this article is excluded, if from such data it is possible to obtain information relating [...] to the economic and social hardship of the interested parties" (art. 26 , paragraphs 2-4, of Legislative Decree no. 33 of 14/3/2013).

With regard to the online dissemination of personal data of beneficiaries of financial contributions, since 2014, the Guarantor has provided specific indications to public administrations on the precautions to be taken, with general provision no. 243 of 15/5/2014, containing the "Guidelines on the processing of personal data, also contained in administrative deeds and documents, carried out for the purpose of advertising and transparency on the web by public entities and other obliged entities", published in G.U. n. 134 of 12/6/2014 and in [www.gpdp.it](http://www.gpdp.it), doc. web n. 3134436 (currently being updated, but still current in the substantial part).

In the Guidelines of the Guarantor cited above, it is expressly established, with reference to the obligation to publish the deeds of granting economic benefits (part one, paragraph 9.e), that "the same d. lgs. n. 33/2013 identifies a series of limits to the obligation to publish deeds of granting economic benefits, however named. In fact, the identification data of the natural persons recipients of the granting of grants, contributions, subsidies and allocation of economic advantages, as well as the lists of the relative recipients, cannot be published:

a) for a total amount of less than one thousand euros during the calendar year in favor of the same beneficiary;

[...]

c) of an amount exceeding one thousand euros during the calendar year in favor of the same beneficiary "if from such data it is possible to obtain information relating [...] to the economic and social hardship of the interested parties" (Article 26, paragraph 4, Legislative Decree no. 33/2013) ".

3. Preliminary assessments of the Office on the processing of personal data carried out.

From the checks carried out on the basis of the elements acquired and the facts that emerged as a result of the investigation,

as well as subsequent evaluations, the Office with note prot. n. XX of the XX has ascertained that the Municipality of Sora - by disseminating the data and personal information contained in the documents published online described above - has carried out a processing of personal data that does not comply with the relevant regulations on the protection of personal data contained in the RGD. Therefore, with the same note the violations carried out (pursuant to art. 166, paragraph 5, of the Code) were notified to the aforementioned Municipality, communicating the start of the procedure for the adoption of the measures referred to in Article 58, par. 2, of the RGD and inviting the aforementioned administration to send to the Guarantor defensive writings or documents and, possibly, to ask to be heard by this Authority, within the term of 30 days (Article 166, paragraphs 6 and 7, of the Code; as well as art. 18, paragraph 1, of law no. 689 of 11/24/1981).

#### 4. Defensive memoirs and hearing.

The Municipality of Sora, with the note prot. n. XX of the XX, sent to the Guarantor its defense writings in relation to the violations notified.

In this regard, please note that, unless the fact constitutes a more serious crime, anyone who, in a proceeding before the Guarantor, falsely declares or certifies news or circumstances or produces false documents or documents, is liable pursuant to art. 168 of the Code, entitled "False statements to the Guarantor and interruption of the performance of the tasks or the exercise of the powers of the Guarantor".

Specifically, with regard to the conduct, the administration highlighted, among other things, that:

- the «ranking, published for 10 days. only in the [...] municipal praetorian register for due information and admission of complaints and / or corrections, [...] reports only a name and surname and no other identifying element such as to make the natural person recognizable in an unequivocal way such as, location, tax code, online identification, nor does it report any characteristic on the person's psychological genetic physiological identity »;
- "The name and surname alone does not lead to a certain identification of the person expecting the possibility of homonymy, nor can it be considered sufficient for undisputed recognition, given the absence of additional identifying elements such as the indication of residence, cod. tax, date of birth ";
- "In the Municipality of Sora [...] there are numerous cases of homonymy, as easily verifiable if one accesses the personal data registers";
- "The data received in any case have been treated fairly and limited to what is necessary with respect to the purpose for which

they were treated";

- «It should be noted that none of the subjects referred to in the provision observed was subjected to situations of social and moral hardship deriving from the publication of the data. Nor, at the same time, did he report either verbally or formally injuries following his inclusion in the ranking »;

- "The publication of the ranking is mandatory, aimed at protecting the right of everyone to access their request and / or to propose a complaint and / or corrections";

- "The same Guarantor has repeatedly reiterated, after verifying the existence of the obligation to publish the deed or document on its institutional website, that the public entity must limit itself to including in the deeds to be published only those personal data that are really necessary and proportionate to the aim of transparency pursued in the specific case »;

