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Provision of May 17, 2023

Register of measures

no. 197 of 17 May 2023

## THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

IN today's meeting, which was attended by prof. Pasquale Stazione, president, prof.ssa Ginevra Cerrina Feroni, vice president, dr. Agostino Ghiglia and the lawyer Guido Scorza, components, and dr. Claudio Filippi, deputy secretary general;

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 "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 circulation of such data and which repeals Directive 95/46/EC" (hereinafter the "Code");

HAVING REGARD TO Legislative Decree 10 August 2018, n. 101 containing "Provisions for the adaptation of national legislation to the provisions of regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016, concerning the protection of individuals with regard to the processing of personal data, as well as the free circulation of such data and repealing Directive 95/46/EC";

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.gdpd.it](http://www.gdpd.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 deputy secretary general 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;

Supervisor Prof. Geneva Cerrina Feroni;

## WHEREAS

### 1. Complaints and notification of data breach

With notes received in the 20th century, some patients formulated a complaint against the ULSS 6 Euganea Company (hereinafter the "Company"), complaining that they had received a communication addressed to them, but containing documentation bearing the "Certificate of exemption from participation in health care for income reasons issued by the Veneto Region – Local Health Authority n. 6 Euganea in implementation of the d.m. 11/12/2009" concerning a third person.

With a note of the XX, subsequently integrated on the XX date, the Company notified the Authority of a violation of personal data, pursuant to art. 33 of the Regulation, in which he declared that:

- "the Ministry of Economy and Finance (MEF) communicates to the Veneto Region (RV) the lists of entitled subjects. The Veneto Region produces the relevant exemption certificates and, through Azienda Zero (regional governance body) makes the documents available to the ULSS companies in the Veneto region which distribute them to interested parties";
- "AULSS 6 Euganea is therefore the instrumental recipient of the metadata (data related to the patient relating to his/her exemption) and the data controller of the personal data and contact data of the patients for the distribution of the exemption certificate according to the following proximity logics: - mass available for a counter service at the AULSS Health District; - home delivery of the certificate by ordinary mail. In order to contain the curve of infections from COVID-19, having taken note of the instructions received from Azienda Zero il XX and taking into account the age group of the subjects involved (under 6 years old and over 65 years old, the latter in particular less skilled in managing of a certificate in digital mode) AULSS 6 also confirms for the XX the massive sending of certificates to the residence of the interested parties. Sending this large number of certificates to interested parties at home is therefore an act that the Company deems necessary both to protect the proximity interests of its clients and to limit the opportunities for gatherings in health facilities (district branches). and contain the curve of infections from Covid-19. The processing process is entered in the Data Controller's processing register under the heading "Distribution of exemption certificates by economic condition" which indicates a "medium" residual risk based on the number of potentially involved data subjects and processing activities from the CSV format provided by Azienda Zero to Postel's CSV format which, however, strictly requires a different setting from that provided by Azienda Zero";
- "the procedure for forwarding the exemption certificates requires that a conformity check be carried out on the processing

output before confirming its sending, as indicated in the technical report produced by the UOSD Sistemi Informativi of the AULSS 6 Euganea. The corporate information system is preserved to date with a series of security measures that protect the corporate perimeter with updated and suitable latest generation tools”;

- 39852 interested parties;

- the data involved in the violation are “Personal data (name, surname, municipality and date of birth, tax code); income exemption code (7R2)”;

- “the level of the potential impact has been assessed taking into account that: - these are data relating to a single data subject disclosed only to another subject; - these are subjects who are all entitled to the same exemption; - the communication sent to a single subject other than the recipient does not contain particular data and does not indicate the income in detail, but only the belonging to the macro-category of users falling within the 7R2 exemption band (under 6 years, over 65 years with an income of less than 36,151.98 euros)”;

