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Injunction order against Rome Capital - 27 January 2021

Register of measures

no. 39 of 27 January 2021

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 and the lawyer Guido Scorza, components 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 on the protection of natural persons with regard to the processing of personal data, as well as on the free circulation of such data and repealing Directive 95/46 /CE, “General Data Protection Regulation” (hereinafter “GDPR”);

HAVING REGARD TO Legislative Decree 30 June 2003, n. 196 containing the "Code regarding the protection of personal data (hereinafter the "Code");

CONSIDERING 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 publicity and transparency on the web by public subjects and other obliged bodies», published in the Official Gazette no. 134 of 12/6/2014 and in www.gpdp.it, doc. web no. 3134436 (hereinafter "Guidelines of the Guarantor on transparency");

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 no. 9107633 (hereinafter "Regulation of the Guarantor n. 1/2019");

HAVING REGARD to the documentation in the deeds;

GIVEN the observations made by the Secretary General pursuant to art. 15 of the Regulation of the Guarantor n. 1/2000 on the organization and functioning of the office of the Guarantor for the protection of personal data, in www.gpdp.it, doc. web no. 1098801;

Speaker the lawyer Guido Scorza;

WHEREAS

1. Introduction

From the articles that appeared on the XX date in various national newspapers, it was learned that Roma Capitale published the document entitled "XX", code of the XX, of the Municipality of Rome VII (formerly Municipality XI) in the online praetorian register of its institutional website , containing personal data of a minor of 9 years and of the mother who would not have paid the canteen fees for a total amount equal to € XX.

From the preliminary investigation documents it emerged that, in the present case, the publication took place to warn the recipient of the aforementioned XX that he appeared to be a "subject with no fixed abode", to whom the Municipality of Rome for the purpose of granting the registered residence (art 2 of law n. 1228 of 12/24/1954; art. 43 of the civil code) allowed - as per practice for these hypotheses - the choice of domicile at the conventional registry address (therefore territorially non-existent) of "Via Modesta Valenti".

With the note prot. XX of the XX, signed by the Data Protection Manager of Roma Capitale, Roma Capitale replied to the request for information from this Authority (prot. note n. XX of the XX) regarding the dissemination of the personal data online described above. The following documents were also attached to the aforementioned note: notes from the Directorate of the Rome VIII Municipality (prot. n. XX of the XX and prot. n. XX of the XX), notes from the Directorate of the Educational and Scholastic Services Department (prot. n. XX of the XX and prot. n. XX of the XX), note of the U.O. Director Casa Comunale-Praetorian Register-Messed Notifiers-Administrative and IT Services-Administration of support to the Capitoline Council and Assembly-General Secretariat (note prot. n. XX of the XX).

Specifically, with regard to the matter examined, the Director of the Municipality of Rome VIII (prot. n. XX of XX) represented that:

- "this Directorate, with the technical support of the Secretary General - U.O. Casa Comunale - Praetorian Register - Messi Notifiers of Rome Capital, proceeded to cancel the publication on the Praetorian Register, of the deed relating to a debt position for non-payment of the school refectory fee in the A.S XX, containing, among other information, the name of a minor";
- «the “Revenue Coordination and Credit Recovery” office pertaining to the Town Hall Management has provided for the publication in the online Praetorian Register, in application of the Resolution of the Capitoline Council n. 31 of 3 March 2017 "Registration system for homeless people habitually present in the territory of Rome Capital", which in point 6 states "Every notification to homeless residents will be replaced by publication in the Praetorian Register of Rome Capital of the act or

communication addressed to the addressee. The service will be deemed to have taken place after the thirtieth day of publication";

- «the office, like anyone wishing to notify a resident in via Modesta Valenti, requests the publication of the deed in the appropriate section; the office of the Praetorian Register, appointed to the Secretary General of Rome Capital, then carries out the necessary checks. In fact, it has already happened recently that the Praetorian Register Office did not publish a deed requested by the Town Hall because the recipient's name was missing in the object (which is created in an automated manner [...]);

- «the procedure of publication in the online register of notifications, which normally takes place by notification to the debtor's domicile, through the notifying messengers, pursuant to the relevant legislation, is therefore new and exclusively aimed at people residing in Via Modesta Valenti »;

Similarly, the Director of the Educational and Scholastic Services Department added that (prot. n. XX of XX) «With regard to this important and delicate issue, it should be noted that on 18 October last steps were taken to send a specific note protocol XX - which for all intents and purposes is attached - to all the Municipal Structures and to the respective Socio-Educational Departments, representing the need to supervise with the utmost care to avoid the publication of personal data concerning the minors and to verify the possible presence on their institutional websites of documents of any kind already published containing such data, recommending, in this case, their removal".