- "In the published ranking, the data reported are strictly necessary and proportionate to the purposes of the mandatory information for the purpose of proposing any complaints and / or corrections";

- "It is still noted that no surveys have been carried out in relation to the state of discomfort of the people expected that, in the ranking there is no element in reference to the income possessed, nor to the reduction of 30% of the total income of the family unit, such as requirements prescribed by the aforementioned regional resolution for access to the benefit »;

- "The contribution, like those paid to public transport companies, or school transport and traders for example, is aimed at extraordinary interventions for leases due to the national pandemic discomfort following the national restrictive measures of epidemiological containment, therefore well different from those of social hardship due to a state of poverty »;

- "In any case, the Entity, having become aware of the relief [of the] Authority, promptly proceeded to remove from the Praetorian Register of the Municipality - Section" Historical Acts "determines n. 215 with the relative attachments by immediately contacting the manager of the IT platform who promptly complied with it ".

The hearing requested by the Municipality of Sora pursuant to art. 166, paragraph 6, of the Code on the occasion of which, in addition to what has already been reported in the defense briefs, it was represented that:

- "the entity had no intention of violating the legislation on the protection of personal data, having complied with the Guidelines of the Guarantor of 2011 and later. The identification data of the beneficiaries cannot be traced back to recipients of provisions for the granting of grants, contributions, subsidies and assignment of economic advantages such as to be able to obtain information relating to the economic and social hardship of the interested parties. In fact, the data do not refer to subjects who

are normally in a state of economic and social hardship, but to subjects who have occasionally had a reduction in income deriving from the epidemiological emergency situation like the many categories (traders, entrepreneurs and workers etc. ...) Recipients of other extraordinary contributions. Furthermore, it was not possible to deduce the income of the beneficiaries from the ranking ».

- "From the aforementioned guidelines of the Guarantor in relation to provisions of an economic nature, it emerges that local authorities are obliged to publish the lists of beneficiaries in compliance with the principle of "Necessity". The rankings were published in the online praetorian register to allow for the submission of any observations and / or complaints within 10 days and were then transferred to the historical section of the online register due to an automatism of the software used ".

- "The published ranking was provisional and was made available online, in line with the provisions of the Lazio Region (Council resolution no. XX of the XX and the explanatory note of the Lazio Region of the XX prot. No. XX - annex no. 1 to these minutes), in order to give users the opportunity to verify their position and submit any appeal and / or comments. It should also be noted that the recipients of the contributions were also elderly people and the publication of the ranking facilitated the knowledge of one's position by guaranteeing the proper purposes of "knowledge" of the rankings, at a time, among other things, when consultation and knowledge was made particularly difficult due to the closure of public offices due to the Covid 19 Pandemic and could not be fully and exhaustively guaranteed through direct access to the offices ».

- «The Municipality respected the principle of relevance and not excess, considering that the income of the recipients of the contributions was not indicated in the ranking. The subjects included in the same were not immediately identifiable as only the name and surname were present, but not other data that could make them effectively identifiable (such as tax code, residence, date of birth). It is also necessary to consider the presence on the territory of numerous cases of homonymy, in compliance with the principle of "minimization" ».

- «The period of health emergency was a difficult period for local authorities and for the Municipality of Sora, especially due to the significant shortage of personnel. The presence in the Body of only two executives against a staff forecast of six Executives, the inconvenience of the new working method in smartworking of the few employees in service have contributed and make the obligations connected to the extraordinary interventions launched by the Government and by the Civil protection against citizenship. The Municipality of Sora is a medium-sized institution of about 27,000 inhabitants. In the period considered, the social services sector was managed by only three employees with an evident increase in work, given the

number and complexity of the interventions to be carried out. In this period, more than 450,000 euros were disbursed for over 1000 family units ».

- «We must not overlook the pressure from the minority directors who have insistently asked to make transparent the names of the recipients of the extraordinary Covid contributions. The exceptional nature of the events related to the particular historical period considered led to the adoption of urgent and immediate decisions. Added to this is the difficulty in interpreting the legislation on transparency and protection of personal data, whose balancing is not usually easy in ordinary conditions, but even more so in extraordinary ones ».

- «Furthermore, no complaints and / or complaints have been received by the names listed in the ranking for violation of privacy».

- "[...] the reference manager was involved in order to proceed quickly to the IT system manager for the adaptation of the archiving system of the documents published in a manner consistent with the directives issued by the Guarantor and to define the procedure for the appointment of the data controller some data".

