

Injunction order against Intesa Sanpaolo S.p.a. - 20 October 2022

Register of measures

no. 347 of 20 October 2022

## THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

IN today's meeting, which was attended by prof. Pasquale Stanzione, 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 (hereinafter the "Regulation");

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

HAVING REGARD TO the complaint presented by Mr. XX on 10/24/2019 pursuant to art. 77 of the Regulation, with which Intesa Sanpaolo S.p.a. violated the rules on the protection of personal data. (formerly Veneto Banca S.c.p.a.);

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

SPEAKER Prof. Geneva Cerrina Feroni;

## WHEREAS

### 1. The complaint and the preliminary investigation.

With the complaint presented to this Authority on 24/10/2019, Mr. XX complained that he had not received a response from Intesa Sanpaolo S.p.a. (hereinafter, "ISP" or "the bank" or "the institution"), to the advanced access request pursuant to art. 15 of the Regulation dated 09/23/2019; this request was aimed, in particular, at having access to the data referring to four derivative transactions which appear to have been opened "in his name and without his complete knowledge" by Veneto Banca S.c.p.a. (hereinafter "Veneto Banca") on Saturday 3/10/2015 (therefore on a day before a public holiday, when the branch was not operational) and closed on 13/11/2017 (as per the document attached to the complaint) by Intesa Sanpaolo S.p.a., which in the meantime took over from Veneto Banca on the basis of a transfer agreement dated 26/6/2017.

Following the invitation formulated by this Office to provide observations regarding the complaint, with a note received on 16/01/2020, Intesa Sanpaolo S.p.a., stating that it has provided a response to the interested party with a letter dated 28/10/2019 (attached to a summary table of some personal data referring to him), also specified that, as regards trading operations on derivatives, "the Management of the Cassola branch remains at your disposal to provide you with the necessary assistance" ; this is because the aforementioned transactions "do not highlight aspects within the competence of this structure".

With a subsequent note dated 01/30/2020, following a request for clarification made by the Office, the credit institution further specified that:

with respect to trading transactions on derivatives, no treatment was carried out by Intesa Sanpaolo since "these were not real contractual relationships but, most likely, technical lines not connected to any current transaction"; indeed, on 9 October 2017, "in view of the IT migration envisaged for the following 11 December", ISP "limited itself to informing the complainant of the existence of such lines/relationships in the Veneto Banca systems, highlighting the impossibility of proceeding with the migration of the same into its own systems", except for "renewal of relationships" if the same wanted to "undertake a new operation with ISP"; however, this re-contractualisation never took place;

"these relations/technical lines were started at Veneto Banca in bonis long before the transfer agreement with which ISP acquired from Veneto Banca in compulsory administrative liquidation certain assets, liabilities and legal relationships constituting the so-called Aggregate Set";

the document attached to the complaint and the subject of the complaint is a "screenshot of Veneto Banca applications and used for the defense in court of ISP (...);

"Veneto Banca in compulsory administrative liquidation was and is the only data controller" to which the complainant should contact to obtain "clarifications regarding the procedures for opening the relations/lines" in question.

In relation to the above, the complainant, with the notes of 5, 6 and 19 February 2020, as well as during the hearing held at the Authority on 07/15/2020, formulated the following considerations:

with reference to the transactions in question, Intesa Sanpaolo used the term "technical lines" for the first time in its responses to the Authority; previously, these had been identified as "mere operating lines activated on 3 October 2015 by the then Veneto Banca S.c.p.a." (see notes addressed to the interested party on 13/9/2019 and 10/12/2019) and therefore as contractual

relationships that require the parties to sign;

the interlocutor, and therefore the data controller, can only be ISP (which acquired the assets and relationships of Veneto Banca) and it is in fact ISP that proceeded to close them on 13.11.2017;