2. Applicable personal data protection law.

Pursuant to the GDPR, which became applicable from 25/5/2018, the processing of personal data carried out by public entities (such as Roma Capitale) is 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).

"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" (art. 4, par. 1, n. 1, of the RGPD).

In the processing of personal data, the owner is required, first of all, to respect the principles of data protection, including that

of "lawfulness, correctness and transparency" as well as "minimization", on the basis of which personal data must be – respectively – «processed in a lawful, correct and transparent manner in relation to the interested party» and «adequate, pertinent and limited to what is necessary with respect to the purposes for which they are processed» (Article 5, paragraph 1, lett. a and c of the GDPR).

European legislation also provides that «Member States may maintain or introduce 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), determining with greater precision specific requirements for the processing and other measures to ensure lawful and correct processing […]" (Article 6, paragraph 2, of the RGPD).

In this regard, it is envisaged that the operation of dissemination of personal data (such as publication on the Internet), by public entities, is permitted only when provided for by a law or, in the cases provided for by law, by regulation (art. 2-ter, paragraphs 1 and 3, of the Code).

Furthermore, the Guarantor has provided specific indications to the public administrations regarding the precautions to be taken for the dissemination of personal data on the Internet for purposes of transparency and publicity of the administrative action with its own Guidelines on transparency, also with reference to the publications in the online praetorian register (see part two, par. 3.a).

3. Preliminary evaluations 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 following the preliminary investigation, as well as the subsequent assessments, the Office with note prot. no. XX of the XX - not considering sufficient the reference to point 6 of the Resolution of the Capitoline Council n. 31 of 3 March 2017 - ascertained that Roma Capitale, by publishing the document entitled "XX" in full on its institutional website and disseminating the data and personal information contained therein online, processed personal data that does not comply with the regulations relevant to the protection of personal data contained in the GDPR. Therefore, with the same note the violations carried out were notified to the aforementioned body (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 RGPD with invitation to send the Guarantor defensive writings or documents and, possibly, to ask to be heard by this Authority, within 30 days (art. 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 memories.

Roma Capitale has sent its defense writings in relation to the violations notified through three notes signed by the Data Protection Officer (prot. n. XX of XX; n. XX of XX; n. XX of XX), which bear in attached various documentation on the incident and numerous notes from the Offices involved with content that is also partly repetitive of what has already been represented to the Guarantor in the reply to the note from the Office prot. no. XX of the XX.

In this regard, it should be remembered that, unless the fact constitutes a more serious offence, anyone who, in a proceeding before the Guarantor, falsely declares or certifies news or circumstances or produces false deeds or documents is liable pursuant to art. 168 of the Code, entitled «False statements to the Guarantor and interruption of the performance of the duties or exercise of the powers of the Guarantor».

With regard to the disputed profiles, some notes attached to the aforementioned note prot. no. XX of the XX.

In particular in the note prot. no. XX of the XX the Director of the General Secretariat Directorate Support Council and Capitoline Assembly Administrative and IT Services U.O. Municipal House - Praetorian Register - Messi Notificatori represented, among other things, that:

- "the matter concerned only one person and no factors of a malicious nature emerged";

- "apparently no personal injury would appear to have been caused [...]";

- "in the space of a very few days, the Town Hall requested, although being able to do so independently, the withdrawal of the deed and then requested its publication once the correction had been made";

- «the undersigned Management does not know of previous similar violations despite the presence of a very high number of acts [...], without prejudice to the confirmation of other Structures. The foregoing would suggest that the inconvenience is due to an accidental and isolated fact"

Similarly, in the note prot. no. XX of the XX the Director of the Municipality of Rome VIII, specified, among other things, that:

