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Injunction against the Municipality of Greve in Chianti - 2 July 2020

Register of measures

no. 118 of 2 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, concerning the protection of natural persons with regard to the processing of personal data, as well as the free movement 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 natural persons with regard to the processing of personal data, as well as to the free movement of such data and which repeals Directive 95/46/EC (hereinafter the "Code");

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.gpdp.it, doc. web no. 9107633 (hereinafter "Regulation of the Guarantor n. 1/2019");

Given the documentation in the deeds;

Given the observations made by the 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;

Speaker Dr. Giovanna Bianchi Clerici;

WHEREAS

1. The complaint.

With a complaint dated December 31, 2018, presented pursuant to art. 77 of the Regulation, as subsequently integrated, Ms

XX, a former employee of the Municipality of Greve in Chianti, complained about the publication, in the "Online Register" section of the institutional website of the Municipality, of the decision of the Secretary General no. XX of the XX, with the subject "XX", within which references to events relating to the employment relationship of which the complainant was a part were mentioned. In particular, the complainant complained that the determination contained references to her person, being identifiable by the initials of her surname and name, as well as personal data relating to criminal convictions and offences.
The complainant had been hired by the Municipality following an external mobility procedure to fill a single position in the same Municipality and she had been assigned to command at the Unione Comunale del Chianti Fiorentino, of which the Municipality is a part. After a few years of hiring, the Municipality, following an investigation initiated by its Disciplinary Proceedings Office, from which it emerged, in the Municipality's opinion, that the interested party had received a non-definitive criminal conviction and had penal proceedings in course in the period in which he had participated in the selection, had ordered the sanction of dismissal without notice for the interested party, on the assumption that the latter did not have the requisites to participate in the external mobility procedure, the notice of which provided as an indispensable requirement, self-certified by the interested party during the stipulation of the employment contract, the absence of criminal convictions and criminal proceedings in progress. Consequently, the Union, with its own determination, had ordered the exclusion of the interested party from the selective external mobility procedure and had provided for the rectification, by way of self-protection, of two decisions of the Municipality, with which the minutes had been approved of the procedure.
Having the interested party brought an appeal to the TAR against the Municipality and the Union for the annulment of this determination of the Union, the Municipality, with determination no. XX object of the complaint, had entrusted a lawyer with the task of defending the Entity in court. In this determination, published on the Municipality's website, it was noted that "Mrs [initials of name and surname]" proposed "appeal to the TAR against the Union [...] and [the] Municipality […] for the annulment of the decision of the Head of the Administrative Area Service [of the Union] no. [...] of [...] which ordered the exclusion of the selective procedure called by the Municipality [...] as well as any connected and/or consequential prerequisite act, [...] in particular, the determination of the Municipality [...] [which] in approving the notice of external mobility, set the requirement for participation not to have criminal proceedings in progress". The complainant therefore complained to the Guarantor about the unlawful dissemination of personal data, also relating to crimes, given that from the determination in question it was inferable that the interested party had not satisfied this requirement.

2. The preliminary investigation.

With a note of the XX (prot. n. XX), the Municipality, responding to the request for information from the Guarantor (prot. n. XX of the XX), declared that:

- the determination in question had been "subject to publication on the Municipality's website [...] both in the online Register and subsequently in the Historical Register, and in the Transparent Administration section from XX to XX";

- the complainant's personal data had been processed "in the context of a disciplinary procedure involving employees for institutional purposes and in the context of legal obligations";

- the conviction sentence in the criminal court, from which the disciplinary proceeding arose, "had already been removed from the sphere of confidentiality from the beginning by the judge, imposing the ancillary penalty of publication" of the operative part of the sentence in two newspapers;

- the data had been "autonomously and voluntarily removed by the interested party from the sphere of confidentiality, and therefore by virtue of article 9 paragraph 2 letter and of EU Regulation 2016/679 also from the prohibition of processing", on the assumption that "the story had wide prominence in the local press" and that the press had come into possession of "information" [that] "came from sources outside the Municipality" or of which the Municipality was not yet aware;

- the object of the determination had been "completely anonymised";

- the only deed, among those adopted by the Municipality as part of the disciplinary procedure, "which contained the initials and the object of the appeal only in the narrative part of the body of the decision" was "that of assigning the defense legal, in order to guarantee and balance the need for confidentiality with the need to disclose the reason for the assignment, in compliance with the rules on transparency";

- the initials of the complainant "were not and are not in any case useful for identifying a precise person since the Municipality of Greve in Chianti has 82 employees, does not publish their names on its website, and [the complainant] lives in another province";

- "Legislative Decree 33/2013 in art. 15 paragraph 2 provides that the "reason for the assignment" is indicated in the publication on the website and that such publication is a condition for the effectiveness of the deed and for the payment of the related fees".