## 5. Evaluations of the Guarantor

The issue that is the subject of the case submitted to the attention of the Guarantor concerns the dissemination of personal data and information (such as name, amount of the monthly and annual housing rent paid, economic contribution assigned for the payment of the aforementioned rent, as well as the name of subjects not admitted to the economic benefit with indication of the relative reasons), contained in the attachment to determination XX ».

As part of the investigation opened in this regard by this Authority, the Municipality of Sora confirmed, both in the defense briefs and at the hearing, the online dissemination of the personal data described above, considering the relative publication "mandatory", in as "aimed at protecting the right of everyone to access their request and / or to propose a complaint and / or corrections", "in line with the provisions of the Lazio Region (resolution of the Council no. XX of the XX and the explanatory note of the Region Lazio del XX prot. No. XX [...]) "In this regard, the Entity highlighted in particular that" the rankings were published in the online praetorian register for 10 days [...]"and then were transferred to the historical section of the online register "due to an automatism of the software used".

Nevertheless - contrary to what the Municipality maintains - neither from the preliminary investigation documents, nor from the resolution of the Lazio Region cited in the defense briefs and during the hearing, elements emerge that may support the

mandatory online publication of the personal data of the interested parties and the existence of a suitable regulatory prerequisite for the dissemination of personal data pursuant to art. 2-ter, paragraphs 1 and 3, of the Code, where the possibility is envisaged for public entities to disclose "personal data" only if this operation is provided for "by a law or, in the cases provided for by law, by regulation" .

Furthermore, for the purposes declared by the Municipality, such as the protection of the right of the participants "to access their request and / or to propose a complaint and / or corrections", less invasive tools could be used than the publication on the institutional website. Think - for example - of simple forms of selective access to restricted areas of the institutional website that allow consultation of the relevant information only to those who have submitted the application to obtain the economic benefit; through the attribution to the latter of authentication credentials (e.g. username or password, or other authentication tools provided by the administration or provided for by Legislative Decree no. 82 of 7/3/2005, Digital Administration Code- CAD). As for the merits, the state legislation on transparency is applicable to the case in question, which provides for an express exception to the obligation of publication by the pp.aa. of the "deeds of granting grants, contributions, subsidies and financial aids [...], and in any case of economic advantages of any kind to persons [...] of an amount exceeding one thousand euros", in the event that the "publication of the identification data of the natural persons recipients of the [aforementioned] measures "it is possible" to obtain information relating [...] to the situation of economic and social hardship of the interested parties "(Article 26, paragraphs 2-4, of Legislative Decree no. 33 of 14/3 /2013). Therefore, such personal data, pursuant to the aforementioned state legislation, cannot be disseminated online.

On this point, the Municipality however claimed the inapplicability of the aforementioned discipline, as the names published online of the beneficiaries would not have been suitable for uniquely identifying the natural person, considering that they were not accompanied by other information. According to the institution's thesis, "The name and surname alone does not lead to a certain identification of the person expecting the possibility of homonymy, nor can it be considered sufficient for an undisputed recognition, given the absence of further identifying elements such as the indication of residence, cod. tax, date of birth ". This interpretation, however, cannot be accepted, as it is contrary to the definition of "personal data" contained in the European data protection regulations referred to above in art. 4, par. 1, no. 1, of the RGPD, according to which even the name and surname of a natural person indisputably falls within the aforementioned definition, not at all noting the possibility that, in general, in a medium-sized Municipality (such as the Municipality of Sora) there may be homonymy cases, which in any case



would only concern a residual number and certainly do not concern all the 225 interested parties contained in the ranking published online.

Similarly, the Municipality's objection cannot be accepted according to which "no surveys have been carried out in relation to the state of discomfort of the people since, in the ranking there is no element in reference to the income possessed, nor to the reduction of 30 % of the total income of the family unit ". This is because this information, even if not indicated in the ranking, coincided with the requirements specifically requested by the public notice for the granting of the economic benefit, which was reserved only for subjects possessing a "total family income equal to or less than € 28,000, 00 gross for the year XX and a reduction of more than 30% of the total income of the family unit due to causes attributable to the epidemiological emergency from Covid-19 in the period XX ».

The administration also justified its conduct in the belief that the identification data of the beneficiaries could be disseminated online in accordance with art. 26, paragraph 4, of the d. lgs. n. 33/2013, as they are not "attributable to recipients of provisions for the granting of grants, contributions, subsidies and assignment of economic advantages such as to be able to obtain information relating to the economic and social hardship of the interested parties". This is because "the data [were] not referred to subjects who are normally [go] in a state of economic and social hardship, but to subjects who occasionally had a reduction in income deriving from the epidemiological emergency situation like the many categories (traders, entrepreneurs and workers etc ...) recipients of other extraordinary contributions ».