- “following a re-evaluation of the case, with the collaboration of the XX who contributed to the analysis of the process, again using the Enisa recommendations of December 2013, but re-evaluating the multipliers used, the calculation for the severity assessment is reported ( $SE = DPCXE1 + CB$ : ( $DPC=1$ ,  $EI=0,5$   $CB=0,25$ ) therefore  $SE = (1 \times 0,5) + 0,25 = 0,75$ ”;

- what technical and organizational measures adopted following the violation: “Temporary block for the review of all company processes that involve the massive sending of communications to the interested parties in order to identify possible alternative ways of sending them and the simultaneous review of the control methods ”; “Suspension of this procedure for maximum sending of certificates to interested parties should the covid restrictions persist for next year and the risks associated with the increase in the contagion curve, the process will be completely revised together with Azienda Zero, the Veneto Region and Postel with regard to the CSV formats supplied, used and to be delivered”;

- the violation was not communicated directly to the interested parties because it was deemed “not (...) likely to present a high risk to the rights and freedoms of natural persons”.

A technical report was also attached, aimed at “illustrating the methods of processing and sending communications to the clients of the exemption certification due to economic condition envisaged by the legislation in force”. From the aforesaid document it appears that the data processing process for sending the exemption certificates “is part of a broader processing process (...) which provides for the generation of lists of subjects entitled to exemption by the MEF ( ...). The lists are sent to

the Veneto Region which processes the exemption certificates and makes them available on the regional portal (Portale Sanità Regione del Veneto) and through Azienda Zero to the Healthcare Companies for distribution to patients. The activity referred to in the aforementioned process is entrusted to an authorized data processor, an operator of the UOSD Sistemi Informativi, with many years of experience in the processing of large databases (such as the Regional Health Registry). The activity in question consists in preparing a communication to the patients of the AUSLL n. 6 "Euganea" to give them evidence of the certification of exemption for economic condition provided for by the legislation in force: 1) age and income: cod. 7R2 (...); 2) age and social allowance: cod. 7R4 (...); 3) age, minimum pension and income: cod. 7R5. The communication consists of a transmission letter addressed to the patient and the relevant nominal exemption certificate. The communication is made through the Postel service by attaching the text of the letter as a template and the list of names. The Postel service provides for the packaging of paper letters. The files necessary for processing the data of the three exemptions are all of the CSV type (with semicolon separator) and are prepared by Azienda Zero and acquired by the AUSL operator n. 6 through the regional portal called "Flow portal". For each exemption, the operator performed the following operations as per practice for years: 1) downloaded the CSV file from the regional portal called "Flow Portal" on the operator's workstation; 2) open the CSV file using the MS Excel application; 3) eliminated from the dataset in MS Excel the columns not foreseen by the Postel format; 4) replaced the description of the field "Assisted belonging district" with a different denomination in order to give evidence of the address of the sender district, using the MS Excel "Replace" function 5 times, once for each of the 5 corporate districts (... ); 5) saved what was previously processed in the same CSV format file; 6) uploaded the resulting file together with the template in the Postel platform; 7) the Postel platform offers the operator a preview of the communication relating to the first line of the dataset, no anomalies in the layout have been observed; 8) confirmed sending on the Postel platform".

In the same document it was also specified that "the choice of using Ms Excel was evaluated as the only tool that allows for less manual reprocessing of the database from the CSV download with the regional portal and conversion into different CSV formats of Postel. For this reason, this company did not opt for a different software which could have involved more manual operations, exponentially increasing the risk of errors. The same operations were performed for the datasets relating to exemption codes 7R2, 7R4 and 7R5. Finally, the operator sent a copy of the datasets and previews of each first row of each dataset to the company contacts involved in the sending. For the dataset relating to the 7R2 type exemption, the outcome of the processing which generated the file for Postel produced a misalignment between the personal data of the destination

master data and the personal data relating to the exemption certificate for all lines of the datasets except for the first two. For the datasets relating to the 7R4 and 7R5 type exemption, the personal data of the destination master data and the personal data relating to these exemption certificates of the client are correct for all rows".

