

[doc. web no. 9074879]

Injunction order against the Municipality of Buccino - 7 November 2018

Register of measures

no. 479 of 7 November 2018

THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

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

NOTING that the Office of the Guarantor for the protection of personal data (hereinafter the Guarantor), with note no. 15656 of 23 May 2018, defined the administrative procedure relating to a report, ascertaining that the Municipality of Buccino C. Fisc.:

82003670658, with registered office in Buccino (Sa), piazza Municipio n. 1, in the person of its pro-tempore legal

representative, disseminated personal data online on the institutional website <http://www.comune.buccino.sa.it> through the

publication of note no. 3645 of 23 May 2016, containing the "list of non-residents in Buccino - Cancellation of electoral lists", in

the absence of a suitable regulatory prerequisite in violation of art. 19, paragraph 3 of the Personal Data Protection Code

(Legislative Decree No. 196 of 30 June 2003 - hereinafter, the "Code"). This, also taking into account what was acquired in the

deeds in the context of the preliminary investigation and formalized in note no. 15656 of 23 May 2018 by the Department of

Public Freedom and Health of the Guarantor regarding the fact that (...) the state legislation on transparency (legislative

decree n. 33 of 24/3/2013) does not provide for the obligation of publications of the personal data object of the report (...)";

CONSIDERING the report n. 20683/103633 of 10 July 2018 with which the Office of the Guarantor contested the Municipality

of Buccino, in the person of the pro-tempore legal representative, the administrative violation envisaged by art. 162, paragraph

2-bis, of the Code, in relation to art. 19, paragraph 3, informing you of the right to make a reduced payment pursuant to art. 16

of the law n. 689/1981;

HAVING EXAMINED the report of the Guarantor's Office prepared pursuant to art. 17 of the law of 24 November 1981, n. 689,

from which the reduced payment does not appear to have been made;

CONSIDERING that the party does not appear to have made use of the faculties provided for by art. 18 of the law n. 689/1981

(by not presenting defense writings to the Authority or asking to be heard);

NOTING, therefore, that the Municipality of Buccino has disclosed personal data online on the institutional website

<http://www.comune.buccino.sa.it> through the publication of note no. 3645 of 23 May 2018, containing "the list of non-residents in Buccino - Cancellation of electoral lists", in the absence of a suitable regulatory prerequisite in violation of art. 19, paragraph 3 of the Code;

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. 19, paragraph 3, 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, in the case in question, the conditions for applying art. 164-bis, paragraph 1, of the Code which provides that if any of the violations referred to in art. 161, 162-ter, 163 and 164 is less serious, the minimum and maximum limits established in the same articles are applied in an amount equal to two fifths;

CONSIDERING that, for the purpose 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 performed by the agent to eliminate or mitigate the consequences of the violation, the seriousness of the violation, the personality and economic conditions of the offender;

CONSIDERED having to determine, pursuant to art. 11 of the law n. 689/1981, the amount of the fine for the violation of art. 162, paragraph 2-bis of the Code in conjunction with art. 164-bis, paragraph 1, in the amount of Euro 4,000.00 (four thousand);
HAVING REGARD to the law of 24 November 1981 n. 689, and subsequent modifications and additions; HAVING REGARD to the documentation in the deeds;

HAVING REGARD TO the observations of the Office, formulated by the general secretary pursuant to art. 15 of the Guarantor's regulation n. 1/2000;

SPEAKER by Prof. Licia Califano;

ORDER

to the Municipality of Buccino C. Fisc .: 82003670658, with registered office in Buccino (Sa), piazza Municipio n. 1, in the person of its pro-tempore legal representative, to pay the sum of 4,000.00 (four thousand) euros as an administrative fine for the violation of art. 162, paragraph 2-bis, indicated in the justification;

ENJOYS

to the same subject to pay the sum of 4,000.00 (four 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 of 24 November 1981, n. 689. Pursuant to articles 152 of the Code and 10 of Legislative Decree no. 150/2011, opposition to this provision may be lodged with the ordinary judicial authority, with an appeal lodged with the ordinary court of the place where the data controller has his residence, within the term of thirty days from the date of communication of the provision itself or sixty days if the appellant resides abroad.

Rome, 7 November 2018

PRESIDENT

Soro

THE SPEAKER

Califano

THE SECRETARY GENERAL

Busia