[doc. web no. 9872979]

Provision of 11 January 2023

Register of measures

no. 5 of 11 January 2023

THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

IN today's meeting, which was attended by prof. Pasquale Stanzione, president, prof.ssa Ginevra Cerrina Feroni, vice president, dr. Agostino Ghiglia, the lawyer Guido Scorza, member, and the cons. Fabio Mattei, general secretary;

HAVING REGARD TO Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, concerning the protection of natural persons with regard to the processing of personal data, as well as the free movement of such data and which repeals Directive 95/46/ CE, “General Data Protection Regulation” (hereinafter “Regulation”);

HAVING REGARD TO Legislative Decree 30 June 2003, n. 196 containing the "Code regarding the protection of personal data, containing provisions for the adaptation of the national legal system to Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016, relating to the protection of individuals with regard to the processing of personal data, as well as to the free movement of such data and which repeals Directive 95/46/EC (hereinafter the "Code");

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

HAVING REGARD to the documentation in the deeds;

HAVING REGARD TO the observations made by the general secretary pursuant to art. 15 of the Regulation of the Guarantor n. 1/2000 on the organization and functioning of the Guarantor's office for the protection of personal data, doc. web no. 1098801;

SPEAKER Prof. Pasquale Stanzione;

WHEREAS

1. The complaint.

With a complaint presented on the XX, subsequently integrated with notes on the XX and XX, Mr. XX complained of the

publication "on XX [...] on the personal Facebook page [of] the councilor for social policies of the Municipality of Calvi Risorta, of a report [previously presented by the complainant and] addressed to the Prefecture of Caserta and the Campania Region [...] with which he expounded [a] the repeated violation [...] of the Ordinance of the Campania Region No. XX by the aforementioned councilor and other administrators of the Common".

In particular, according to what was represented by the complainant, the report published on the aforementioned Facebook profile of the Councilor "reports [...] the entry protocol of the Prefecture of Caserta as well as my name, surname, residence" and the same had been "addressed and sent exclusively to the Prefecture of Caserta and the Campania Region and never to the Municipality of Calvi Risorta or to the councilor [...]".

The complainant also represented that the aforesaid post of the Councilor's XX "was shared on the Facebook page of the Mayor of the Municipality of Calvi Risorta [...] who, in this way incurred the same violations", and that the same post would have been “viewed, commented and shared, for about 15 days, by hundreds of people”.

With a subsequent supplementary note to the complaint, the complainant represented that "the Prefecture of Caserta erroneously sent the report [of the complainant] to the municipality of Calvi Risorta, rather than to the Carabinieri Command of Caserta, to which the same should have been addressed. A few hours later, the Prefecture notified the municipality of the mistake made, but the Mayor, even before registering the note erroneously received from the municipality, proceeded to send a copy to the councilor [...] who published the same on his profile Facebook, public and open”.

2. The preliminary investigation.

In relation to the aforementioned complaint, the Office, with note dated XX, prot. XX invited the Municipality of Calvi Risorta and the Prefecture-Territorial Office of the Government of Caserta to provide any useful information in relation to the above story.

The Municipality, in response to the aforementioned request, with a note of the XX, prot. XX, stated that:

- the Mayor "received on the XX date a copy of the complainant's report with the XX date from the municipal protocol office. Following the reading of the report, which reported the name of the Councilor [the Mayor] proceeded to address the mail to the latter. The Councilor [...], after receiving a copy of the report, published a post on Facebook, obscuring the sensitive data of the complainant [...]";

- "Until the publication of the post on Facebook, neither the [Mayor] nor the Councilor [...] were aware of the second PEC of the

Prefecture, which arrived only at a later time and only after the [Mayor] had finished sorting the mail, which indicated the error in sending the report to the PEC of the Municipality of Calvi Risorta instead of that of the Carabinieri Command, to which it was addressed. From the moment the error became known, the Councilor [...] proceeded to eliminate the post on Facebook, without leaving any trace";

- "Following the episode that is the subject of the complaint, internal checks were made, which showed that the report was sorted by mere error, without noting that the Municipality of Calvi Risorta was not among the recipients of the PEC by the Prefecture" ;

The Prefecture of Caserta, in response to the aforementioned request, with note prot. XX of the XX, represented that "the document [...], sent for mere clerical error to the certified e-mail address of the municipality of Calvi Risorta on XX at XX hours clearly indicated the Provincial Command of the Carabinieri of Caserta as the only recipient; immediately after, at 17:57 with prot. no. [...] the clerical error was communicated to the municipality of Calvi Risorta".