Veneto Banca, to which the interested party contacted as suggested by ISP, with a letter dated 2/25/2020 stated that "on the basis of the transfer contract signed on 26 June 2017 on the basis of the provisions of Ministerial Decree n. 186 of 25.6.2017, the documents requested by you are in the possession of ISP which will process the request as soon as possible"; moreover, on 11/13/2017 the complainant received a communication ("Banking transparency") concerning "terms/derivatives... report no. 1904/94" in which, above the VENETO BANCA logo, appears the writing "Intesa Sanpaolo S.p.a. pursuant to law decree 99/2017 converted into law 121/2017": it is clear that such a wording refers the same communication to Intesa Sanpaolo, the transferee bank;

what, then, in the aforementioned note of 9 October 2017 (referring to the subject of "withdrawal from the framework contract governing the forward purchase/sale of foreign currency"), with the same, ISP would not have reported "the existence of such lines / reports" but "the impossibility of migrating the framework contract object of the registered letter to the new Intesa reality"; with the same, the credit institution would therefore have claimed to have acquired the relations from Veneto Banca and to wish to withdraw from the existing framework agreement (withdrawal exercised as of 11.12.2017, thereby admitting the existence of a contractual relationship and as a result of the processing of personal data).

Following a further request for clarification formulated by the Office on 17/09/2020, Intesa Sanpaolo, with a note dated 1/10/2020, specified that:

the transaction which took place with the signing of the transfer agreement on 26 June 2017 between ISP and the two banks in the Veneto region (Veneto Banca S.p.A. and Banca Popolare di Vicenza S.p.A.) was characterized by "an exceptionally urgent nature which did not allow our bank to carry out the preliminary checks on the compendium of relationships, assets and liabilities highlighted in the systems of the two banks placed in compulsory administrative liquidation and transfer them massively"; thus, "before the migration of the accounts transferred to the ISP systems, which took place at the beginning of December 2017, it was therefore not possible to immediately identify the presence of any irrelevant data as it relates to positions unrelated to those included in the Aggregates Set ";

in the context described above, "the accounting records relating to derivative transactions referable to Mr. XX were found to be

irrelevant to the Aggregate Set transferred to ISP; therefore the bank does not and cannot have knowledge of the reasons that generated such evidence at Veneto Banca before the aforementioned transfer agreement"; in relation to the same ISPs, "in view of the complex activities preparatory to the migration of the data relating to the Aggregate Set onto its own IT systems, scheduled for the following 11 December 2017, it limited itself to informing Mr. XX of the existence in the Veneto Banca in liquidation, highlighting on the one hand the impossibility of proceeding with their migration into the ISP systems and, on the other, inviting it to evaluate a specific contractualisation of relations with ISP should it wish to undertake a new derivatives operation (contractisation which never happened)";

the "ISP letter of 9 October 2017 relating to the withdrawal from the framework contract (...) is the result of a mere operational mistake, in the context of the mass communications sent by the bank before the IT migration (...). In fact, as it was later ascertained, there was no framework contract in place between Veneto Banca and Mr. XX, but only the indicated technical lines remained (understood as mere accounting records) not connected to any current operations";

as regards the request to clarify who should be responsible for the closure operation of November 13, 2017, ISP declared that on that date, "as part of the "reclamation" operations of the archive preparatory to the migration of only the relationships included in the 'Aggregate Set, said evidence has been "frozen" (not cancelled) taking into account the existence of an ongoing legal dispute" between the bank and the claimant (which, on "19.12.2017, resumed the civil proceedings against ISP already established against Veneto Banca in bonis and interrupted following the placement in liquidation; in the context of this judgment (...) ISP produced the "screenshot" of the relations between Mr. XX and Veneto Banca to prove its non-involvement to the lawsuit (...) turning the dispute on relationships already terminated before the assignment (...)".

The Office, therefore, on the basis of the elements acquired and taking into account some inconsistencies that emerged during the procedure, asked the credit institutions involved to give a definitive ruling regarding the existence or not, in their respective archives (paper or computer ), of the information requested by the complainant.

