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Injunction against Burgo Group S.p.A. - July 9, 2020

Register of measures

no. 145 of 9 July 2020

THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

IN today's meeting, which was attended by Dr. Antonello Soro, president, Dr. Giovanna Bianchi Clerici and Prof. Licia Califano, members, and Dr. Giuseppe Busia, general secretary;

HAVING REGARD TO Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (hereinafter, the "Regulation");

HAVING REGARD TO the Code regarding the protection of personal data, containing provisions for the adaptation of the national legal system to Regulation (EU) 2016/679 (legislative decree 30 June 2003, n. 196, as amended by legislative decree 10 August 2018, n. 101, hereinafter "Code");

HAVING REGARD to the "Guidelines for e-mail and the Internet", adopted with provision no. 13 of 1 March 2007 (published in the Official Journal of 10 March 2007, n. 58);

HAVING REGARD to the complaint presented to the Guarantor pursuant to article 77 of Regulation da XX concerning the processing of personal data relating to the interested party carried out by Burgo Group S.p.A.;

HAVING EXAMINED the documentation in the deeds;

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

SPEAKER Dr. Giovanna Bianchi Clerici;

WHEREAS

1. The complaint against the company and the preliminary investigation.

1.1 With a complaint dated 1 August 2018, presented pursuant to art. 77 of the Regulation against Burgo Group S.p.A. (hereinafter, the company), Mr. XX (represented and defended by lawyers XX, XX and XX) asked the Authority to order a ban on the processing of personal data contained in the company account (XX), access to which would be been inhibited for the complainant and allowed for other personnel of the company (see pp. 7 and following of the complaint). With the complaint, it

was also complained that on November 3, 2017, the personnel director communicated (by forwarding) to four subjects (in force at XX) a conversation that took place via email between the complainant and the manager of sector XX of the company containing "information relating to [...] the condition of physical and mental discomfort in the workplace" referring to the complainant, as well as "expressions of serious ridicule and public derision") (see pp. 16-19 of the complaint). In particular, in response to an email from the complainant sent on 11/01/2017 (for information to another colleague, qualified as XX belonging to the complainant), containing a "request for explanations" on the assignment of tasks deemed inferior to those performed previously, the XX, Dr. XX, copying four colleagues and forwarding the previous correspondence with the complainant, provided a response to the request using expressions disputed by the complainant XX"; v. cited complaint, Annex 26). Furthermore, the mobile user in use "for many years" and registered "in conjunction with the worker's name on the company portal" would have been blocked (see pp. 14-15 of the complaint).

The complaint also complained of the unsuitable response provided by the company (with a letter dated 13 July 2018) to the request for access and opposition to the processing (and simultaneous cancellation) concerning the data relating to the complainant's state of health processed on the occasion of a judicial proceeding concluded with an order of the Court of Vicenza of 31 March 2018 at the request of the complainant himself (see pp. 20-27 of the complaint). In relation to the above grievances with the complaint, the Authority was also asked to order "the blocking and prohibition of the processing of data [...] relating to the personal condition and working position as well as the state of physical and mental health" of the complainant ; "the delivery and transmission in an intelligible form of the personal correspondence present in the [company] account and of the personal files contained therein" as well as to "immediately communicate the access credentials to the mailbox [...] since these credentials have been changed at without the knowledge of the employee" (see pp. 27 - 28 of the complaint).

A copy of the ordinance of 31 March 2018 of the Ordinary Court of Vicenza, labor section, was also attached to the complaint, which, in ruling on the appeal brought by the complainant against the company for demotion, considered (in the precautionary phase) to be "significant ” of “marginalization” of the claimant the “not commendable answer – moreover offered to the knowledge of the appellant's colleagues – given by the director of personnel [...] to the appellant who asked for explanations about the new duties assigned to him [...]; response characterized by ridicule and derision to the detriment of the appellant [...]". Furthermore, "a second index [...] is the appellant's exclusion from the possibility of accessing company e-mail which, in fact, necessarily implied his exclusion from the working group - the XX - to which he belongs" (see Annex 2 of the complaint).