In this regard, however, it should be noted that the prohibition provided for by art. 26, paragraph 4, of the d. lgs. n. 33/2013 to disclose, for transparency purposes, identification data of recipients of economic contributions from which information relating to "the economic and social hardship of the interested parties" - as also highlighted by the Guarantor in the Guidelines on transparency - is "A ban functional to the protection of the dignity, rights and fundamental freedoms of the interested party (Article 2 of the Code), in order to avoid that subjects who find themselves in disadvantaged conditions - economic or social - suffer the embarrassment of the diffusion of such information, or may be subjected to undesirable consequences, due to the knowledge of third parties of the particular personal situation "(see part one, par. 9.e).

The relevant state legislation applies to all situations of possible economic and social hardship, without distinguishing between temporary or lasting ones, so - from this point of view and for the purposes of applying the exception to the dissemination of the identification data provided for by art. 26, paragraph 4, of the d. lgs. n. 33/2013 - it is not possible to make a distinction, as

claimed by the Municipality, between subjects "who normally find themselves [go] in a state of economic and social hardship" (to which the prohibition of publication would apply), from subjects "who occasionally they had a reduction in income deriving from the epidemiological emergency situation "(which, on the other hand, would not fall within the exception provided for by the aforementioned art. 26, paragraph 4). This is because this differentiation - however not adhering to the ratio of the law - appears in any case completely disproportionate and in contrast with the principle of "correctness" and "limitation of the purpose" of the processing pursuant to art. 5, par. 1, lett. a) and c) of the GDPR.

On the other hand, also in the Guidelines of the Guarantor cited it was specified that in any case - in the light of the principle of necessity, relevance and not excess (today all merged into the more general principle of "minimization" of the data referred to in art. . 1, lett. C, of the RGPD) - it is not justified to disseminate, among other things, data such as, for example, [...] the breakdown of assignees according to the bands of the Equivalent Economic Situation Indicator-Isee, the indication of analytical income situations, conditions of need [...], etc. " (ibid).

For all of the foregoing - contrary to what is held by the Municipality of Sora - it is believed that the dissemination of the identification data of subjects entitled to an economic contribution for the payment of the fee together with the fact that they are holders of a "total family income equal to or less than € 28,000.00 gross for the year XX and a reduction of more than 30% of the total income of the family unit due to causes attributable to the epidemiological emergency from Covid-19 in the period XX "(requirement to be admitted to the economic benefit ) does not comply with the prohibition of disclosure for purposes of transparency of the identification data of recipients of financial contributions from which information relating to "the economic and social hardship of the interested parties" provided for by art. 26, paragraph 4, of the d. lgs. n. 33/2013. This is because the dissemination of the aforementioned information is in any case suitable for making a general public aware of the particular economic situation of the family of the parties concerned, associated with the relative not particularly high annual income. Furthermore, in any case, the dissemination of information relating to the overall annual income of the family of the parties concerned is completely disproportionate to the purpose of transparency provided for by the sector regulations, as the data disclosed are not "adequate, relevant and limited to what necessary with respect to the purposes for which they are processed "in violation of the minimization principle (Article 5, paragraph 1, letter c, of the RGPD; Guidelines of the Guarantor on transparency, part one, paragraph 9.e) .

Finally, it should be noted that the preliminary investigation documents show that the provisional economic contribution paid is

less than one thousand euros for the individual beneficiary and that the personal data of the subjects who were not beneficiaries of any economic contribution are also indicated in the documents published online. . The publication of such data and personal information is not supported by any suitable regulatory provision (law or, in the cases provided for by law, regulation) that may justify its online dissemination, pursuant to art. 2-ter, paragraphs 1 and 3, of the Code or art. 26, paragraphs 2-3, of d. lgs. n. 33/2013.

#### 6. Outcome of the investigation relating to the report submitted

For all of the above, the circumstances highlighted in the defense writings examined as a whole, certainly worthy of consideration for the purpose of evaluating the conduct, are not sufficient to allow the filing of this proceeding, since none of the hypotheses provided for by art. 11 of the Guarantor Regulation n. 1/2019. This also considering that since 2014 the Authority, in the Guidelines on transparency and online publication mentioned above, has provided all pp.aa. specific indications on how to reconcile the transparency and publicity obligations of the administrative action with the right to the protection of the personal data of the interested parties.