## 2. Assessments of the Department on the treatment carried out and notification of the violation pursuant to art. 166, paragraph 5 of the Code

In relation to the facts described in the complaints and in the notification of violation, the Office, with a note dated XX (prot. n. XX), notified the Company, pursuant to art. 166, paragraph 5, of the Code, the initiation of the procedure for the adoption of the provisions pursuant to art. 58, par. 2, of the Regulation, inviting you to produce defense writings or documents to the Guarantor or to ask to be heard by the Authority (art. 166, paragraphs 6 and 7, of the Code; as well as art. 18, paragraph 1, of law n. 689 of the 11/24/1981). This, as it was considered that the same Company, by communicating personal data to third parties in the absence of a suitable legal prerequisite, had carried out a treatment of health data in violation of the principles of accuracy, integrity and confidentiality (art. 5 par. 1, letters d) and f) of the Regulation), of the basic principles of the treatment pursuant to art. 6 Regulation and safety obligations pursuant to art. 32 of the Regulation.

With a note dated XX, the Company sent its defense briefs, in which, in particular, it highlighted that:

- "with communication of the XX, Azienda Zero signaled to the Company that "in order to avoid excessive turnout at the branches it is IMPORTANT that the ULSS Companies inform as soon as possible, in the manner they deem most appropriate, users with expiring certificates" of a series of organizational procedures necessary to obtain the exemption certificate. To this end, Azienda Zero specified that "the certificates will be made available to the ULSS companies that request them in the Single Regional Health Registry in the .pdf format or in order to make the distribution more functional and effective also in other requested formats. The distribution is the responsibility of the Local Health Authority which will use the methods it deems most appropriate";

- "following receipt of the aforementioned communication from Azienda Zero and taking into account the critical issues connected with the increase in the curve of Covid-19 infections for the citizens under the responsibility of the Company, (...), also for the year 2022 the Company confirmed the additional method of making the exemption certificate available to the patient by sending it by ordinary mail. This shipping method was adopted in order to avert and avoid possible gatherings at the health counters of the Company district, thus helping to contain the curve of infections from Covid-19";

- "with reference to the certificates subject to the "7R2" data breach, it should be noted that the same refer to data subjects under the age of 6 or over 65, or the categories most exposed and threatened, for various reasons, by the infection from the Covid-19 virus";
- "these categories of interested parties, in particular those over the age of 65, are (..) potentially less skilled in interacting with the regional portal and, despite the information communications on the point, perceive health care as a matter attributable to the Company rather than the region. For this reason, the possible turnout at the counters of the health districts alarmed the Company in relation to the increase in possible infections from Covid-19 (...), also in consideration of the quota on the opening hours of the counters";
- "the use of the regional portal presupposes, in addition to interaction with the platform, also the possibility for the citizen to print the certificate. As known, the printing of the certificate requires the availability of a printer, an eventuality that is not widespread in individuals over the age of sixty-five and in younger families or in any case recently arrived in Italy, since it is an instrumental asset not considered essential";
- "the sending of the exemption certificate to citizens, in any case, consisted of a communication including a transmission letter addressed to the client and the nominal exemption certificate. This communication to the clients was carried out through the Postel service, attaching the text of the letter prepared as a template and the list of names";
- "in particular, for sending the communication in question: the Company made use of the experience and expertise of an authorized data processor, operator of the UOSD Sistemi Informativi, expert in the processing of large databases, who for each exemption performed the operations analytically indicated in the documents produced (...), as per the declaration of the same which is produced together with your CV and the list of professional refresher courses (...);
- "the Postel service provided for the packaging of the paper communication on the basis of the letter prepared as a template and the list of names of the interested parties uploaded on the platform";
- "the treatment process for the massive sending of certificates to the clients implied, as per the documentation produced under doc. 1, 2 and 5, the use of Microsoft Excel software. In particular, following the download from the regional portal called "Flow Portal", the file in CSV format was opened by the authorized person using the Microsoft Excel application, in order to adapt it to the CSV format provided by Postel. Once the adjustment was complete, the processed document was uploaded to the Postel platform";