1.2. The company, in response to the request for elements (dated 10.09.2018) formulated by the Office, with a note dated 11.16.2018 stated that:

to. the company has adopted a "Regulation for the use of corporate IT systems", dated 25.1.2017, made known to all employees, including the complainant; currently "an updated version of the Regulation is being drafted" (note 16.11.2018, p. 2-4);

b. for network access, each user is assigned authentication credentials consisting of an identification code and a password which must be changed every 90 days; in case of failure to change the terms "access to the domain is inhibited [...] until the intervention of the qualified technician" (note cit., p. 7);

c. with reference to the company account assigned to the complainant "there was no access to this mailbox and [...] no data was taken from this mailbox [...]" (note cit., p. 8);

d. the company has carried out "the mere deactivation of the company e-mail box for the period of illness, without carrying out any further processing of the employee's data", this as a "consequence of the normal and systematic application of the security policies, fully compliant with the Technical Regulations " (note cit., p. 8);

And. "the only personal data of the complainant relating to the use of the e-mail system [is] the address of the mailbox granted for use [...] as a consequence of the fact that [...] this mailbox is used exclusively for carrying out work activities" (note cit., p. 8);

f. "the complainant has not carried out work since 5 November 2017, except for an interruption from 8 to 10, as a result of his state of illness. On 13 November, the complainant was again placed on sick leave for 10 days, then continued for a further 10 days from 23 November. Consequently, on 26 November, in consideration of the period of illness, and according to standard security procedures, the complainant's network account is deactivated, as a normal company security policy which provides for its reactivation when activities resume work" (note cit., p. 8-9);

g. “the complainant changed the network domain access password for the last time on September 7, 2017; the period of validity of the password therefore ended on 6 December 2017" (cited note, p. 10);

h. the complainant has not formulated any "specific request for access pursuant to art. 15 of the Regulation", also "art. 12, paragraph 5 of the Regulation provides that in the event that [the requests] of the interested party are manifestly unfounded or excessive (also due to their repetitive nature), the holder [...] may refuse to satisfy the request" (note cit., p. 12); therefore the

company "deemed the request unfounded [...]" and furthermore "the e-mail box [...] does not contain data referring to the complainant, by virtue of the limits of use established [by] the [internal] Regulation" (cit note ., p. 13);

the. as for the forwarding of previous communications with the complainant by Dr. XX to four subjects other than the participants in the previous correspondence (XX, XX, XX and XX) on 11/3/2017, the company notes that "the tone of the messages appears generally professional and at the same time friendly and non-formal", moreover "no the content of the emails exchanged concerns information that can be classified as sensitive personal data, but exclusively information relating to the performance of work activities" (note cit., p. 15);

j. the communication was forwarded to "corporate subjects directly involved, for the corporate functions performed, in the corporate process in progress" (note cit., p. 16);

k. the processing of data relating to health contained in the documents filed in court "consists at the present time only in the conservation of a copy of such documentation"; "once the possible means of judicial recourse have been exhausted, the data [...] and the related documents will [...] be destroyed" (note cit., p. 17).

1.3. With counter-arguments of 21 January 2019, in reiterating his requests, the complainant has - inter alia - represented that:

to. the company, during the employment relationship that began in 1995, did not provide adequate information relating to the processing carried out via company e-mail, therefore "the blocking of access to the mailbox occurred suddenly and arbitrarily";

b. "starting from 29 May 2018 [...] the complainant has repeatedly [...] requested access to their personal data for the purpose of exercising their right of defense in court";

c. it would not correspond to the truth that the communication to third parties of the email exchange that took place with the complainant (which took place on November 3, 2017) would have taken place in view of the preparation of a disciplinary dispute, given that the complainant "never [...] was prosecuted or punished [by the company] on a disciplinary level for the facts described in the correspondence" cited; this communication would therefore have taken place "for the purpose of public ridicule and derision, as well as a threat [...] in front of colleagues", as held by the Court of Vicenza with the order of 31.3.2018 accepting the request (see previous point 1.1.).