In this context - while understanding the difficult balance between the need for transparency and protection of personal data subject to evaluation, case by case, by the data controller, especially in relation to the identification of cases in which the provisions for the provision of economic benefits reveal the existence of a situation of economic or social hardship in which the interested party finds himself who does not allow its disclosure - the preliminary assessments of the Office contained in the note prot. n. XX of the XX and the unlawfulness of the processing of personal data carried out by the Municipality of Sora is noted, as:

- a) data have been disclosed of subjects beneficiaries of economic contributions of less than a thousand euros reserved for subjects with low family income and who have received a reduction of more than 30% for causes attributable to the epidemiological emergency from Covid-19, suitable for disclosing a situation of economic and social hardship of the interested parties, in the absence of suitable regulatory conditions, in violation of art. 2-ter, paragraphs 1 and 3, of the Code and art. 26, paragraphs 2-4, of the d. lgs. 33/2013; as well as the basic principles of processing contained in articles 5, par. 1, lett. a) and c); 6, par. 1, lett. c) and e), par. 2 and par. 3, lett. b), of the GDPR;
- b) information relating to the annual family income of the beneficiaries of the economic contribution for the rent has been disclosed in violation of the principle of minimization (Article 5, paragraph 1, letter c, of the RGPD);

c) data of subjects who have not been admitted to any economic benefit in the absence of suitable regulatory conditions have also been disclosed, in violation of art. 2-ter, paragraphs 1 and 3, of the Code, as well as the basic principles of processing contained in articles 5, par. 1, lett. a) and c); 6, par. 1, lett. c) and e), par. 2 and par. 3, lett. b), of the GDPR;

Considering, however, that the conduct has exhausted its effects, as the data controller declared that he had "removed from the Praetorian Register of the Municipality - Section" Historical Acts "determines no. 215 with the relative annexes "and to have activated" at the IT system manager for the adaptation of the archiving system of the documents published in a manner consistent with the directives issued by the Guarantor ", without prejudice to what will be said on the application of the pecuniary administrative sanction , the conditions for the adoption of further corrective measures pursuant to art. 58, par. 2, of the GDPR.

7. Adoption of the injunction order for the application of the pecuniary administrative sanction (Articles 58, paragraph 2, letter i; 83 of the GDPR)

The Municipality of Sora appears to have violated Articles 5, par. 1, lett. a) and c); 6, par. 1, lett. c) and e), par. 2 and par. 3, lett. b), of the GDPR; as well as art. 2-ter, paragraphs 1 and 3, of the Code (see also Article 26, paragraphs 2-4, of Legislative Decree 33/2013).

In this regard, art. 83, par. 3, of the RGPD, provides that «If, in relation to the same treatment or related treatments, a data controller or a data processor violates various provisions of this regulation, with willful misconduct or negligence, the total amount of the pecuniary administrative sanction does not exceeds the amount specified for the most serious violation '.

In the present case, the violation of the aforementioned provisions - also considering the reference contained in art. 166, paragraph 2, of the Code - is subject to the application of the same administrative fine provided for by art. 83, par. 5, of the GDPR, which therefore applies to the present case.

The Guarantor, pursuant to art. 58, par. 2, lett. i) and 83 of the RGPD, as well as art. 166 of the Code, has the corrective power to "inflict a pecuniary administrative sanction pursuant to Article 83, in addition to the [other] [corrective] measures referred to in this paragraph, or instead of such measures, depending on the circumstances of every single case ". In this context, "the College [of the Guarantor] adopts the injunction order, with which it also disposes with regard to the application of the ancillary administrative sanction of its publication, in whole or in excerpt, on the website of the Guarantor pursuant to Article 166, paragraph 7, of the Code "(Article 16, paragraph 1, of the Guarantor Regulation no. 1/2019).

The aforementioned administrative fine imposed, depending on the circumstances of each individual case, must be determined in the amount taking into account the elements provided for by art. 83, par. 2, of the GDPR.

