

Injunction against Iqbal Qasim - 31 May 2018

Register of measures

no. 370 of 31 May 2018

THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

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

NOTING that, in the context of a delegated investigation by the judicial police, the Lieutenancy of the Financial Police of Porto Recanati, following the specific "nulla osta" granted by the Public Prosecutor of Macerata on 31 January 2018, ascertained that Iqbal Qasim tax code: QBLQSM95B10Z236X, born in Pakistan on February 10, 1995 and owner of the sole proprietorship Iqbal Qasim VAT number: 01815910433, with registered office in Porto Recanati (Mc), via Salvo D'Acquisto n. 8 (cancelled from the Business Register on 02/16/2018), proceeded, in the name and on behalf of the telephone operator Lycamobile, to register telephone cards to third parties, completely unaware of these attributions. In particular:

a) with an investigation dated 15 January 2018, it was possible to identify 1 person to whom, without his knowledge, telephone cards were registered for a total number of 2 users, without his consent having been obtained pursuant to art. 23 of the Code;

b) with the preliminary investigation dated 18 January 2018, it was possible to identify 1 person to whom, without his knowledge, telephone cards were registered for a total number of 5 users, without his consent having been obtained pursuant to art. 23 of the Code;

c) with the preliminary investigation dated 23 January 2018, it was possible to identify 1 person to whom, without his knowledge, telephone cards were registered for a total number of 5 users, without his consent having been obtained pursuant to art. 23 of the Code;

d) with the preliminary investigation dated 23 January 2018, it was possible to identify 1 person to whom, without his knowledge, telephone cards were registered for a total number of 4 users, without his consent having been obtained pursuant to art. 23 of the Code;

e) with the preliminary investigation dated 20 January 2018, it was possible to identify 1 person to whom, without his knowledge, telephone cards were registered for a total number of 2 users, without his consent having been obtained pursuant

to art. 23 of the Code;

f) with preliminary investigations dated 8 and 9 January 2018, it was possible to identify 1 person to whom, without his knowledge, telephone cards were registered for a total number of 2 users, without his consent having been obtained pursuant to art. . 23 of the Code;

g) with the preliminary investigation dated 24 January 2018, it was possible to identify 1 person to whom, without his knowledge, telephone cards were registered for a total number of 4 users, without his consent having been obtained pursuant to art. 23 of the Code;

h) with the preliminary investigation dated February 10, 2018, it was possible to identify 1 person to whom, without his knowledge, telephone cards were registered for a total number of 4 users, without his consent having been obtained pursuant to art. 23 of the Code;

HAVING REGARD to the minutes no. rr. 2, 3, 4, 5, 6, 7, 8, 9 dated 10 February 2018, which are understood to be referred to in full here, with which they were contested against Iqbal Quasim, owner of the individual company Iqbal Qasim (cancelled from the Register of Companies on 02/16/2018), eight violations provided for by art. 162 paragraph 2-bis of the Code, for having processed the personal data of:

a) 1 person to whom telephone cards for a total number of 2 users have been registered, without his knowledge (protest report no. 2);

b) 1 person to whom, without his knowledge, telephone cards for a total of 5 users have been registered (protest report no. 3);

c) 1 person to whom, without his knowledge, telephone cards for a total of 5 users have been registered (protest report no. 4);

d) 1 person to whom, without his knowledge, telephone cards for a total of 4 users have been registered (protest report no. 5);

e) 1 person to whom, without his knowledge, telephone cards for a total of 2 users have been registered (protest report no. 6);

f) 1 person to whom telephone cards for a total number of 2 users have been registered, without his knowledge (protest report no. 7);

g) 1 person to whom, without his knowledge, telephone cards for a total of 4 users have been registered (protest report n. 8);

h) 1 person to whom telephone cards for a total number of 4 users have been registered, without his knowledge (protest report no. 9);

RECORDED from the report prepared by the Lieutenancy of the Financial Police of Porto Recanati, pursuant to art. 17 of the

law n. 689/1981, that the reduced payment has not been made;

CONSIDERING that the party has not made use of the faculties provided for by art. 18 of the law n. 689/1981, by not sending the Authority written defenses or asking to be heard;

CONSIDERING that in the dispute report n. 6 of 10 February 2018 it is represented that in the context of an investigation carried out under the delegation of the A.G. it emerged that 1 telephone user number (in addition to 6 SIM contract numbers without the respective telephone user numbers) is registered to 1 person without his consent and yet the interested party, in the preliminary investigation dated 20 January 2018, acknowledged the aforementioned user number declaring that you have activated it personally. In the aforesaid dispute report, reference is made subsequently to another 2 telephone numbers, referable however to dispute report no. 2 of 10/2/2018 and to a different interested party;

CONSIDERING that, following the assessment of the elements in the documents, it is necessary to archive the sanctioning procedure relating to the violation pursuant to art. 162 paragraph 2-bis of the Code referred to in the aforementioned complaint report no. 6 of 10/2/2018;

NOTING, therefore, that Iqbal Quasim, owner of the individual company Iqbal Qasim, has processed personal data, through the activation of telephone cards without the knowledge of the interested parties, failing to acquire consent, in violation of art. 23 of the Code;

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;

CONSIDERING the art. 162, paragraph 2-bis, of the Code, which punishes the violation of the provisions indicated in art. 167 of the Code, including those pursuant to art. 23 of the same 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 for the violation referred to in art. 162, paragraph 2-bis must be quantified in the amount of 10,000.00 (ten thousand) euros for each of the seven disputes, for a total amount of 70,000.00 (seventy 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 general secretary pursuant to art. 15 of the Guarantor's regulation n. 1/2000, adopted with resolution of 28 June 2000;

SPEAKER Prof. Licia Califano;

HAS

the filing of the sanctioning procedure referred to in report no. 6 of 10 February 2018 relating to the contestation of the administrative violation pursuant to art. 162 paragraph 2-bis of the Code, in relation to art. 23, in the terms referred to in the motivation

ORDER

a Iqbal Qasim Fiscal code: QBLQSM95B10Z236X, born in Pakistan on 10 February 1995, owner of the individual company Iqbal Qasim VAT number: 01815910433, with registered office in Porto Recanati (Mc), via Salvo D'Acquisto n. 8 (cancelled from the Business Register on 02/16/2018), to pay the total sum of 70,000.00 (seventy thousand) euros as a pecuniary administrative fine for the violation provided for by art. 162, paragraph 2-bis of the same Code;

ENJOYS

to the same subject to pay the sum of Euro 70,000.00 (seventy thousand), according to the methods indicated in the attachment, 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 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, 31 May 2018

PRESIDENT

Soro

THE SPEAKER

Califano

THE SECRETARY GENERAL

Busia