1.4. With a subsequent note dated April 22, 2019, sent in response to the counterclaims of the complainant, the company further stated that:

to. preliminary, the complaint would not be able to proceed (in relation to article 145, paragraph 2, Code for the protection of

personal data, text in force at the time of presentation of the application and in any case reproduced in article 140-bis after the modifications made by Legislative Decree no. 101 of 2018) and inadmissible, as "due to its formulation and the requests contained therein [...] it exceeds the competence for the matter of the Guarantor [...]" (note 22.4.2019, p. 3 -9);

b. the Regulations for the use of IT systems was published in a special folder on the company intranet on 20 February 2017 and the publication was notified to employees (including the complainant) "by means of a real time email generated by the system at the same time to publication"; the internal regulation was also "made available on the company bulletin board since 2017" (note cit., p. 12);

c. the company considers the request for access to "all electronic correspondence on IT support" to be "excessive" (pursuant to Article 12, paragraph 5 of the Regulation), both as this "would imply making the personal data of third parties available to the complainant" , and because "the rights of the same owner would also be harmed [...] given that the electronic company correspondence [...] contains commercial information possibly covered by company secrecy [...]" (note cit., p. 15);

d. the request for access is also "excessive also in reference to the possible injury to the exercise of rights [of the company] in court in the context of the pending legal proceedings initiated by the complainant against the company" (with reference to articles 15, paragraph 3, 23, paragraph 1, letter j) of the Regulation and 2-undecies, paragraph 1, letter e) and paragraph 3 of the Code) (note cit., p. 15);

And. "it is easily demonstrable that [the] general security policy decided by the company on a proposal from the IT department affects and is applied [...] also to other employees of the [company] on sick leave" (note cit., p. 19);

f. with reference to the forwarding of the email on 3.11.2017, this "is based on the legitimate interest of the employer pursuant to art. 6, paragraph 1, lett. f) of the GDPR [as] aimed - in the specific case - to interest the personnel and legal managers, making them aware via email of how relations were developing with the [complainant]" (cit. note, p. 20 ).

1.5. On 31 July 2019, the Office carried out, pursuant to art. 166, paragraph 5, of the Code, the notification to the company of the alleged violations of the Regulation found. With a note dated 7 August 2019, the company, represented and defended by the lawyer XX, presented written defenses representing that:

to. the complaint must be declared inadmissible and inadmissible pursuant to art. 140-bis, paragraph 2, of the Code, given that the judicial authority had already been seised "for the same object and between the same parties" as can be inferred, among other things, from the fact that the complainant "did not submit any formal request for access with express reference to art. 15

of the GDPR", as well as by the fact that with the appeal RG 1625/2018 of 29.12.2018 the complainant "formulates requests and disputes having the same specific object [...] «data protection profiles» [...]", while the 'inadmissibility of the requests addressed with the complaint as concretely not attributable to the powers attributed by the law to the Guarantor (note 8.8.2019, p. 7-10);

b. as regards the disputed violation of art. 15 of the Regulation it is believed that the scope of the aforementioned article cannot "be extended [...] from the right to obtain only one's own data up to including without distinction [...] information contained in the "employee's incoming and outgoing correspondence"", given that this also includes data referring to third parties as well as "proprietary corporate information of the employer circulating on an instrument - the email - of its exclusive property" (note cit., p. 11);

c. "the disputed omission of information regarding the deactivation of the complainant's e-mail box during constant illness appears out of place since every worker must be aware, beyond the obligations pursuant to art. 13 GDPR, and both because this is written in the applicable CCNL and in the individual employment contract, and because in general ignorantia legis non excusat, that the state of illness pursuant to art. 2110 of the civil code it prevents the performance of normal work performance and the use of work tools (including the mailbox [...])" (note cit., p. 12);