With a note of the XX (prot. n. XX), the Office, on the basis of the elements acquired from the checks carried out and the facts

that emerged following the preliminary investigation, notified the Municipality, 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, concerning the alleged violations of articles 5, par. 1, lit. a) and c), 6, paragraph 1, lett. c) and e), 2 and 3, lett. b), and 10 of the Regulation, as well as articles 2-ter, paragraphs 1 and 3 and 2-octies of the Code, inviting the aforesaid owner 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 Article 18, paragraph 1, of Law No. 689 of 24 November 1981).

The Municipality sent its defense briefs with a note of the XX (prot. n. XX), representing, among other things, that:

- the claimant was not identifiable, given that "the determination […] mentioned, only twice and in the same paragraph, the initials of the claimant"; "no other reference was contained therein, as the object of the determination was the appointment of a trusted defender for the constitution in appeals before the TAR and before the ordinary Court presented by the same"; "Resolution XX mentioned in the object, adopted even before the notification of the appeals, was also completely anonymised"; "there was [...] no reference to the office to which he belonged, to the role performed [...] or to the date of employment or even to age or origin or any other element which, even with a consultation of the institutional website, would allow us to trace the 'identity of the data subject'; "the municipality's website did not and does not contain any list of names of municipal employees, and the name and surname of the [complainant] did not appear in the organization chart or in the articulation of the offices published in Transparent Administration"; the complainant "did not reside and did not have her home in the municipality of Greve in Chianti but [in a distant municipality]";
- it was, therefore, "practically impossible for a reader unrelated to the story to identify the person" and, ultimately, "only the colleagues of the Municipality could intuit the relationship, but this because they had been involved in the disciplinary procedure, or because office colleagues or again because the protocol office has been notified of the appeals", it being understood that "in any case, the same colleagues, in relation to the proceedings in which they have been involved, are bound to secrecy";
- the press had circulated "the story of the dismissal, the name of the complainant and the object of the appeals", it being, therefore, "clear that such information could only have been provided by the person directly concerned";
- nevertheless, the Municipality "provided to report only the initials of the appellant against whom the Municipality was to be established", in accordance with the "principles of minimization and as currently also carried out by the administration of justice

in app. accessible to all "Civil justice" and the practice of the European Court of Justice of "replacing the names of the natural persons involved in the case with initials", cited "only the object of the appeals notified to the Municipality and for which the same had to be constituted, an essential element to make the provision of conferment of the assignment complete and legitimate", and replied "in the sole premises the object of the appeals exactly as contained in the appeals notified to the Municipality, thereby fulfilling the requirements of art. 15 Legislative Decree 33/2013";

- the Municipality was, in fact, "obligated to publish on transparent administration, pursuant to art. 15 of Legislative Decree 33/2013, of the assignment and collaboration deeds among which ANAC (see FAQ) also refers to the legal ones", therefore, there is "a legal obligation that imposes the treatment";

- with reference to "the Online Praetorian Register, the obligation is contained in art. 124 of Legislative Decree 267/2000 (TUEL) as well as in art. 1 paragraph 3 of the regulation of administrative procedures at the time in force", also with reference to "the permanence of the determination in the Historical Register section of the Municipality";

- in the decision in question "there is no reference to data relating to criminal convictions and offences", being in it only "resumed, as it is, the object of the appeal presented before the TAR by the claimant, in which reference is made to the appeal against the resolution of the Municipality of Greve in Chianti n. X of the XX in part here in approving the notice of external mobility, set as a requirement for participation not having criminal proceedings in progress", or "a generic requirement for participation";

- "the appeal against a resolution in the part in which it required not to have criminal proceedings in progress does not automatically imply that the appellant has any, being only one of the many reasons that could underlie the appeal";

- "the connection between the appellant and convictions and/or crimes is [...] certainly excluded since the criminal proceedings start at the time of registration in the register of suspects and appear in the pending charges at the time of indictment";

- the Municipality acted, in any case, with diligence and correctness, given that it "always asked the opinion of the DPO", or the data protection officer designated by the Municipality at the time, who had initially considered that "the measure adopted by the municipality (indication of the initials only instead of the name)" was "adequate for the protection of the privacy of the person in question", to then suggest, on the XX date, that "where this is technically possible it is advisable to proceed in this meaning [i.e. of removal]", the Municipality having promptly adapted to this subsequent orientation.