The aforementioned Prefecture, with subsequent note of the XX, prot. XX, specified that he had requested clarifications on what happened to the Municipality, which would also have represented that "[following the episode subject of the complaint, internal investigations were made, which showed that the report had been sorted by mere error, without noting that among the recipients of the PEC by the Prefecture, there did not appear to be the Municipality of Calvi Risorta ".

In order to define the investigation, with notes of the XX, prot. XX and XX, the Office requested further elements directly from the Mayor and Councilor for social policies of the Municipality, in particular, regarding the legal basis and purposes of the processing carried out through the publication of the document (elements not supplied with the note of the Municipality of the XX, prot. XX), the timing of the receipt of communications from the Prefecture by the aforementioned administrators, the duration of the publication and the effective date of the effective removal of the posts from the social network, taking into account the short period of time elapsed between the two prefectural communications and what was represented by the complainant regarding the circumstance that the post would have been "viewed, commented on and shared, for about 15 days, by hundreds of people".

In the absence of a reply, these requests were reiterated with a note of the XX, prot. no. XX.

In response to the Guarantor's request for elements, the Councilor for social policies with note of the XX, prot. XX, stated that:

- "what the [complainant] disputes is the diffusion on the [...] personal facebook page of his report - received from the

Prefecture of Caserta and for information to the Municipality - addressed to the local Carabinieri station - already previously and widely disseminated by the same exponent on the IT channels managed by it: Facebook channel through which the exponent broadcast a live broadcast on the disputed conduct and blog XX [...];

- the circumstance of having "relaunched" a datum already made public by the person who produced it should not constitute a detriment to the complainant since the publication of the content of the report [...] took place - by the complainant himself - - before to that [...] on their Facebook page [...]. This circumstance should, reasonably, have made the personal nature of the information disappear [...].

- This is all the more so for the publication methods described below:

- The publication took place [...] obscuring all the personal data of the complainant excluding name and surname, data evidently already known to the public opinion in consideration of the fact that, the same complainant, in Facebook live broadcasts and in the articles on his blog - including the one for the disputed facts - presents himself with his name and surname and not with a pseudonym;

- As far as it is possible to remember [...] the publication took place on a facebook page which at the time [the Councilor] recalls was "closed" and which was made "open" only after the events;

- the publication took place for a very few days and was definitively removed, so much so that it is no longer possible to trace it [...].

- With reference to the circumstances, times and methods with which [a] copy of the report was acquired, [...] it was sent by the Prefecture to the Municipality of Calvi Risorta and the protocol officer - once registered under no. XX of the XX - assigned it to the Mayor who - referring the report [to the Councilor] - forwarded it [to this] unaware - in the first instance - of the error of the Prefecture".

- "the matter was the subject of a complaint in the criminal court by the same [claimant] which ended with the dismissal provision by the GIP n. XX." (which was also attached).

- Finally, in the context of the same investigation, the Municipality, with note of the XX, prot. no. XX represented that "The role of the municipal offices in the affair [was limited] to the registration in the computer protocol of the prefectural letter and its transmission to the political-administrative top of the institution. In particular, the note from the Prefecture of Caserta reporting the report of the [complainant] was sent by the Prefecture to the Municipality of Calvi Risorta and the protocol officer - once

registered [...] - assigned it to the Mayor who, referring the report to the assessor [...], forwarded it to him unaware that the aforesaid note should not reach the Municipality". Furthermore, the Mayor, with note of the XX, prot. XX, highlighted that the publication of the complaint on the Facebook profile was carried out "in the context of a political opposition which, already present at the material time (i.e. in the short period of publication of the complaint), manifested itself throughout its evidence, with the electoral campaign preparatory to the elections of the XX. [The complainant] was nominated for Mayor of an alternative list [...] to the one which saw the Mayor of the Municipality of Calvi Risorta reconfirmed [...]. [The] current council composition sees the presence of [...] 4 opposition municipal councilors, including the [claimant]. Precisely in the context of this context, the [complainant] already on the twentieth date (four days before the post of the [Councillor], had communicated to the citizens of Calvi Risorta the presentation of the complaint, denouncing the violation of the emergency provisions, as well as of the use of the municipal car. Against this, again in the context of a political opposition, the diffusion of the news [...] was aimed at adequately informing all citizens of the campaign, even defamatory, which was being implemented against the representatives of local institutions. Not surprisingly, the post in question, in addition to the dissemination of the complaint (already circulated by the [complainant], as emerged and definitively ascertained in the criminal court), contained a clear indication of the reasons (political and public interest) underlying the publication of the data, reading that "in such a delicate moment in Calvi Risorta there are people who are trying with all their strength to oppose the work of administrators who daily do their best for the good of the country [...] ". In short, in the face of a (political) campaign, unjustly denigrating the work of public administrators, it was deemed necessary to adequately explain to the City what had happened and what was the intention of the Administration, i.e. to do their best "for the good of the country.... do our utmost for the good of our citizenship [...] That is, in the face of a complaint that the [complainant] did not limit himself to presenting to the competent offices, but which he felt he had to publish on Facebook to denigrate the acted by a mayor or a councilor, it would be really illogical to think that the only tool to protect public administrators is the criminal complaint".