In this sense, the detected conduct in violation of the regulations on the protection of personal data is of a culpable nature and involved the online dissemination of personal data, for almost 11 months, not belonging to particular categories or to criminal convictions or crimes (articles 9 and 10 of the RGPD), referring to approximately 225 interested parties. The Municipality of Sora is in any case a medium-sized institution (about 26,000 inhabitants), which has also highlighted the difficulties encountered by the body during the pandemic period and the scarcity of human resources available at the moment. In this regard, it is deemed necessary to take into consideration, as extenuating circumstances, what was declared at the hearing, where the problems related to the "closure of public offices due to the Covid 19 Pandemic", and "in particular [ al] the substantial shortage of personnel ", as well as the fact that" In the period considered the social services sector was managed by only three employees with an evident increase in work, given the number and complexity of the interventions to be carried out "and that" In this over the period, more than 450,000 euros were paid out for over 1000 family units ». Furthermore, the administration represented as "The presence in the Body of only two executives compared to a staff forecast of six Executives, the inconvenience of the new working method in smartworking of the few employees in service have contributed and make compliance extremely difficult connected to the extraordinary interventions launched by the Government and the Civil Protection against citizenship ", as well as that" The exceptional nature of the events linked to the particular historical period considered led to the adoption of urgent and immediate decisions [to which] the difficulty in interpreting the legislation on transparency and protection of personal data, whose balancing is not usually easy in ordinary conditions, it is even more so in extraordinary ones ". It is also noted that the administration declared that "no complaints and / or complaints have been received [by the Municipality] from the names listed in the ranking for violation of privacy" and that in any case - following the request of the Office - the The entity intervened promptly, collaborating with the Authority during the investigation of this proceeding in order to remedy the violation, mitigating any possible negative effects. In any case, there are no previous relevant violations of the RGPD committed by the entity.

Due to the aforementioned elements, assessed as a whole, it is deemed necessary to determine pursuant to art. 83, para. 2 and 3, of the RGPD, the amount of the pecuniary sanction, provided for by art. 83, par. 5, of the RGPD, to the extent of € 5,000.00 (five thousand) for the violation of Articles 5, par. 1, lett. a) and c); 6, par. 1, lett. c) and e), par. 2 and par. 3, lett. b), of

the GDPR; as well as art. 2-ter, paragraphs 2 and 3, of the Code (see also Article 26, paragraphs 1-4, of Legislative Decree 33/2013); as a pecuniary administrative sanction deemed effective, proportionate and dissuasive pursuant to art. 83, par. 1, of the same RGPD.

In relation to the specific circumstances of this case, relating to the dissemination of personal data online in the absence of a suitable legal basis and in violation of the principle of data minimization (Article 5, paragraph 1, letter c, GDPR), it is considered also that the ancillary sanction of the publication of this provision on the Internet site of the Guarantor, provided for by art. 166, paragraph 7, of the Code and by art. 16, paragraph 1, of the Guarantor Regulation n. 1/2019.

Finally, it is believed that the conditions set out in art. 17 of the Guarantor Regulation n. 1/2019.

WHEREAS, THE GUARANTOR

detected the unlawfulness of the processing carried out by the Municipality of Sora in the terms indicated in the motivation pursuant to Articles 58, par. 2, lett. i), and 83 of the GDPR

ORDER

to the Municipality of Sora, in the person of the pro-tempore legal representative, with registered office in Corso Volsci, 111 - 03039 Sora (FR) - C.F. 00217140607 to pay the sum of € 5,000.00 (five thousand) as a pecuniary administrative sanction for the violations mentioned in the motivation;

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to the same Municipality to pay the sum of € 5,000.00 (five thousand), 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 l. n. 689/1981.

Please note that the offender has the right to settle the dispute by paying - again in the manner indicated in the annex - of an amount equal to half of the sanction imposed, within the term referred to in art. 10, paragraph 3, of d. lgs. n. 150 of 1/9/2011 provided for the submission of the appeal as indicated below (Article 166, paragraph 8, of the Code).

HAS

- the publication of this provision on the website of the Guarantor pursuant to art. 166, paragraph 7, of the Code and by art. 16, paragraph 1, of the Guarantor Regulation n. 1/2019;

- the annotation in the internal register of the Authority of the violations and measures adopted pursuant to art. 58, par. 2, of

the RGPD with this provision, as required by art. 17 of the Guarantor Regulation n. 1/2019.

Pursuant to art. 78 of the RGPD, of the arts. 152 of the Code and 10 of Legislative Decree no. 150/2011, against this provision, it is possible to appeal before the ordinary judicial authority, under penalty of inadmissibility, within thirty days from the date of communication of the provision itself or within sixty days if the applicant resides abroad.

Rome, September 16, 2021

PRESIDENT

Stanzione

THE RAPPORTEUR

Peel

THE DEPUTY SECRETARY GENERAL

Philippi