

Order injunction against Car City Club s.r.l. - February 1, 2018

Record of measures

n. 57 of 1 February 2018

THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

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

NOTING that the Privacy Unit of the Guardia di Finanza, in execution of the request for information no. 125/102969 of 7 January 2016, formulated pursuant to art. 157 of Legislative Decree 30 June 2003, n. 196, containing the Code regarding the protection of personal data (hereinafter the "Code"), carried out the investigations at Car City Club s.r.l., now in liquidation, with registered office in Turin, Corso F. Turati n. 19/6, P.I. 08302530012, formalized in the minutes of operations carried out on 27 and 28 January 2016, aimed at verifying compliance with the legislation on the protection of personal data;

GIVEN the documents relating to the investigations carried out at the company's headquarters and the note sent on 9 February 2016, to dissolve the reservations formulated during the inspection, which showed that Car City Club s.r.l., as data controller pursuant to art. 4 and 28 of the Code, has not made the designations of data processors for its employees, pursuant to art. 30 of the Code;

CONSIDERING that the failure to designate the persons in charge of the processing constitutes an indispensable prerequisite for the application of the minimum security measures pursuant to art. 33 and ss. of the Code;

GIVEN the minutes n. 9 of 18 February 2016, which is referred to here in full, with which Car City Club s.r.l. in liquidation, in the person of the pro-tempore legal representative, the administrative violation provided for by art. 162, paragraph 2-bis, in relation to art. 33 of the Code, for which no short definition is envisaged pursuant to art. 16 of the law of 24 November 1981 n. 689;

NOTING that the transgressor has not made use of the faculties provided for by art. 18 of the law of 24 November 1981 n. 689 (not sending defensive writings and documents to the Authority or asking to be heard);

NOTING that Car City Club s.r.l. in liquidation has carried out a processing of personal data (art. 4 paragraph 1, lett. a) and b) of the Code), failing to adopt the minimum security measures pursuant to art. 33 of the Code;

GIVEN art. 162, paragraph 2-bis, of the Code which punishes the violation of the provisions indicated in art. 33 of the Code

with the administrative sanction of the payment of a sum from ten thousand euros to one hundred twenty thousand euros;

CONSIDERING that, for the purposes 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 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;

CONSIDERING that, in the case in question:

- a) with regard to the aspect of gravity with reference to the elements of the extent of the injury or danger and the intensity of the psychological element, the alleged violation concerns the failure to designate the persons in charge of the processing which constitutes an indispensable prerequisite for the application of minimum security measures;
- b) for the purposes of evaluating the work carried out by the agent, it must be noted that the company has not provided any information regarding the carrying out of the previously omitted designations;
- c) regarding the personality of the perpetrator of the violation, it must be considered that the company, in the context of the same investigation, was the recipient of other administrative sanctions;
- d) with regard to the economic conditions of the agent, it is stated that the company is in liquidation;

HAVING REGARD to the documentation on file;

GIVEN the law of 24 November 1981 n. 689, and subsequent amendments and additions;

GIVEN the observations of the Office, formulated by the Secretary General pursuant to art. 15 of the regulation of the Guarantor n. 1/2000;

Rapporteur Dr. Giovanna Bianchi Clerici;

ORDER

to Car City Club s.r.l. in liquidation with registered office in Turin, Corso F. Turati n. 19/6, P.I. 08302530012, in the person of the pro-tempore legal representative, to pay the sum of € 20,000.00 (twenty thousand) as a pecuniary administrative sanction for the violation pursuant to art. 162, paragraph 2-bis, as indicated in the motivation;

INJUNCES

to the same company to pay the sum of € 20,000.00 (twenty thousand), according to the methods indicated in the annex, within 30 days from the 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 art. 152 of the Code and 10 of Legislative Decree no. 150/2011, against this provision, opposition may be proposed to the ordinary judicial authority, with an appeal filed with the ordinary court of the place where the data controller resides, within thirty days from the date of communication of the provision itself. , or sixty days if the applicant resides abroad.

Rome, 1st February 2018

PRESIDENT

Soro

THE RAPPORTEUR

Bianchi Clerici

THE SECRETARY GENERAL

Busia