- «the Town Hall [has] immediately worked, with the technical support of the General Secretariat - U.O. Casa Comunale – Praetorian Register, to minimize the prejudicial effects of the publication in question, containing among other information the name of a minor, by means of its removal, which occurred on the same day in which the press organs had taken steps to report it, thus limiting the duration to a period of only seven days';

- «To the direct knowledge of this Directorate there is no news of cases similar to the one in question, which to date is the first

and only of its kind verified in this Municipality»;

- «The precise reconstruction of the facts attached by the Town Hall also leads us to believe that in the present case there was no possibility of intervention by the municipal offices with regard to the data to be published in the online Praetorian Register»;

- «As also confirmed by other Municipalities [...] the fulfilments carried out to ask homeless people to pay the fees for school meals are the same for all the respective municipal offices»;

- «At present, therefore, the omitted publication of this type of deed probably appears to be the only suitable way to protect the privacy of residents in Via Modesta Valenti, given the legal implausibility as well as the practical ineffectiveness of the same administrative deed containing two different texts and an XX which does not contain all the elements capable of identifying the reasons for the credit claimed by the Administration";

- "Nevertheless, this determines the concrete risk that, given the substantial impossibility of proceeding towards them with other ritual forms of notification, their right to be able to take advantage, like all other residents, of the services and opportunities that the enrollment in the registry office of the resident population directly or indirectly is therefore linked, for example, to a possible taking charge by the municipal services, the exemption from school fees and other forms of socio-economic support";

- "In this regard, it is not deemed possible to access the considerations expressed by the Office of the Guarantor for the protection of personal data according to which, in this case, the dissemination of personal data online would have taken place "in the absence of a suitable regulatory prerequisite", since the provisions for the notification of documents to homeless people which have been applied and which have led to the online dissemination of their personal data, would be contained "in a mere resolution of the Capitoline Council"";

- «It is known, in fact, that the order of local authorities attributes statutory and regulatory autonomy to the municipalities, as can be seen from the clear provisions of art. 3 of the TUEL»;

- «According to a consolidated and very old practice, and up to now not controversial, the regulatory power regarding the discipline of the notification activity has always been exercised, within the Municipality of Rome, by the Capitoline Council. The Regulation concerning the activity of the operators in the notification procedures referred to in the resolution of the City Council n. 452/2007, the Regulation concerning the organization and functioning of the Town Hall pursuant to the resolution of the Town Council n. 400/2008, the Regulation for the regulation of the online Praetorian Register pursuant to the resolution of the

Capitoline Council n. 215/2013";

- «More generally, the aforementioned regulatory discipline is rooted in the special regulatory competence attributed by art. 48 of the TUEL to the municipal councils regarding the organization of offices and services";

- «In the present case, the Capitoline Council, for the primary purpose of making effective notification procedures available also for homeless residents, with resolution no. 31/2017 established that every notification of which these subjects are recipients must be replaced by the publication in the Praetorian Register of Rome Capital of the deed or communication addressed to the recipient and that the notification will be executed after the thirtieth day of publication »;

- «These provisions, therefore, must be considered, on this point, supplementary to the aforementioned regulatory framework of the notification activity, so that the aforementioned resolution no. 31/2017 cannot be attributed the nature of an administrative act, but it must clearly be recognized as having a specific regulatory value";

- «Aside from the profile of regulatory competence, the aforesaid joint resolution, ritually adopted and accompanied by the technical opinions prescribed by law, did not appear to be manifestly illegitimate. The Capitoline Council, in fact, decided to provide for notifications addressed to this category of recipients, according to the general provisions of art. 151 c.p.c., which in the case of particular circumstances admits that the notification is performed in a different way from that established by law, a form of notification for public proclamations that can be performed in ways other than those contemplated by art. 150 c.p.c. and through the tools provided by modern technological evolution, an option perfectly compatible with the standardization of primary rank, as expressly provided for administrative acts by art. 12 of the law n. 205/2000 and affirmed by copious administrative jurisprudence (for all see Lazio Regional Administrative Court ordinance, Section III bis, n. 9506/2013)";