d. with reference to the forwarding of the e-mail exchange which took place on 3 November 2017, the employees receiving the forwarding "are certainly not external subjects without any legitimacy to whom, for pure pleasure, the personnel director [...] forwarded the complainant's communications ", given that these are "recipients who precisely according to the role, function, duties and tasks assigned pursuant to the company organization chart [...] had to be involved and to whom the communications then contested could well be forwarded [...] . It is in their functional and operational qualifications that the "legitimate interest" in forwarding messages as a legal basis for the processing resides" (note cit., p. 13-15).

2. The outcome of the preliminary investigation and of the procedure for the adoption of corrective and sanctioning measures.

2.1. Given that, unless the fact constitutes a more serious offence, whoever, 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 "False statements to the Guarantor and interruption of the execution of the duties or exercise of the powers of the Guarantor", following the examination of the declarations made to the Authority during the proceeding as well as of the acquired documentation, it emerges that the company has processed the complainant's personal data which for some profiles constitute

a violation of the applicable regulations on the protection of personal data, in the terms specified below.

Preliminarily, the exceptions of inadmissibility and inadmissibility of the complaint presented by the company are deemed not fully acceptable. On the one hand, in fact, the matter already referred to the ordinary judicial authority - as emerges from the order of the Court of Vicenza of 31.3.2018 and from the decree of the Court of Vicenza of 30.10.2018, in deeds - concerns strictly labor aspects, and in particular the complained professional lack of qualification of the complainant, and not data protection profiles. Consequently, the judicial authority has not been seised between the same parties in relation to the "same object" (Article 140-bis, paragraph 2, of the Code). Nor, likewise, is the proposed inadmissibility considered acceptable in relation to the requests presented to the Guarantor with the complaint, all abstractly (i.e. regardless of the results of the verification to be carried out concretely during the proceeding) attributable to the duties and powers assigned to it by the current legislation (see articles 57 and 58 of the Regulation).

However, as regards the communication of data concerning the interested party to third parties, as will be explained below (see point 2.4 below), there is actually a partial objective overlap.

2.2. On the merits, it emerged that the company orally rejected the request for access to the data contained in the e-mail box formulated by the complainant with a letter dated 1 October 2018 (see Annex 32, note of the complainant 21.1.2019), containing "Act formal notice to deliver documentation". The request followed the "deactivation" of the mailbox set up by the company while the complainant was on sick leave, as the password validity period had not yet expired (see previous point 1.2., letters f. and g. ). Even if the application was not formally presented with express reference to art. 15 of the Regulation (in force at the time of the facts) however, the request to obtain the "delivery [...] of the employee's incoming and outgoing electronic correspondence [complainant] contained in mailbox XX" is unequivocal. To this request, the company replied that, considering that "by virtue of company regulations [...] in the e-mail box [...], as a work tool, there must be only company data, since the proceedings brought are pending [...] before the Guarantor [...], at present, we believe we have to wait for the judgment of the same" (see the company's note of 10.15.2018 in Annex 33, the complainant's note of 1.21.2019). The company also represented, during the proceedings before the Guarantor, that the complainant's requests were deemed "manifestly unfounded or excessive" also because access to the correspondence requested would involve "the making available by the complainant of data personal data of third parties" as well as any "commercial information [...] covered by company secrecy" and the possible infringement of the company's rights in the context of pending legal proceedings (see previous points 1.2.,

letter h., 1.4. , letters c. and d., 1.5., letter b.).