With a note dated 27/04/2021, Veneto Banca declared that:

"(...) the relationships of Mr. XX, - as well as the operations in derivatives - appear to have been extinguished in 2010, several years before the liquidation of Veneto Banca S.p.a.";

the "alleged transactions in derivatives (identified with the numbers 1904/94, 1918/94, 1932/94 and 1946/94) do not have any new banking operations, but are mere personal data referring to relationships terminated in 2010"; the aforementioned

"identifiers represent mere internal codes that the then Veneto Banca S.p.a. - through a massive IT procedural maneuver - had assigned all customers who had operated in derivatives, without distinguishing the specifics of the individual positions";

"in the archives of Veneto Banca Spa in liquidation the documentation requested by Mr. XX was not found, as it does not exist for the aforementioned reasons".

Intesa Sanpaolo, on the other hand, with a note dated 04/28/2021 stated that:

on its systems "there are no data relating to the evidence concerning derivative transactions which are the subject of this complaint"; these would be accounting records, which "have never matched actual derivative transactions of Mr. XX transferred to ISP with the Aggregate Set and which, consequently, such data have never been used by our bank to carry out its own transactions bank transactions with unknown counterparties attributing them to Mr. XX";

these accounting records were "closed" by ISP "as part of the remediation of non-pertinent data that entered its systems following the IT migration";

the data of the aforementioned accounting records, which are the subject of the complaint, were used by ISP exclusively to defend itself in a legal dispute brought by Mr. XX "in relation to other and different operations carried out by the same at the former Veneto bank and closed before the transfer of the Aggregate Set, to demonstrate to the judge its total non-involvement in the facts of the case".

Following the examination of the documentation acquired, considering the persistence of contradictory elements, the Office delegated the Special Unit for the protection of privacy and technological fraud of the Guardia di Finanza to acquire, directly from the Cassola branch, any additional elements for evaluation.

During the inspection of 03/24/2022 - of which a specific report was drawn up - in addition to what was already declared in the aforementioned note of 04/28/2021, ISP provided the following further specifications, reserving the right to send later some supporting documents (see below):

the "screen" attached to the complaint and object of the dispute was extracted from the IT system of Veneto Banca S.c.p.a. (known as SEC), on 14/6/2018, by an official - former employee of the aforementioned bank - in possession of the relevant qualification "for the purpose of defending ISP in the judgment summed up against it by the claimant, pending on 26/6 /2017 and promoted to the detriment of Veneto Banca in bonis"; in order to verify the veracity of this declaration, the Nucleus asked the aforementioned official to log back into the aforementioned SEC from which it emerged that, as of 26 June 2017, the

complainant had no active relations with the then Veneto Bank;

according to what was declared in the deeds, the use of the expression "technical lines" (instead of "operating lines") indicates that "these are lines not linked to a specific operation due to the fact that, as can be seen from the screenshots produced, the current account relationships and securities dossiers essential for any derivative operation were closed in 2010";

regarding the processing carried out on the data relating to the complainant and concerning the closure of derivative transactions, which took place on 11/13/2017, the party represented that "following the transfer which took place on 26 June 2017 and before the IT migration of data into the system computer ISP, a data reclamation activity was carried out to correctly identify the relationships that should have been transferred. In the specific case, the reclamation highlighted the presence of the three technical lines subject of the complaint. The latter were massively closed on 13 November 2017 and therefore no data of Mr. XX connected to the technical lines object of the complaint, activated by Veneto Banca S.c.p.a. it is migrated on ISP systems. The information relating to the technical lines in derivatives can be produced, justified and provided only by Veneto Banca S.c.p.a. as, then, data controller";

with regard to the request to provide clarifications regarding the content of the note sent to the interested party on 9/10/2017 ("withdrawal from the framework contract"), to specify the number of the framework contract to which it refers and to specify which processing personal data of the complainant have been made on the basis of this withdrawal, during the inspection it was declared: 1) "that there is no type of framework contract signed by ISP with Mr. XX"; 2) not to be aware of any contracts entered into by the same with the previous bank, as the position of the interested party, previously held at Veneto Banca S.c.p.a., was not transferred to ISP. Consequently, the communication sent on 10/09/2017, although attributable to ISP as data controller, "was a mere operational error (...), is not congruent with the reality of the facts and plausibly generated by the mere reading of the evidence at the time present relating to the technical lines of the system and originating from Veneto Banca S.c.p.a.;

regarding the document called "letter on transparency" dated 11.13.2017 and sent to the complainant, the staff of the bank who participated in the operations declared that they were not aware of it and were also unaware of the reasons why, following the request of access to personal data advanced by Mr. XX, "Mr (...), in delegation of the DPO of the ISP" has invited the same "to contact the Management of the Cassola branch for the provision of assistance with regard to operations of negotiation on derivatives in question as they do not highlight aspects of competence of the writing structure".