- «Not even the purposes of the resolution of the Capitoline Council n. 31/2017 appear, ictu oculi, aimed at harming the subjective legal situations of homeless residents. On the contrary, it appears constitutionally oriented and its provisions preordained not only to ensure the satisfaction of substantial public interests, such as the effective management of the registry office of the resident population and the efficient collection of local tax and non-tax revenues, but also to avoid that the usual impossibility of identifying the domicile of residents without a physical abode to translate into their substantial loss of enjoyment of significant social rights, often no less significant than that of privacy";

- «No clearly illegitimate administrative provision in the present case, capable of determining behaviors constituting a crime or, in any case, contrary to the duties of diligence and loyalty for the Administration, therefore, but rather regulatory rules in any

way disappliable by Capitoline officials according to consolidated jurisprudence (see . for example the recent sentence of the Supreme Court n. 9736/2018), manifestation of a discretionary power whose correct exercise in balancing the primary interests of the Administration with the fundamental civil rights of homeless people can, hypothetically, be re-evaluated, in the context of self-defense and according to the principle of the contrarius actus, of the same body that adopted the aforementioned resolution no. 31/2017 and must be considered subject to review by the administrative judge".

On the disputed facts, the opinion given by the Capitoline lawyer prot. no. XX of the XX (attached to the note of the RPD n. XX of the XX) on the «methods of notification of the documents relating to the Tax and non-tax revenues, for the homeless, on the basis of the provisions of the Resolution of the Capitoline Council n. 31 of 03.03.2017".

In this opinion, it is expressly indicated - contrary to what was previously stated by the administration - that the repeatedly referred to resolution of the Capitoline Council n. 31 of 3/3/2017, entitled «Registration system for homeless people habitually present in the territory of Rome Capital», «given its nature, it cannot derogate from the primary rank legislation dictated by the legislator on the subject of notification of deeds judiciary», and the provisions contained in articles remain applicable, even for «homeless» subjects. 140 ff. of the c.p.c. (for the notification of judicial documents) and in art. 60 of the Presidential Decree no. 600 of 19/9/1973 (for the notification of tax deeds).

5. Outcome of the investigation relating to the report presented

The subject of the specific case submitted to the examination of the Guarantor concerns the issue of the publication in the online praetorian register of the institutional website of Roma Capitale of the «XX», containing personal data of a minor under 9 years of age and of the mother who would not have paid the child's canteen fees for a total amount of € XX.

The particularity of the case lies in the fact that the personal data of the recipient of the XX, disclosed online, belong to a person with no fixed abode, a category for which the Municipality of Rome for the purpose of granting residence (art. 2 of law no. 1228 of 24/12/1954; art. 43 of the civil code) allows for the election of domicile at the conventional registry address (therefore non-existent territorially) of «Via Modesta Valenti».

From the deeds and defense memoirs of Roma Capitale, it emerged that the publication on the praetorian register took place because the recipient of the XX was a "homeless" subject, and therefore point 6 of the Resolution of the Capitoline Council was applied no. 31 of 3 March 2017 «Registration system for homeless people habitually present in the territory of Rome Capital», in the part in which it is envisaged that notifications to homeless residents is «replaced by publication in the

Praetorian register of Roma Capitale of the deed or communication addressed to the addressee» and is «carried out after the thirtieth day of publication».

These circumstances, although worthy of consideration, do not however allow to overcome the findings notified by the Office with the note prot. no. XX of the XX, as they are not sufficient to allow the filing of this proceeding pursuant to art. 11 of the Regulation of the Guarantor n. 1/2019.

Indeed, as highlighted in the aforementioned note from the Office, the provisions for the notification of documents invoked by Roma Capitale to justify the online dissemination of the personal data of the minor and the homeless mother (point 6 of the Resolution of the Capitoline Council n. 31/2017 ), being contained in a mere resolution of the Capitoline Council, do not constitute a suitable regulatory prerequisite for online dissemination, pursuant to art. 2-ter, paragraphs 1 and 3, of the Code, which instead allows the aforementioned possibility by public subjects only when the diffusion is foreseen by a law or, in the cases foreseen by the law, by regulation.