With specific reference to the conduct of the Councilor for social policies of the Municipality of Calvi Risorta, Dr. Rosy Caparco, following the checks carried out on the basis of the elements acquired and the facts that emerged following the preliminary investigation, as well as the subsequent evaluations, the 'Office, with deed of the XX, prot. n.XX, ascertained the violation of Article 157 of the Code in relation to the failure to respond within the established terms to the request for information formulated by the Office with note dated XX, prot. XX, and with act of the XX, prot. XX, has ascertained that, by disseminating

the report of the complainant, reporting the personal data of the same, on its Facebook page, it 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 Regulation, as carried out in the absence of a legal basis.

Therefore, with the same notes the violations carried out were notified to the aforementioned Councilor (pursuant to article 166, paragraph 5, of the Code), communicating the initiation of the procedure for the adoption of the measures referred to in article 58, par. 2, of the Regulation and inviting the aforementioned to send the Guarantor defense 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 Article 18, paragraph 1, of Law No. 689 of Law No. 689 of 24 November 1981).

With regard to the disputes of the XX, and of the XX, the aforementioned Councilor did not present defense briefs.

3. Outcome of the preliminary investigation.

3.1. The regulatory framework.

The processing of personal data must take place in compliance with the applicable legislation on the protection of personal data and, in particular, with the provisions of the Regulation and of the Code.

"Personal data" means "any information relating to an identified or identifiable natural person ("data subject")". Furthermore, "an identifiable natural person is one who can be identified, directly or indirectly, with particular reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more characteristic elements of his physical, physiological, genetic, psychic, economic, cultural or social identity" (Article 4, paragraph 1, no. 1, of the Regulation).

The processing of personal data carried out by public subjects is, as a rule, lawful only if necessary "to fulfill a legal obligation to which the data controller is subject" or "for the execution of a task of public interest or connected to the exercise of public powers vested in the data controller" (Article 6, paragraph 1, letters c) and e), of the Regulation). It is also provided that "Member States may maintain [...] more specific provisions to adapt the application of the rules of this regulation with regard to treatment, in accordance with paragraph 1, letters c) and e), by determining more precisely specific requirements for processing and other measures aimed at guaranteeing lawful and correct processing [...]" (Article 6, paragraph 2, of the Regulation), with the consequence that in the present case, in the Italian legal system, Article . 2-ter of the Code, in the text in force at the material time (prior to the amendments made by Legislative Decree No. 139 of 8 October 2021).

In this context, public subjects can disclose personal data if this operation is provided for "by a law or, in the cases provided for

by law, a regulation" (Article 2-ter, paragraphs 1 and 3, of the Code, in the text in force at the material time; see also provision no. 243 of 15 May 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 bodies», in the Official Journal no. 134 of 12 June 2014 and in www.gpdp.it, web doc. no. 3134436). The data controller, even in the presence of a condition of lawfulness, is then, in any case, required to respect the principles regarding the protection of personal data, including the principles of "lawfulness, correctness and transparency" (art. 5, paragraph 1, letter a), of the Regulation), according to which the data must be "processed in a lawful, correct and transparent manner in relation to the data subject".

The Supervisory Authority, within the scope of the tasks and powers assigned by the Regulation, ensures, among other things, the application of the Regulation and deals with complaints by carrying out the appropriate investigations, including on the correct application of the data protection regulations by of the owners (art. 57 par.1, lett. a), f) and h) and 58 of the Regulation). For this purpose, the Authority has the power to order the data controller to provide any information required for the performance of its duties (Article 58, paragraph 1, letter a), of the Regulation).