In this regard, first of all, it should be noted that in accordance with the constant orientation of the European Court of Human Rights, the protection of private life also extends to the workplace (see Niemietz v. Allemagne, 12.16.1992 (rec. n 13710/88), spec. para. 29; Copland v. UK, 04.03.2007 (rec. n. 62617/00), spec. para. 41; Bărbulescu v. Romania [GC], 5.9.2017 (rec. no. 61496/08), spec. par. 70-73; Antović and Mirković v. Montenegro, 11.28. 2017 (rec. n. 70838/13), spec. par. 41-42).

Therefore, the exchange of electronic correspondence (unrelated or not to the work activity) on an individualized account with subjects inside or outside the company structure configures an operation that allows to know some personal information relating to the interested party (see "Guidelines of the Guarantor for e-mail and Internet", 1.3.2007, in the Official Gazette no. 58 of 10.3.2007, spec. point 5.2 letter b)), with consequent application of the provisions regarding the protection of personal data also with reference to the exercise of rights. With the aforementioned Guidelines, the Guarantor consequently considered that "the content of e-mail messages - as well as the external data of the communications and the attached files - concern forms of correspondence assisted by guarantees of secrecy protected also constitutionally, the rationale of which lies in protecting the essential nucleus of human dignity and the full development of the personality in social formations" (point 5.2 letter b) and that this, transposed into the workplace, entails the possibility that the worker or third parties involved (whose rights must be equally protected ), can claim a legitimate expectation of confidentiality on certain forms of communication (see, most recently, Provv. 12.4.2019, n. 216, in www.garanteprivacy.it, web doc. n. 9215890; v. also, on this point, Provision 5.3.2015, n. 136, web doc. n. 3985524).

Therefore, acknowledging that the company, on the one hand has provided a response to the requests of the interested party and, on the other hand, has declared that it has not accessed the mailbox assigned to the complainant, it is nevertheless believed that the company that is the data controller, by reason of the art. 15 of the Regulation, in force at the time of presentation of the access request, according to which "The interested party has the right to obtain [...] access to personal data" concerning him, must allow the interested party the access to the data contained in your company e-mail account, possibly assisted by an expert who certifies that personal data of third parties are also not processed (see point 3).

2.3. It also emerged that the company deactivated, on 29 November 2017, the account assigned to the complainant, after 22 non-consecutive days of illness (according to what was declared by the company itself), in implementation of "standard security procedures", i.e. as part of the "security policy decided by the company on a proposal from the IT department".

However, in the context of the "Regulations for the use of company IT systems", dated 25.1.2017, there is no reference to this procedure, nor has the company produced other documents containing information elements disclosed to employees relating to a discipline concerning access to company e-mail while on sick leave. It is also noted that although the company has declared (see previous point 1.2., letters d. and f.) that this "security policy" would also be applied to other employees (during the period of illness), during the proceeding no evidence was provided. Finally, it does not appear to be proven that the consultation of e-mails on one's account is not permitted for employees absent due to illness on the basis of "the applicable CCNL and [the] individual employment contract" (see previous point 1.5., letter c. ).

Therefore, it is believed that the company has failed to inform the employee - and, according to what has been declared, still fails to inform other employees in a state of illness - with regard to this specific treatment method, in violation of the provisions of art. 13 of the Code (text in force at the time of the facts), on the basis of which the owner is required to provide the interested party - before starting the processing - with all the information relating to the essential characteristics of the processing (see, lastly, the provision 19.5.2020, n. 91). In the context of the employment relationship, the obligation to inform the employee is also an expression of the general principle of correctness of processing (see Article 11, paragraph 1, letter a) of the Code, text in force at the material time). It is also noted that the aforementioned cases correspond, in the current legislation, to articles 5, par. 1, lit. a) and 13 of the Regulation.

2.4. Finally, it emerged that the personnel director, on 3 November 2017, forwarded to four employees in office XX, the personnel office and the legal office, the exchange of some emails that took place with the complainant and the manager of sector XX of the company starting from 2 October 2017 (see Annex 26, complaint 1.8.2018).