- "in the present case, the outcome of the processing that generated the file for Postel produced a misalignment between the personal data of the destination registry and the personal data relating to the exemption certificate for all rows of the dataset with the exception of first two. This misalignment, the cause of the data breach, given what was declared by the operator sub doc. 5, does not appear to be caused by an operating error of the same, but seems to be attributable to a random and unpredictable malfunction of the software";

- "the procedure relating to the massive sending of the communications in question and the related risk assessment are (...) compliant with the principle of accountability and, more generally, with the principles governing the matter of personal data protection. As already specified in the notification of the data breach, the assessment of the (medium) residual risk of this treatment process is connected to the number of interested parties potentially involved in the treatment and to the processing activity from the CSV format provided by Azienda Zero to the CSV format by Postel, which strictly provides for a different setting (in terms of file layout) from that provided by Azienda Zero";

- "precisely in order to contain the aforementioned risk, it was decided to use Microsoft Excel for the reasons of greater guarantees that this software offers compared to other programs that allow the processing of files in CSV format, which, it should be remembered, is the extension of the document downloaded from the regional portal, managed by Azienda Zero, and of the document requested by the Postel supplier for sending the certificates";

- "Microsoft Excel, in fact, is the only tool that allows minimal manual reworking of the database from the CSV format provided by Azienda Zero to Postel's CSV format. A different software would have involved more manual operations, exponentially increasing the risk of data breach. But there is more. The use of other software even from the same Microsoft suite such as, for example, Access had been rejected because, unlike Microsoft Excel, specific critical issues had been encountered by Microsoft itself during the importing of CSV format files (... )";

- "on the other hand, it should be noted that the processing carried out by the Company does not exceed the correct management parameters provided for Excel by the application manufacturer; in fact, Microsoft indicates the limits beyond which known risks and problems arise and as such predictable in a risk-based analysis (...). These processing parameters, it is reiterated, had been correctly respected by the Company. The Company had also envisaged control mechanisms on the output of the processing before confirming the sending. The latter envisaged a check on the Postel platform of the preview of the transmission letter generated, which the operator carried out in order to evaluate any possible misalignments. No findings

of anomalies in the data emerged from this verification";

- "it follows that given the declarations i) of the person authorized to process that she has regularly performed the processing activities and ii) of Microsoft which does not reveal possible problems at the processing levels implemented by the Company, the problem subject to the data breach in question remains attributable to a non-recurring random error of the Microsoft Excel program which therefore excludes the extremes of willful and negligent guilt (even in the slightest and possible form) on the part of the Company";

- "from the statements made and the documentation produced, the Company, pursuant to art. 5 par. 2 and Recital 74 of the Regulation, has given clear evidence that it has weighed up and adopted adequate and effective measures, taking into account the nature, scope, context and purposes of the processing as well as the risk for the rights and freedoms for the natural persons concerned";

- "the operating methods implemented by the authorized (...), together with the choice of Microsoft Excel as the software which implies the least number of treatments by the operator involved, with consequent exclusion of other software, and use of the same within the correct parameters declared by Microsoft as well as the controls put in place on the previews of documents on the Postel platform, must be considered procedures capable of guaranteeing the accuracy, updating, confidentiality and integrity of the data processed. It follows that not even the consequent treatment in violation of the legal basis of the art. 6 of the Regulation can be attributed to the Company";

- "the analysis of the process, aimed at identifying and adopting the appropriate organizational technical measures aimed at ensuring the protection of the rights and freedoms of the interested parties, must take place according to the logic of accountability and on the basis of the knowledge and resources of the Data Controller. In this context, however, both the type of activity and professionalism carried out by the same (healthcare activities) and the technological and organizational choices to which the Company is subject are relevant, due to the decision by the Veneto Region to attribute the IT and structures for all territorial administrations to Azienda Zero, which in this case makes the data and technologies available for their processing and distribution. It will not be overlooked how this choice if, on the one hand, it implies the efficiency of the administrative action, on the other, being implemented in order to rationalize and contain administrative costs, it reduces the economic resources to be dedicated to these additional activities";

