

Injunction order against the Institute of Higher Education C. - 31 January 2019

Register of measures

no. 36 of 31 January 2019

#### 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;

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;

NOTING that the Office of the Guarantor for the protection of personal data (hereinafter the Guarantor), with note no.

20433/126551 of 9 July 2018, ascertained, prior to 25 May 2018, the date of entry into force of the European Regulation

2016/679, that the Istituto di educazione Superiore C. fisc.: 97804430581, with headquarters in Rome, via C Emery No. 97, in

the person of its pro-tempore legal representative, has published on its institutional website the rankings concerning the

teaching staff, containing, among other things, data suitable for revealing the state of health of the interested parties, reporting

some alphabetic abbreviations including the letter "S" which, according to what is indicated in Annex 6 (preference codes) of

the Decree of the Ministry of Education, University and Research of 1 April 2014, n. 235, identifies the category of "invalid and

maimed civilians" (...)", thereby causing the dissemination of personal data of a sensitive nature, in violation of art. 22,

paragraph 8 of Legislative Decree 30 June 2003, no. 196 laying down the Personal Data Protection Code (hereinafter referred to as the Code);

CONSIDERING the report n. 26719/126551 of 13 September 2018 with which the Institute of Higher Education, in the person

of its pro-tempore legal representative, was challenged for the administrative violation envisaged by art. 162, paragraph 2-bis,

of the Code, in relation to art. 22, paragraph 8, regarding the dissemination of sensitive data of the interested parties, informing

them of the right to make the payment in a reduced amount 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 Institute of Higher Education has disclosed through its institutional website, by publishing the rankings concerning the teaching staff, personal data suitable for revealing the state of health of the interested parties in violation of art. 22, paragraph 8 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 the one referred to in art. 22, paragraph 8, 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;

WHEREAS, for the purposes of determining the amount of the fine, 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, the seriousness of the violation, the personality and economic conditions of the offender;

NOTING that the Institute, with a note dated May 15, 2018, declared that it had "already taken steps to remove" the disputed rankings from the institutional website in September 2017 and this happened before the report, received by the Guarantor on 23 October 2017, following which the investigation was launched;

also NOTING, as regards the seriousness of the conduct, that the unlawfulness of the processing is achieved only through an operation of combination between the letter "S" indicated in the ranking and the Decree of the Ministry of Education, University and Research of 1 April 2014, no. 235 which brings this letter back to the category of "civil invalids";

CONSIDERING, as regards the offender's personality and his economic conditions, that it is a public school which carries out important institutional activities in very modest economic conditions;

CONSIDERING that, for these reasons, the present case can be traced back, despite the particular nature of the data processed, to the hypothesis of lesser gravity referred to in article 164-bis, paragraph 1, of the Code and that therefore the amount of the pecuniary sanction must be quantified in the minimum amount of 4,000.00 (four thousand) euros;

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 Dr. Giovanna Bianchi Clerici;

ORDER

to the Institute of Higher Education C. fisc.: 97804430581, with headquarters in Rome, via C. Emery n. 97, in the person of the pro-tempore legal representative, to pay the sum of 4,000.00 (four thousand) euros as a pecuniary administrative sanction for the violation pursuant to art. of the 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 adopting 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, 31 January 2019

PRESIDENT

Soro

THE SPEAKER

Cleric Whites

THE SECRETARY GENERAL

Busia