These circumstances do not allow us to accept the observation presented by Roma Capitale in the part in which it is highlighted that the resolution of the Giunta Capitolina n. 31/2017 would be a suitable regulatory prerequisite for disclosing personal data, because it would not have "the nature of an administrative act, but [...] specific regulatory value". This is because the cases in which the regulatory source - pursuant to art. 2-ter, paragraphs 1 and 3 of the Code - can be considered a suitable prerequisite for the dissemination of personal data must be provided for by a primary rule and this element, in the present case, appears to be lacking. Similarly, the provision contained in art. 151 c.p.c. - as instead argued in the defense briefs of the Municipality - which concerns a case that is completely different from the one in question, namely the case of «Forms of notification ordered by the judge», who «when particular circumstances or needs for greater speed recommend it, confidentiality or protection of dignity» has the power to «prescribe, even ex officio, with a decree drawn up at the bottom of the deed, that the service be performed in a manner different from that established by law».

All of the above is confirmed by the same opinion rendered by the Capitoline lawyer prot. no. XX of the XX referred to above, which highlighted how the aforementioned Resolution of the Capitoline Council "given its nature, cannot derogate from the primary rank legislation dictated by the legislator on the subject of notification of judicial documents", with the consequence that they also remain applicable for "homeless" subjects, the provisions contained in articles 140 ff. of the c.p.c. (for the notification of judicial documents) and of the art. 60 of the Presidential Decree no. 600 of 19/9/1973 (for the notification of tax

deeds).

In fact, the sectoral state legislation contained in the civil procedure code already provides for specific provisions for carrying out the notification of documents in the case of: «Unavailability or refusal to receive the copy» (art. 140); "Notification to the domiciliary" (art. 141); «Notification to a non-resident person, neither residing nor domiciled in the Republic» (art. 142); "Notification to a person of unknown residence, abode and domicile" (art. 143). For the "service of notices and other deeds" to the "taxpayer", however, the special regulation provided for by art. 60 of the Presidential Decree no. 600/1973.

In none of the cases governed by the aforementioned articles is the integral publication of the deed to be notified envisaged, as occurred in the present case, but a correct balance is achieved between the need for knowledge of the deed by the addressee and its confidentiality, providing even in the case of "unknown residence, abode and domicile" (Article 143 of the Code of Civil Procedure) or the absence of a "residence, office or company of the taxpayer" (60, paragraph 1, letter e, of Presidential Decree no. 600/1973) the filing of the deed at the town hall and at most posting in the Municipality register only the notice of filing and not the complete deed to be served which is the object of the filing.

On the other hand, point 6 of the Resolution of the Capitoline Council n. 31/2017, providing that the service of the deeds is "replaced by the publication" on the Praetorian Register of Rome Capital of the entire "deed or communication addressed to the addressee", is in contrast with the state legislation on raw materials referred to for the notification of judicial and tax documents.

In this context, in relation to the conduct held, it is therefore deemed to confirm the preliminary assessments of the Office, consequently noting the illegality of the processing of personal data carried out by Roma Capitale. This is because the aforementioned body published the document entitled "XX", code of the XX, of the Municipality of Rome VIII (formerly Municipality XI), in full form in the online praetorian register of its institutional website, causing a dissemination of personal data therein contents referring to a minor of 9 years and to the mother who would not have paid the school canteen fees. This treatment has taken place:

- in a manner that does not comply with the principles of "lawfulness" and "minimization" of processing, in violation of art. 5, par. 1, lit. a) and c) of the GDPR;

- in the absence of a suitable regulatory prerequisite, in violation of art. 2-ter, paragraphs 1 and 3, of the Code and of art. 6, par. 1, lit. c) and e); par. 2 and par. 3, letter. b) of the GDPR.

6. Adoption of the injunction order for the application of the administrative fine and other corrective measures (articles 58, paragraph 2, letter d and i; 83 GDPR)

Roma Capitale appears to have violated the articles 5, par. 1, lit. a) and c); 6, par. 1, lit. c) and e), par. 2 and par. 3, letter. b) of the GDPR; as well as the art. 2-ter, paragraphs 1 and 3 of the Code.

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

In this case, the violation of the aforementioned provisions is subject to the same pecuniary administrative sanction provided for by art. 83, par. 5 of the GDPR, which therefore applies to the present case.

The Guarantor, pursuant to articles 58, par. 2, lit. i) and 83 of the GDPR, as well as art. 166 of the Code, has the corrective 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, depending on the circumstances of every single case". In this framework, «the Board [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).

The aforementioned pecuniary administrative sanction imposed, according to 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 GDPR.