However, this profile was eviscerated by the Court of Vicenza in the same terms and therefore the preliminary objection of the owner is partially accepted here.

2.5. As a result of the preliminary investigation, no elements of illegality emerged in relation to the use of mobile users or in relation to the retention of data, also referring to the state of health of the claimant, used in the pending judicial proceeding, given that the company has declared that the related processing consists, at present, in the "only keeping a copy" of the documentation and once "the possible means of legal redress have been exhausted, the data [...] and the related documents will [...] be destroyed" (see point 1.2 above ., letter k.).

3. Conclusions: illegality of the treatment. Corrective measures pursuant to art. 58, par. 2, Regulation.

For the aforementioned reasons, the processing of personal data referring to the complainant carried out by the company through the omitted information about the procedures that the owner reserves the right to adopt in relation to the management of company e-mails when ill, is unlawful in the terms set out above in relation to the articles 11, paragraph 1, lett. a), and 13 of the Code (text prior to the amendments made with Legislative Decree 10.8.2018, n. 101; these provisions correspond, in the legislation in force, to articles 5, paragraph 1, letter a) and 13 of the Regulation).

Therefore, given the corrective powers attributed by art. 58, par. 2, lit. c), of the Regulation, in the light of the circumstances of the specific case:

- the holder is ordered to satisfy the request of the complainant to access the e-mail account assigned in the context of the employment relationship, through his/her credentials, possibly assisted by an expert who certifies that personal data of third parties are also not processed;

- in addition to the corrective measures, a pecuniary administrative sanction is ordered pursuant to art. 83 of the Regulation commensurate with the circumstances of the specific case (Article 58, paragraph 2, letter i) of the Regulation).

4. Injunction order.

Pursuant to art. 58, par. 2, lit. i) of the Regulation and of the art. 166, paragraphs 3 and 7 of the Code, the Guarantor orders the application of the pecuniary administrative sanction provided for by art. 83, par. 5, letter. a) of the Regulation, through the adoption of an injunction order (art. 18, l. 11.24.1981, n. 689), in relation to the processing of personal data referring to the complainant carried out by the company the omitted information about the procedures that the the owner reserves the right to adopt in relation to the management of corporate e-mail during illness whose illegality has been ascertained, in the terms set out above, in relation to articles 11, paragraph 1, lett. a) and d), 13 of the Code (text prior to the amendments made with Legislative Decree 10.8.2018, n. 101, provisions which correspond, in the current legislation, to articles 5, paragraph 1, letter a) and 13 of the Regulation), following the outcome of the procedure pursuant to art. 166, paragraph 5 carried out jointly with the data controller (see point 1.5 above).

Considering it necessary to apply paragraph 3 of the art. 83 of the Regulation where it provides that "If, in relation to the same treatment or related treatments, a data controller [...] violates, with willful misconduct or negligence, various provisions of this regulation, the total amount of the pecuniary administrative sanction does not exceed amount specified for the most serious violation", considering that the ascertained violations of art. 5 of the Regulation are to be considered more serious, as they

relate to the non-compliance with a plurality of principles of a general nature applicable to the processing of personal data, the total amount of the fine is calculated so as not to exceed the maximum prescribed for the aforementioned violation .

Consequently, the sanction provided for by art. 83, par. 5, letter. a) of the Regulations, which fixes the statutory maximum in the sum of 20 million euros or, for companies, in 4% of the annual worldwide turnover of the previous year where higher.

With reference to the elements listed by art. 83, par. 2 of the Regulation for the purposes of applying the pecuniary administrative sanction and the relative quantification, taking into account that the sanction must "in any case [be] effective, proportionate and dissuasive" (Article 83, paragraph 1 of the Regulation), it is represented that In the present case, the following circumstances were considered:

a) in relation to the nature, gravity and duration of the violation, the nature of the violation which concerned the general principles of processing was considered relevant; the violations also concerned the provisions on information;

b) with reference to the intentional or negligent nature of the violation and the degree of responsibility of the owner, the negligent conduct of the company and the degree of responsibility of the same was taken into consideration which did not comply with the data protection regulations in relation to a plurality of provisions;

c) the company cooperated overall with the Authority during the proceeding;

d) the absence of specific precedents (relating to the same type of treatment) against the company.