- "the level of the potential impact for the interested parties must be considered "low", in the light of the following factors:



- i) the data of a subject have been disclosed to only one different subject;
- ii) the data subjects involved belong to the same bracket of clients entitled to tax exemption;
- iii) the communication sent to a single subject other than the recipient does not contain particular data nor does it present specific and detailed references relating to income, indicating only the belonging to the macro-category of users falling within the 7R2 exemption band, i.e. children under 6 years old, over 65 years of age with household income of less than 36,151.98 Euros. It should be noted that from the public statistics made available on the website of the Ministry of Economy and Finance it emerges that, in the year 2021, 187% of Italian taxpayers declared a total income of up to 35,000 euros (...) and that the average net income per nucleus family income in the north-east of the country amounted to 36,418 euros for 2021 (source: <https://www.istat.it/it/files//2022/10/Condizioni-di-vita-e-redditodelle-famiglie-2020-2021.pdf>). This income bracket is not an indication of the poverty threshold, but constitutes the average income of the majority of the population residing in the north-east";
- "although the number of interested parties involved in the data breach is equal to 39,852, however this number must be related to the total number of citizens pertaining to the Company, equal to the population of 101 municipalities in the province of Padua, i.e. approximately 936,000 inhabitants. It therefore follows that the data breach concerned only a minimal percentage of the clients";
- "on the XX date, the Company proceeded to send the correct exemption certificate to the clients involved in the data breach by ordinary mail, asking them to destroy the previous one received";
- "the Company carried out a careful weighing with respect to the identification and implementation of an alternative solution to the one previously implemented and subject to the data breach, also taking into account a more contained situation of the infections from Covid-19. These assessments led to the decision not to proceed for 2023 with the massive sending of exemption certificates to the population. In particular, in order to overcome the problems of interaction by citizens with the regional portal, taking advantage of the digital education process underway, the Company has decided to set up a new platform attributable to it (...). Within the platform, among the various documents, the 7R2 exemption certificate may be requested, which will be downloaded independently by the interested parties, without the need for manual processing by the Company and the use of applications for data processing by of the operators. Through the new portal, the assisted person will be able to receive the exemption certificate in digital format in order to show it to those subjects who will need to verify the

existence of the right to exemption";

- "to lead citizens in time to greater digital awareness and verify their use of the platform itself, this procedure was already made operational at the beginning of the month of XX (5 months in advance of the need for citizens to obtain the exemption certificate). This platform was also the subject of an award from Lean Healthcare (...);

- "the Company has also: i) continued the important restructuring of the individual roles involved in the internal treatment processes; ii) proceeded to provide highly specialized internal training on the processing of personal data, organized by the XX and with an excellent teaching staff; ii) carried out the review and implementation of the technical and organizational measures regarding the processing of personal data and IT security. It has therefore placed data processing activities at the center of important maneuvers and investments, thus proving the high degree of cooperation with the Guarantor Authority in order to protect the interested parties".

The hearing requested by the Company was held on 12 December, in which what had already been argued in the defense briefs was substantially reiterated, with the following statements:

- "the methods of shipping by sending to the home of the assisted were adopted in order to avert and avoid specific gatherings at the Company's counters, in order to contain the curve of infections from Covid-19 already high in that period. This decision was taken taking into account the communication from Azienda Zero in which the companies were invited to avoid excessive turnout at the counters, leaving the distribution to be the responsibility of the ULSS company which could have identified the most appropriate methods; this, taking into account the type of users, categories most exposed and threatened by the virus (subjects under the age of 6 and over 65), moreover less skilled in interacting with the regional portal, since, despite the information communications received on this point, they perceive healthcare as a matter attributable to the Company rather than to the Region";