The art. 157 of the Code also provides that, in relation to the powers pursuant to art. 57 of the Regulation and for the performance of its duties, the Guarantor may request the owner, the manager, the representative of the owner or manager, the interested party or even third parties, to provide information and to exhibit documents and that the failure to reply to this request, within the indicated term, it renders applicable the pecuniary administrative sanction envisaged by art. 83, par. 5 of the Regulation (see art. 166, paragraph 2, of the Code).

3.2. Failure to respond to the Guarantor's request for information, pursuant to art. 157 of the Code.

In particular, with regard to the dispute relating to the failure to respond within the terms of the request for information from the Office of the XX (prot. n. XX), reiterated with a note of the XX (prot. n. XX), the Assessor did not submit briefs defensive in relation to the objection formulated with deed of the XX, prot. n.XX.

In this regard, it should be noted that, also in the light of the general principles of good performance, efficiency, effectiveness and cost-effectiveness of the administrative action (Article 97 of the Constitution, as well as Article 9, paragraph 1 and 10, paragraph 3, of the Internal Regulation of the Guarantor n. 1/2019 of 4 April 2019, web doc. n. 9107633), the response to the request for information from the Office of the XX, reiterated with a note from the XX, was received after the deadlines set by

the request from the Guarantor, in particular, only after the start of the procedure for the adoption of the corrective and sanctioning measures of the XX, prot. no. XX. – affected the completeness and speed of the preliminary investigation, resulting, therefore, ascertained the violation of art. 157 of the Code. This delay has therefore affected the completeness and speed of the preliminary investigation, resulting, therefore, ascertained the violation of art. 157 of the Code.

3.3. The processing of the complainant's data by the Assessor.

With regard to the objection formulated with deed of the XX, prot. XX, it is ascertained that the personal data of the complainant reported in his report of the XX to the Prefecture, were published on the Facebook profile of the Councilor for social policies of the Municipality with the post of XX.

In this regard, it is preliminarily noted that in the published document only the data of the complainant relating to the date and place of birth, the address of residence and the email address have been (partially) obscured, while the identification data of the claimant and his handwritten signature.

It should also be noted that the processing of personal data which is the subject of the complaint made by the Councilor, is to be traced back to the institutional and not private sphere (family or domestic). In this regard, both the occasion and the methods of acquiring the document - as described in the notes of the XX, XX and XX cited - and the nature of the story, which concerns activities carried out in the management of the epidemiological emergency .

In fact, it has been ascertained that the published document was acquired by the protocol officers of the Municipality and transmitted to the Mayor, who, having noted that the content of the deed was referred to the Assessor, proceeded to assign it to the latter, regarding the of institutional activities. Both the notification of the complainant to the Prefecture and the content of the post of the XX Councilor ("In such a delicate moment in Calvi Risorta there are people who are looking with all their own strength to oppose the work of administrators who do their best every day for the good of the country. For our part, we continue to do our utmost for the good of our citizens…").

With reference to the reconstruction of the matter, with the notes of the XX and XX referred to above, it was specified that the document object of the complaint would have been sent by the Prefecture to the Municipality "for information" and not "by mistake", and that "therefore never the municipal offices could have imagined that it was a matter of confidential information received by the Municipality by mistake and that, therefore, the same should be trashed" (note XX). This clarification is, in part, contradictory with what is reported in the same note of the XX ("the person in charge of the protocol [...] unaware that the

aforesaid should not reach the Municipality") and in the previous note of the Municipality of the XX ("Following the internal investigations were made, from which it emerged that the report had been sorted by mere error, without noting that among the recipients of the PEC by the Prefecture, there did not appear to be the Municipality of Calvi Risorta"). On this point, the Prefecture of Caserta, with the note of the XX, prot. XX, specified that “the document prot. no. XX [bearing the notification of the complainant], sent for mere clerical error to the certified e-mail address of the municipality of Calvi Risorta on XX at XX hours clearly indicated the Provincial Command of the Carabinieri of Caserta as the only recipient; immediately after, at XX o'clock with prot. no. XX the clerical error was communicated to the municipality of Calvi Risorta".

As highlighted above, public entities may process personal data only if necessary "for the execution of a task of public interest or connected to the exercise of public powers vested in the data controller" (Article 6, paragraph 1 , letter e, of the Regulation). In this context, public subjects can disclose personal data if this operation is provided for "by a law or, in the cases provided for by the regulatory law" (Article 2-ter, paragraphs 1 and 3, of the Code, as in force at the time of the facts; see also provision no. 243 of 15 May 2014, "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 by other obliged entities", cit.), and in compliance with the principles of "lawfulness, correctness and transparency" (articles 5, paragraph 1, letter a) of the Regulation).