With a subsequent note dated 04/04/2022, Intesa Sanpaolo, in emphasizing how the "Veneto banks" transaction was carried out in a situation of "extraordinary complexity and urgency" which did not allow the bank to carry out any due diligence activity in advance upon stipulation of the transfer contract, sent a copy of the documentation requested by the Nucleus, including, in particular, circular letter no. 440/2017 of 29/8/2017, concerning the operating instructions for the evasion, among other things, of the "requests [also for access to data, see Circ. point 2] presented by former customers or shareholders of Veneto Banca S.p.a. relating to documentation (...) relating to activities or relationships excluded from the transfer to Intesa Sanpaolo" in its capacity as custodian of the same documents and without prejudice to the full ownership of the aforementioned relationships by Veneto Banca in compulsory administrative liquidation.

2. The initiation of the procedure for the adoption of corrective measures and the deductions of the credit institution.

Based on all the elements acquired in the context of the investigation, on 05/25/2022 the Office, pursuant to art. 166, paragraph 5, of the Code, notified the bank of the violations of the Regulation found, with reference to articles 5, par. 1, lit. a), 12 and 15 of the Regulation, inviting the Company to produce written defenses or documents 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, law no. 689 of 24 November 1981).

With a note received on 06/23/2022, ISP presented its defense brief in which it requested the dismissal of the proceeding or, alternatively, the issue of a warning provision (with relative obscuring of the name Intesa Sanpaolo S.p.a. " in order to avoid reputational bias") on the basis of the considerations set out below:

"ISP has always been committed to guaranteeing, in favor of the interested parties, the highest compliance with all the regulatory provisions relating to the exercise of rights as provided for by articles 15 to 22 of Regulation (EU) 2016/679 ("Regulation" ). This commitment is substantiated not only in trying to ensure compliance with the precise timescales established by the legislation on the subject for providing feedback to the interested party but, also and above all, in trying to formulate the answers in the most understandable way possible, having, therefore, care to adapt the content of the response itself to the specific issues dealt with and to the interlocutors, from time to time, interfaced";

it was highlighted that despite "in the two-year period 2019-2020 (i.e. the two-year period following the year of entry into force of the GDPR), Intesa Sanpaolo S.p.A. [has] managed around 600 requests [for access to personal data pursuant to article 15 of the Regulation]" there is "no evidence of other cases for which a violation has been notified by this esteemed Authority for the fulfillment of the request beyond the 30 days envisaged by the provisions in force; (...) the institute has in fact adopted

explicit organizational solutions capable of guaranteeing maximum compliance with the regulatory provisions, with particular reference to the timing for the processing of the requests received. In the first place, consider that the specific "channels" for inputting requests (mainly received via email and/or P.E.C.) made available to interested parties, always available in the Privacy section of the Company's website and in the Information provided pursuant to 'art. 13 and 14 of the Regulations, are supervised on a daily basis by dedicated Resources (whose absence scheduling is carried out in a coordinated and alternative manner) in order to avoid the possible "forgetfulness" of a request received. Thanks to this constant supervision, once a request to exercise rights has been identified, the same is recorded in a specific repository, with the consequent attribution of the relative protocol, of the Person in charge of processing and of the expiry date (based on the time of receipt of the request at the Bank). Secondly, on a daily basis, through the dedicated monitoring dashboard available in the aforementioned repository, the processing status of the "Protocols still in management" (i.e. the requests to be processed) is displayed, divided into three categories, distinguished by specific colors to favor the immediate perception of the progress of the work. This daily monitoring, carried out mainly by the Head of the structure in charge of processing the requests to exercise the rights received, aims to guarantee full compliance with the deadlines set by current legislation, in consideration of the fact that the positions for which expiry is approaching are solicited from the individual employee in charge. In any case, on a weekly basis, during the alignment meetings carried out within the aforementioned structure, evidence of the progress of the processing of the files is provided (with a specific extraction of those closest to the respective deadline) for the purpose that none of the Personnel in charge evasion cannot be informed about any urgent procedures to be defined";