- "in confirmation of the above, in fact, after the data breach and in particular, on 22 April, the Company proceeded by means of a press release published on the website (...) to recall that the exemption certificates can be downloaded directly by the user by connecting to the regional secure portal (<https://salute.regione.veneto.it/web/guest/servizi/esenzioni>) and again in order to avoid gatherings at the counters, on the XX date, he proceeded to return the certificate requesting the deletion of the one erroneously sent previously";

- "once Postel was identified as the subject for distribution as a leader in the mass sending of communications, which

envisaged the CSV format as the data acquisition format, the choices relating to the software to be used were limited; nevertheless, in the logic of accountability and privacy by design, Azienda Zero was asked for the CSV file version (preset by Azienda Zero) which would have required less reworking and no transformation, a requirement satisfied in the best possible way by Microsoft Excel, by performing a risk based assessment as described in the defense brief; therefore, before the data breach, no element had made the need for alternative forms of processing to be assessed";

- "taking into account the declaration made by the operator, relating to having correctly proceeded according to the steps indicated, and considering her experience and professionalism in the management of complex and numerous databases, it remains only to consider the misalignment as attributable to a non-recursive random error (given the declarations of Microsoft itself reported in documents), not evaluable prior to treatment";

- "it should also be noted that the Company continues to demonstrate its great commitment to the implementation of data protection principles, having, despite the period, not hesitated to continue the important restructuring of the subjective roles in internal processes, to provide a highly specialized internal training organized by the XX and to carry out the review and implementation of the technical and organizational and IT security measures by investing large resources, constituting the protection of the data of the interested parties an absolute priority for the Company";

- "in confirmation of the above, it should be noted that the Company promptly took steps to define a different, always proximal distribution method (considering the perception of healthcare users described above), promptly activating a company portal where, March, the same certificates may also be downloaded in digital format; the Company will proceed to provide tutorials and information to users about the opportunity and possibility of not printing the certificate and using it in digital format, upon presentation at the counters of the requesting structures; thus blocking the home delivery of the documents in question for the next few years".

The aforementioned press release published on the Company's website was also sent at this time.

### 3. Outcome of the preliminary investigation

Having taken note of what is represented by the Company in the documentation in the deeds and in the defense briefs, it is noted that:

1. the Regulation provides that the processing of personal data is lawful only if and to the extent that one of the conditions provided for by art. 6 of the Regulation. Where personal data are processed for the execution of a task of public interest or

connected to the exercise of public powers, to subjects who intend to process them for other purposes, their communication is permitted if provided for by a law or regulation or by general administrative deeds (art. 2-ter, paragraphs 1 and 3 of the Code);

2. the data controller is required to comply with the principles of data protection, including that of "accuracy", according to which "all reasonable measures must be taken to promptly cancel or correct inaccurate data with respect to the purposes for which they have been processed" (Article 5, paragraph 1, letter d) of the Regulation) and that of "integrity and confidentiality", according to which personal data must be "processed in such a way as to guarantee adequate security (...), including protection, through appropriate technical and organizational measures, from unauthorized or unlawful processing and from accidental loss, destruction or damage" (Article 5, paragraph 1, letter f) of the Regulation);

3. regarding the security of the treatment, the art. 32 of the Regulation, establishes that "taking into account the state of the art and implementation costs, as well as the nature, object, context and purposes of the processing, as well as the risk of varying probability and severity for the rights and freedom of natural persons, the data controller and the data processor implement adequate technical and organizational measures to ensure a level of security appropriate to the risk [...]" (par. 1) and that "in assessing the appropriate level of security, particular account is taken of the risks presented by the processing which derive in particular from the accidental or illegal destruction, loss, modification, unauthorized disclosure or access to personal data transmitted, stored or otherwise processed" (par. 2).

#### 4. Conclusions

In the light of the assessments referred to above, taking into account the statements made by the data controller during the preliminary investigation ☐ and considering that, unless the fact constitutes a more serious crime, anyone who, in a proceeding before the Guarantor, falsely declares or certifies or circumstances or produces false deeds or documents, it is liable pursuant to art. 168 of the Code "False statements to the Guarantor and interruption of the execution of the duties or the exercise of the powers of the Guarantor" ☐ it is represented that the elements provided by the Company in the notification of violation, in the defense briefs and during the hearing do not make it possible to overcome the findings notified by the Office with the aforementioned act of initiation of the procedure, since none of the cases provided for by art. 11 of the Regulation of the Guarantor n. 1/2019.