That said, also taking into account the fact that "until the publication of the post on Facebook, neither the [Mayor] nor the Councilor [...] were aware of the second PEC of the Prefecture", the publication of the document containing the complainant's personal data on Facebook - regardless of whether it was transmitted "for knowledge" or "by mistake" - according to the legal framework referred to above, it should have been supported by a suitable legal basis (rule of law or regulation) , which was not, however, indicated by the data controller in the context of the investigation.

Consequently, on the basis of the elements acquired during the preliminary investigation, the publication of the document with the established methods was carried out by the Assessor in the absence of the necessary legal basis, in violation of art. 6, par. 1, lit. e), of the Regulation and of the principle of "lawfulness, correctness and transparency" pursuant to art. 5, par. 1, lit. a) of the Regulation, as well as of the art. 2-ter, paragraphs 1 and 3, of the Code (in the text in force at the material time).

With the note of the XX, the Councilor highlighted that the publication of information "already previously and widely disseminated by the same exponent on the IT channels managed by himself" (Facebook profile and blog XX"), and in

particular, the fact " to have "relaunched" a datum already made public by the person who produced it should not be harmful to the complainant" and "should, reasonably, have made the personal nature of the information disappear".

In this regard, the object of the complaint is the publication of a document containing personal data of the complainant which the Councilor has had the availability due to the tasks or functions performed within the Municipality - and not the publication of mere information relating to the object of the complaint, information already made public by the interested party himself - for which the aforementioned legal framework applies in the public sphere, on the basis of which the data can be processed only if necessary for the execution of a task of public interest or connected to the exercise of public powers vested in the data controller (article 6, paragraph 1, letter e, of the Regulation) and dissemination is permitted only "when required by law or, in the cases envisaged by the regulatory law" (Article 2-ter, paragraphs 1 and 3, of the Code, as in force at the material time), and in compliance with the principles of "lawfulness, correctness and transparency" (Articles 5, paragraph 1, letter a) Regulation).

4. Conclusions.

In the light of the assessments reported above, it should be noted that the statements made by the data controller during the preliminary investigation, and in particular, with the aforementioned note of the XX of the truthfulness of which one may be called to answer pursuant to art. 168 of the Code do not allow to overcome the findings notified with deeds of the XX, prot. XX and XX, prot. XX.

In relation to these findings, the present proceeding cannot be dismissed, since none of the cases provided for by art. 11 of the Regulation of the Guarantor n. 1/2019.

Therefore, the preliminary assessments of the Office are confirmed and the violation by the Councilor of the Municipality of Calvi Risorta is noted:

of article 157 of the Code, in relation to the failure to respond, within the established deadlines, to the request for elements formulated by the Guarantor with a note of the XX, reiterated with a note of the XX;

of the articles 5, par. 1, lit. a) and 6, par. 1, lit. e), of the Regulation as well as of the art. 2-ter, paragraphs 1 and 3, of the Code (as in force at the material time), in relation to the dissemination of the document containing personal data on the Councilor's Facebook page, in the absence of a suitable regulatory prerequisite.

The violation of the aforementioned provisions makes the administrative sanction envisaged by art. 83, par. 5, of the

Regulation, pursuant to articles 58, par. 2, lit. i), and 83, par. 3, of the same Regulation, as referred to by art. 166, paragraph 2, of the Code.

In this context, considering, in any case, that the conduct has exhausted its effects, as the posts object of the complaint are no longer accessible because they were removed a few days after publication, and the conditions for the adoption of further corrective measures pursuant to art. 58, par. 2, of the Regulation.

5. Adoption of the injunction order for the application of the pecuniary administrative sanction and accessory sanctions (articles 58, paragraph 2, letter i), and 83 of the Regulation; art. 166, paragraph 7, of the Code).

The Guarantor, pursuant to articles 58, par. 2, lit. i), and 83 of the Regulation as well as art. 166 of the Code, has the power to "impose 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, according to the circumstances of each single case" and, in this context, "the College [of the Guarantor] adopts the injunction order, with which it also orders the application of the ancillary administrative sanction of its publication, in whole or in part, on the website of the Guarantor pursuant to article 166, paragraph 7, of the Code" (art. 16, paragraph 1, of the Guarantor's Regulation no. 1/2019).