the specific case, however, "had a particular character, given, in general, the complexity, extraordinary nature and urgency that characterized the corporate operation (...) connected to the intervention plan for the resolution of the crisis of the former Banca Popolare of Vicenza and of the former Veneto Banca and, more concretely, the sphere of derivative products which, certainly, are characterized by their intrinsic complexity and, consequently, by a greater financial culture on the part of the customers who purchase them. The above has led, on the one hand, to an objective difficulty in reconstructing the story and, on the other, to the use of technicalities resulting from the extreme sophistication of the operation in replying to the interested party, circumstances which should, in the opinion of the writer, carefully considered in the assessment of compliance of the Bank's behavior with the regulatory provisions, with particular reference to the content of article 12, paragraph 1 of the Regulation and, in general, to the "spirit" proper to the exercise of the rights of the interested parties";



"(...). In any case, as widely reiterated several times, on 26 June 2017, through the formalization of the Transfer Agreement and in implementation of Legislative Decree no. 99/2017, have been transferred, without interruption, to Intesa Sanpaolo S.p.A. only some "assets, liabilities and legal relationships" referring, in the specific case, to Veneto Banca in bankruptcy. These certainly did not include relationships (of any kind or nature) attributable to Mr. XX as they expired a long time before the formalization of the well-known corporate operation";

finally, with reference to the objections advanced by the complainant, "it seems to be possible to state that everything represented by the interested party, directly and/or through his or her lawyer, has a different purpose than those proper to the just protection of the rights granted to the interested parties by the Regulation, or that of supporting one's own accusatory thesis against Intesa Sanpaolo S.p.A., as a passively legitimized subject, in the context of the civil proceedings, the one pertaining to derivatives transactions, initiated against the then former Veneto Banca S.p.A. (in bonis) and improperly summarized against Intesa Sanpaolo S.p.A., on 12.19.2017 (i.e. after the corporate operation to rescue the former Venetian banks), in consideration of the interruption of this proceeding following the administrative compulsory liquidation of Veneto Banca S.p.A., focusing this dispute on relationships already extinguished before the transfer".

### 3. The outcome of the investigation

Following the examination of the documentation produced and the declarations made by the party during the proceedings, provided that, unless the fact constitutes a more serious offence, whoever, in a proceeding before the Guarantor, falsely declares or attests news or circumstances or produces false deeds or documents and is liable pursuant to art. 168 of the Code, it has been ascertained that Intesa Sanpaolo S.p.a., in its capacity as controller, has processed personal data relating to the complainant that does not comply with the regulations on the protection of personal data, with specific reference to the late and inappropriate reply to the request for access advanced by the interested party pursuant to art. 15 of the Regulation.

In this regard, it should be noted that the art. 12 of the Regulation establishes that "the data controller adopts appropriate measures to provide the interested party (...) with the communications referred to in articles 15 to 22 and article 34 relating to the treatment in a concise, transparent, intelligible and easily accessible form, with simple and clear language (...)" (par. 1) and that "the data controller facilitates the exercise of the rights of the interested party pursuant to articles from 15 to 22" (par. 2).

Paragraph 3 of the aforementioned article also provides that "the data controller provides the data subject with information relating to the action taken regarding a request pursuant to articles 15 to 22 without unjustified delay and, in any case, within a

month from receipt of the request. This deadline may be extended by two months, if necessary, taking into account the complexity and number of requests. The data controller informs the interested party of this extension, and of the reasons for the delay, within one month of receiving the request. If the interested party submits the request by electronic means, the information is provided, where possible, by electronic means, unless otherwise indicated by the interested party".

Paragraph 4 of the same article then establishes that the data controller, if he does not comply with the request received, "informs the interested party without delay, and at the latest within one month of receiving the request, of the reasons for the non-compliance and the possibility to lodge a complaint with a supervisory authority and to lodge a judicial appeal".