In this sense, the detected conduct in violation of the regulations on the protection of personal data concerned the dissemination of personal data not belonging to particular categories or to criminal convictions or crimes (articles 9 and 10 of the GDPR), referring to only two interested parties and lasted for a few days. Roma Capitale took quick action to obscure the personal data involved in this proceeding, mitigating the possible negative effects of the processing and collaborating with the Authority during the preliminary investigation. The conduct is culpable in nature and there are no relevant previous violations of the GDPR committed by the aforementioned entity. The fact that, as declared by the Municipality, it is an «accidental and isolated fact» and «apparently no damage to the person would appear to have been caused [...]» should be considered as further mitigating circumstances. Furthermore, it appears that the officials of the institution acted in good faith by applying a resolution of the municipal council which, although not compliant with the state regulations on the notification of documents,

they could not disapply independently.

Based on the aforementioned elements, evaluated 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, in the amount of 10,000.00 (ten thousand) euros for the violation of articles 5, par. 1, lit. a) and c); 6, par. 1, lit. c) and e), par. 2 and par. 3, letter. b) of the GDPR; as well as of the art. 2-ter, paragraphs 1 and 3, of the Code, as a pecuniary administrative sanction deemed effective, proportionate and particularly dissuasive with respect to the disputed conduct, pursuant to art. 83, par. 1, of the same GDPR.

In relation to the specific circumstances of the present case, relating to the dissemination of personal data on the web in the absence of an appropriate regulatory basis, it is also believed that the ancillary sanction of the publication of this provision on the website of the Guarantor must be applied, provided for by art. 166, paragraph 7, of the Code and by art. 16, paragraph 1, of the Guarantor Regulation n. 1/2019.

It is also recalled that the art. 58, par. 2, lit. d), of the RGPD provides that the Guarantor has the corrective power to "order the data controller or the data processor to comply with the provisions of this regulation, where appropriate, in a specific manner and within a specific period".

In this context, it is also deemed necessary to enjoin, pursuant to art. 58, par. 2, lit. d), of the RGPD, in Rome to bring the notifications of deeds towards homeless residents into line with the state sector legislation contained in articles 140 ff. of the c.p.c. (for the notification of judicial documents) and in art. 60 of the Presidential Decree no. 600 of 19/9/1973 (for the notification of tax deeds), which in no case provide for the integral publication of the deed to be notified.

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

ALL THIS CONSIDERING THE GUARANTOR

having detected the unlawfulness of the processing in the terms referred to in the justification, carried out by Roma Capitale, with registered office in Piazza Del Campidoglio, 1 - 00186 Rome (RM) – Tax Code 02438750586:

a) pursuant to art. 58, par. 2, lit. i) and 83 of the GDPR, as well as art. 166 of the Code, inflicts on Roma Capitale, as data controller, the pecuniary administrative sanction provided for by art. 83, par. 5, letter. a) of the aforementioned Regulation by ordering and simultaneously enjoining the aforementioned offender to pay the sum of 10,000.00 (ten thousand) euros, 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 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);

b) pursuant to art. 58, par. 2, lit. d), of the RGPD, enjoins Roma Capitale to bring the notifications of deeds against homeless residents into line with the state sector legislation contained in articles 140 ff. of the c.p.c. (for the notification of judicial documents) and in art. 60 of the Presidential Decree no. 600 of 19/9/1973 (for the notification of tax deeds), which in no case provide for the integral publication of the deed to be notified.

c) pursuant to art. 157 of the Code, requests Roma Capitale to communicate which initiatives have been undertaken in order to implement the provisions of the previous letter b) of this provision within thirty days of notification of the same;

d) pursuant to art. 17 of the Regulation of the Guarantor n. 1/2019, provides for 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.

Please note that failure to comply with the provisions of the previous letter b) is punished with the administrative sanction pursuant to art. 83, par. 6 of the GDPR. It should also be noted that failure to respond to the request, formulated pursuant to art. 157, referred to in the previous lett. c) is punished with the administrative sanction pursuant to art. 166, paragraph 2, of the Code

Pursuant to art. 78 of the GDPR, of the articles 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, 27 January 2021

PRESIDENT

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THE SPEAKER

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THE SECRETARY GENERAL

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