In this regard, taking into account the art. 83, par. 3, of the Regulation, in the present case, the violation of the aforementioned provisions is subject to the application of the same pecuniary administrative sanction provided for by art. 83, par. 5, of the Regulation.

The aforementioned pecuniary administrative sanction imposed, depending on the circumstances of each individual case, must be determined in the amount taking into due account the elements provided for by art. 83, par. 2, of the Regulation, in relation to which the following is observed.

In relation to the aforementioned elements, it was considered that the failure to respond within the time limits to the request of the Guarantor of the XX, affected the speed of the preliminary investigation, resulting in the violation of art. 157 of the Code. It should also be noted that the Assessor, with regard to the same request for information, reiterated on the XX date - i.e. on the same date as the contestation of the administrative violation - provided a reply, albeit beyond the deadlines assigned by the Office for the reply.

On the other hand, there are no previous pertinent violations committed or previous measures referred to in art. 58 of the Regulation.

With regard to the nature, seriousness, duration of the violation, and the number of subjects involved and the level of damage suffered by them, some circumstances that emerged during the investigation must be favorably considered, and in particular, the context in which the violation is been committed (first phase of the management of the epidemiological emergency), the circumstance that the information relating to the facts covered by the complaint had already been disseminated by the same interested party on various information channels, the blacking out of the published document of some personal data of the complainant (in particular, data relating to the date and place of birth, home address and email address), the removal of the published post after a few days.

Based on the aforementioned elements, evaluated as a whole, it is deemed necessary to determine the amount of the pecuniary sanction, in the amount of 1000 (one thousand) euros for the violation of Article 157 of the Code as a pecuniary administrative sanction withheld, pursuant to the art. 83, par. 1, of the Regulation, effective, proportionate and dissuasive.

Taking into account that the preliminary investigation concerned the unlawful processing of personal data contained in a document of which the Councilor became aware in the performance of his institutional activity, it is also believed that the ancillary sanction of publication on the website should be applied of the Guarantor of this provision, provided for by art. 166, paragraph 7, of the Code and by art. 16 of the Regulation of the Guarantor n. 1/2019.

Finally, it is believed that the conditions set forth in art. 17 of Regulation no. 1/2019 concerning internal procedures having external relevance, aimed at carrying out the tasks and exercising the powers delegated to the Guarantor.

ALL THIS CONSIDERING THE GUARANTOR

pursuant to art. 57, par. 1, lit. f), of the Regulation, declares the conduct held by the Councilor for social policies of the Municipality of Calvi Risorta to be unlawful, described, in the terms set out in the justification, consisting in the violation of articles 5, par. 1, lit. a) and 6, par. 1, lit. e), of the Regulation and of the articles 2-ter, paragraphs 1 and 3, and 157 of the Code (in the text prior to the amendments made by Legislative Decree No. 139 of 8 October 2021, converted, with amendments, by Law No. 205 of 3 December 2021);

ORDER

To Dr. Rosy Caparco, Councilor for social policies of the Municipality of Calvi Risorta, C.F. XX, pursuant to articles 58, par. 2, lit. i), and 83, par. 5, of the Regulation and of the art. 166, paragraph 2, of the Code, to pay the sum of 1,000.00 (one thousand) euros as an administrative fine for the violations indicated in the justification;

ENJOYS

To Dr. Rosy Caparco to pay the sum of 1,000.00 (one 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 no. 689/1981. In this regard, it is recalled that the offender retains the right to settle the dispute by paying - always according to the methods indicated in the annex - an amount equal to half of the fine imposed, within 30 days from the date of notification of this provision, pursuant to art. 166, paragraph 8, of the Code (see also art. 10, paragraph 3, of Legislative Decree no. 150 of 09/01/2011);

HAS

the publication of this provision on the Guarantor's website pursuant to art. 166, paragraph 7, of the Code;

the annotation of this provision in the internal register of the Authority, provided for by art. 57, par. 1, lit. u), of the Regulation, of the violations and of the measures adopted in accordance with art. 58, par. 2, of the Regulation.

Pursuant to articles 78 of the Regulation, 152 of the Code and 10 of Legislative Decree no. 150/2011, against this provision it is possible to lodge an 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 appellant resides abroad.

Rome, 11 January 2023

PRESIDENT

station

THE SPEAKER

station

THE SECRETARY GENERAL

Matthew