If the requests of the interested party "are manifestly unfounded or excessive, in particular due to their repetitive nature, the data controller may [...] b) refuse to comply with the request. The burden of demonstrating the manifestly unfounded or excessive nature of the request falls on the data controller". (Article 12, paragraph 5, of the Regulation).

Furthermore, according to the regulations in force (see art. 15 of the Regulation), "The interested party has the right [...] to obtain access to personal data" as well as specific information on the processing carried out. The processing of personal data must in any case be carried out in compliance with the general principles pursuant to art. 5 of the Regulation according to which personal data must be processed "in a lawful, correct and transparent manner in relation to the interested party ("lawfulness, correctness and transparency")" (Article 5, paragraph 1, letter a) of the Regulation) .

From the elements acquired during the complex preliminary investigation it emerged that the credit institution did not provide a timely reply to the request for access to personal data, formulated by the complainant on 23/9/2019, in violation of art. 12, par. 3 and 4 of the same Regulation.

In fact, it has been ascertained that ISP proceeded with a first partial response (on 28/10/2019) beyond the thirty-day deadline set by the aforementioned provision (although on a date prior to the invitation to join formulated by this Authority), without providing the applicant any information about the reasons for the non-compliance and the possibility of proposing a complaint to a supervisory authority and of proposing a judicial appeal.

As regards the content of the aforementioned finding - as well as those subsequently acquired by the Authority during the proceeding - the same is unsuitable, as it does not meet the criteria and principles referred to in the combined provisions of art. 12, par. 1, 15 and 5, par. 1, lit. a) of the Regulation, according to which the interested party must be able to easily know, if he requests it, the treatment that is carried out on his data and the methods of the treatment itself.

In fact, in the present case, the information provided to the interested party, in addition to not being exhaustive with respect to what is specifically requested (the data referring to derivative transactions opened on 3 October 2015 and closed on 13.11.2017), are characterized by a lack of transparency and intelligibility; this because, both before submitting the complaint and in the findings acquired by the Authority during the proceeding, somewhat equivocal and sometimes contradictory indications were given (even through the use of technical terminology that is difficult to understand) such as not to allow the interested party, taking into account the particularity and complexity of the affair involving Intesa Sanpaolo and Veneto Banca, to identify, with respect to the information requested, the data controller (i.e. the actual subject responsible for the custody of the information and, consequently, the acknowledgment of the exercise of the rights) and, therefore, to obtain information on the treatment carried out in a correct and transparent way.

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

For the aforementioned reasons, the Authority believes that the declarations, documentation and reconstructions provided by the data controller during the complex and articulated investigation - for which it was also deemed necessary to order an on-site inspection in order to clarify final the criticality and inconsistency profiles set out above (see par. 1) - do not allow to overcome the findings notified by the Office with the act of initiation of the procedure and which are unsuitable to allow its filing, not resorting, moreover, any of the cases provided for by art. 11 of the Guarantor's regulation n. 1/2019.

The late and unsuitable response of the credit institution to the access request presented by the complainant is in fact illegal, in the terms set out above, due to violation of articles 12 and 5, par. 1, lit. a) of the Regulation.

Therefore, the complaint presented pursuant to art. 77 of the Regulation must be considered founded and this Authority, in exercising the corrective powers attributed to it pursuant to art. 58, par. 2 of the Regulation provides for the application of a pecuniary administrative sanction pursuant to art. 83, par. 5, of the Regulation.

5. Injunction order.

The Guarantor, pursuant to art. 58, par. 2, lit. i) of the Regulation and of the art. 166 of the Code, has the power to impose a pecuniary administrative sanction provided for by art. 83, par. 5, of the Regulation, through the adoption of an injunction order (art. 18. Law 24 November 1981 n. 689), in relation to the processing of personal data referring to the complainant, the illegality of which has been ascertained, within the terms exposed above.