For these reasons, the illegality of the processing of personal data carried out by the ULSS 6 Euganea Company is noted, in the terms set out in the justification, in particular, for having processed personal data in violation of the basic principles of the

treatment referred to in articles 5 and 6 of the Regulation as well as the safety obligations pursuant to art. 32 of the Regulation. In this context, considering that the Company has sent the correct exemption certificate to the clients involved by ordinary mail, asking them to destroy the previous one received, the conditions for adopting the 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 violation of the articles 5, 6 and 32 of the Regulation is subject to the application of the administrative fine pursuant to art. 83, par. 4 and 5, of the Regulation. It should be considered that 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).

The aforementioned pecuniary administrative sanction imposed, depending on the circumstances of each individual case, must be determined in the amount taking into account the principles of effectiveness, proportionality and dissuasiveness, indicated in art. 83, par. 1, of the Regulation, in the light of the elements provided for in art. 83, par. 2, of the Regulation, in relation to which it is noted that:

- the Company has demonstrated a high degree of cooperation during the preliminary and procedural phase and has not committed any previous relevant violations;
- the processing involved a very large number of data subjects and involved the communication of the data of a data subject to a single different subject;
- the violation was not caused by intentional attitudes of the owner and the choice to proceed with the massive sending of the exemption certificates to the clients' homes, not reconfirmed for the year 2023, was assumed, in the emergency context of the Covid pandemic -19, in order to avoid access to the population and thus avoid gatherings at the Company's counters.

Based on the aforementioned elements, evaluated as a whole, it is decided to determine the amount of the pecuniary sanction

provided for by art. 83, par. 4 and 5 of the Regulation, to the extent of 10,000.00 (ten thousand) euros for the violation of articles 5, 6 and 32 of the Regulation, as a pecuniary administrative sanction withheld, pursuant to art. 83, par. 1, of the Regulation, effective, proportionate and dissuasive.

It is also believed that the ancillary sanction of publication on the Guarantor's website of this provision should be applied, provided for by art. 166, paragraph 7 of the Code and art. 16 of the Regulation of the Guarantor n. 1/2019, also in consideration of the high number of interested parties involved in the unlawful processing.

Finally, it should be noted that the conditions pursuant to 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

declares the unlawfulness of the processing of personal data carried out by the ULSS n. 6 Euganea, with registered office in Padua, Via Enrico degli Scrovegni, n. 14 – 35131 - Tax code/VAT number 00349050286, for the violation of the basic principles of the treatment, pursuant to articles 5 and 6 of the Regulation as well as the safety obligations pursuant to art. 32 of the Regulation, in the terms referred to in the justification;

ORDER

pursuant to articles 58, par. 2, lit. i) and 83 of the Regulation, as well as art. 166 of the Code, to the aforementioned Local Health Authority n. 6 Euganea, to pay the sum of 10,000.00 (ten thousand) euros as an administrative fine for the violation indicated in this provision; it is represented that the offender, pursuant to art. 166, paragraph 8, of the Code, has the right to settle the dispute by paying, within 30 days, an amount equal to half of the fine imposed;

ENJOYS

to the aforementioned Company, in the event of failure to settle the dispute pursuant to art. 166, paragraph 8, of the Code, to pay the sum of Euro 10,000.00 (ten 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 n. 689/1981.

HAS

pursuant to art. 166, paragraph 7, of the Code, the entire publication of this provision on the website of the Guarantor and believes 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.

Pursuant to art. 78 of the Regulation, 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, 17 May 2023

PRESIDENT

Station

THE SPEAKER

Cerrina Feroni

THE DEPUTY SECRETARY GENERAL

Philippi