It is also believed that they assume relevance in the present case, taking into account the aforementioned principles of effectiveness, proportionality and dissuasiveness with which the Authority must comply in determining the amount of the fine (Article 83, paragraph 1, of the Regulation), in firstly, the economic conditions of the offender, determined on the basis of the revenues earned by the company with reference to the financial statements for the year 2018. Lastly, account is taken of the statutory sanction established, in the previous regime, for the corresponding administrative offenses and of the amount of sanctions imposed in similar cases.

In the light of the elements indicated above and the assessments made, it is believed, in the present case, to apply against Burgo Group S.p.A. the administrative sanction of the payment of a sum equal to 20,000.00 (twenty thousand) euros.

In this context, it is also believed, in consideration of the nature and seriousness of the violations ascertained, that pursuant to art. 166, paragraph 7, of the Code and of the art. 16, paragraph 1, of the Guarantor Regulation n. 1/2019, this provision must be published on the Guarantor's website.

It is also believed 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 THAT BEING CONSIDERED, THE GUARANTOR

declares pursuant to articles 57, par. 1, lit. f) and 83 of the Regulation, as well as art. 166 of the Code, the unlawfulness of the processing carried out in the terms referred to in the justification by Burgo Group S.p.A. for the violation of the articles 11, paragraph 1, lett. a), and 13 of the Code in force at the time in which the processing began and now corresponding, in the current legislation, to articles 5, par. 1, lit. a), and 13 of the Regulation);

ENJOYS

pursuant to art. 58, par. 2, lit. c) Regulation, to Burgo Group S.p.A. to satisfy the request for access to the data contained in the e-mail account assigned to the complainant in the context of the employment relationship, possibly assisted by an expert who certifies that personal data of third parties are not also processed;

ORDER

pursuant to art. 58, par. 2, lit. i), of the Regulations to Burgo Group S.p.A, in the person of its pro-tempore legal representative, with registered office in Via Piave 1, Altavilla Vicentina (VI), tax code: 13051890153, to pay the sum of 20,000.00 (twenty thousand) euros to pecuniary administrative sanction for the violations indicated in this provision;

ENJOYS

also to the same Company to pay the sum of Euro 20,000.00 (twenty thousand), according to the methods indicated in the attachment, within 30 days of notification of this provision, under penalty of adopting the consequent executive deeds pursuant to art. 27 of the law no. 689/1981. It should be remembered 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 the term set out in art. 10, paragraph 3, of Legislative Decree lgs. no. 150 of 09/01/2011 envisaged for the lodging of the appeal as indicated below (art. 166, paragraph 8, of the Code);

HAS

the publication of this provision on the Guarantor's website pursuant to art. 166. paragraph 7, of the Code 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. Ask Burgo Group S.p.A. to communicate which

initiatives have been undertaken in order to implement the corrective measures imparted with this provision and in any case to provide adequately documented feedback pursuant to art. 157 of the Code within 90 days of notification of this provision; any failure to reply may result in the application of the pecuniary administrative sanction provided for by art. 83, par. 5, of the Regulation.

Pursuant to art. 78 of the Regulation, as well as articles 152 of the Code and 10 of Legislative Decree no. 150/2011, opposition to the ordinary judicial authority may be lodged against this provision, with an appeal lodged with the ordinary court of the place identified in the same art. 10, within the term of thirty days from the date of communication of the measure itself, or sixty days if the appellant resides abroad.

Rome, 9 July 2020

PRESIDENT

Soro

THE SPEAKER

Cleric Whites

THE SECRETARY GENERAL

Busia