With reference to the elements listed by art. 83, par. 2 of the Regulation for the purposes of applying the administrative fine

and the related quantification, taking into account that the fine must be "in each individual case effective, proportionate and dissuasive" (art. 83, paragraph 1 of the Regulation), it is represented that, in the present case, the following circumstances were taken into consideration:

- a) with regard to the nature, gravity and duration of the violation, the nature of the violation was considered relevant, which concerned the provisions relating to the exercise of the rights of the interested parties and the general principles of lawfulness, correctness and transparency in the processing of personal data;
- b) with reference to the intentional or negligent nature of the violation and the degree of responsibility of the owner, the conduct of the credit institution and the degree of responsibility of the same which did not comply with the data protection regulations were taken into consideration with reference to the articles 12 and 5, par. 1, lit. a) of the Regulations, providing the interested party with partial and sometimes inconsistent information with respect to what is requested;
- c) with reference to previous pertinent violations committed by the data controller, provisions no. 270 of 27/5/2021 (web doc. n. 9718112), n. 202 of 26/5/2002 (web doc. n. 9784626), n. 272 of 28/7/2022 (web doc. n. 9812423);
- d) with reference to other aggravating factors, it should also be noted that the lack of clarity and exhaustiveness in the communications sent to the interested party - and to the Authority - made the ascertainment of the facts particularly lengthy and complex;
- e) with reference to any mitigating factors applicable to the circumstances of the specific case, the circumstance was considered that:

the ascertained violation has harmed the legal sphere of an individual customer;

the same originated in the context of the complex affair relating to the transition between the former Banca Popolare di Vicenza and the former Veneto Banca and Intesa Sanpaolo S.p.a., involving the aforementioned institutions.

In consideration of the aforementioned principles of effectiveness, proportionality and dissuasiveness (Article 83, paragraph 1, of the Regulation) with which the Authority must comply in determining the amount of the sanction, the economic conditions of the offender were taken into consideration, determined based on the revenues achieved and referred to the financial statements for the year 2021.

Based on the aforementioned elements, evaluated as a whole, it is deemed appropriate to determine the amount of the pecuniary sanction in the amount of 40,000 (forty thousand) euros for the violation of articles 12 and 5, par. 1, lit. a) of the

Regulation.

In this context, also in consideration of the type of violation ascertained, which concerned the principles of protection of personal data, it is believed that, pursuant to art. 166, paragraph 7, of the Code and of the art. 16, paragraph 1, of the Guarantor's regulation n. 1/2019, this provision must be published on the Guarantor's website.

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 THAT BEING CONSIDERED, THE GUARANTOR

declares, pursuant to articles 57, par. 1, lit. f) and 83 of the Regulation, the unlawfulness of the processing carried out, in the terms referred to in the justification, for the violation of articles 12 and 5, par. 1, lit. a), of the Regulation.

ORDER

to Intesa Sanpaolo S.p.a., with headquarters in Turin, Piazza San Carlo n. 156, P.I. 11991500015, pursuant to art. 58, par. 2, lit. i), of the Regulation, to pay the sum of 40,000 (forty thousand) euros as an administrative fine for the violations indicated in this provision;

ENJOYS

to the same Intesa Sanpaolo S.p.a. to pay the sum of 40,000 (forty 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 n. 689/1981. It is represented that pursuant to art. 166, paragraph 8 of the Code, without prejudice to the offender's right to settle the dispute by paying - always according to the methods indicated in the attachment - an amount equal to half of the fine imposed within the term referred to in art. 10, paragraph 3, of Legislative Decree lgs. no. 150 of 1 September 2011 envisaged for the filing of the appeal as indicated below.

HAS

pursuant to art. 166, paragraph 7, of the Code and of the art. 16, paragraph 1, of the Guarantor Regulation n. 1/2019, the publication of this provision on the Guarantor's website and believes that the conditions set forth in art. 17 of regulation no. 1/2019.

Pursuant to art. 78 of the Regulation, of the articles 152 of the Code and 10 of Legislative Decree 1 September 2011, n. 150, 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, 20 October 2022

PRESIDENT

station

THE SPEAKER

Cerrina Feroni

THE DEPUTY SECRETARY GENERAL

Philippi