During the hearing requested by the Municipality, held at the Guarantor on the 20th date, the Municipality also argued that:

- the Municipality had "adopted technical measures to ensure that the documents relating to the proceedings [...] were managed in the protocol of the Municipality in a confidential manner";

- "considering that the story had had wide coverage in the local press, the presence of the initials was in fact irrelevant for the purposes of the possibility of reconnecting the facts to the natural person concerned, especially within the internal sphere of the organization of the Municipality";

- the determination, "although published on the Municipality's website, was not indexed on search engines and, therefore, its scope of knowledge was limited".

With a subsequent note (prot. n. XX of XX), moreover presented after the deadline set by art. 166, paragraph 6, of the Code, the Municipality specified that "the confidential [registration] method has been applied to all outgoing notes with the recipient [the complainant] since the start of the procedure and to incoming notes with the sender [the complainant] relating to the disciplinary procedure starting from the XX", and presented certain defensive theses, substantially attributable to those referred to in the previous note of the XX and referred to in the hearing before the Guarantor.

3. Outcome of the preliminary investigation.

The personal data protection regulations provide that public entities, even if they operate in the performance of their duties as employers, can process the personal data (art. 4, n. 1, of the Regulation) of employees, if the treatment is necessary "to fulfill a legal obligation to which the data controller is subject" (i.e. the specific obligations or tasks established by law for the purpose of managing the employment relationship; see art. 88 of the Regulation) or "for the execution of a task of public interest or connected to the exercise of public powers vested in the data controller" (Article 6, paragraph 1, letters c) and e) of the Regulation).

European legislation provides that "Member States may maintain or introduce more specific provisions to adapt the application of the rules of this regulation with regard to treatment, in accordance with paragraph 1, letters c) and e), determining more precisely specific requirements for processing and other measures aimed at guaranteeing lawful and correct processing [...]" (Article 6, paragraph 2, of the Regulation). In this regard, it should be noted that the operation of dissemination of personal data (such as publication on the Internet), by public entities, is permitted only when provided for by a law or, in the cases provided for by law, by regulation (art. 2-ter, paragraphs 1 and 3, of the Code).

With specific regard, the processing of data relating to criminal convictions and offenses or related security measures can only

take place under the control of the public authority or if the processing is authorized by Union or Member State law which provides appropriate guarantees for the rights and freedoms of the interested parties (art. 10 of the Regulation), or only if the processing is authorized by a law or, in the cases provided for by law, a regulation (art. 2-octies, paragraphs 1 and 5 of the Code) .

Furthermore, the data controller is required to respect the principles regarding data protection, including that of "lawfulness, correctness and transparency" as well as "minimization", according to which personal data must be "processed in lawful, correct and transparent manner in relation to the data subject" and must be "adequate, pertinent and limited to what is necessary with respect to the purposes for which they are processed" (Article 5, paragraph 1, letters a) and c), of the regulation).

In particular, in compliance with the principle of "data minimization" (Article 5, paragraph 1, letter c), of the Regulation), even in the presence of an obligation to publish, the subjects called to implement it cannot in any case disseminate excessive or irrelevant personal data (see provision n. 243 of 15 May 2014, Guidelines on the processing of personal data, also contained in administrative deeds and documents, carried out for the purpose of advertising and transparency on the web by public entities and other obliged bodies, web doc. n. 3134436, second part paragraphs 1 and 3.a.).

In this context, it is noted, as a preliminary point, that what was declared by the Entity with reference to the fact that the complainant was not identifiable does not matter. Considering that "identification does not mean only the possibility of recovering the name and/or address of a person, but also the potential identifiability through identification, linkability and deduction" (Art. 29 Working Group, Opinion 05/2014 on anonymisation techniques, WP216), the mention of the initials of the surname and first name of the complainant within the determination was, in fact, suitable for allowing identification, at least by the employees of the Municipality and by family members or acquaintances of the complainant, also in consideration of the size of the Municipality (about 13749 inhabitants) and its workforce (84 permanent workers, according to what is reported in the 2018 annual account, drawn up in 2019, published on the Municipality's website).

In fact, the possibility that there were other workers with the same initials within the Entity must be considered residual, so much so that the latter did not plead this circumstance in its defenses. In any case, considering that the determination in question referred to a previous determination by the Municipality, in execution of which a selection had been called for the full-time and permanent coverage of a single post for a specific professional figure at the Municipality, it was easily deducible

also the role played within the Entity by the claimant, making it easy to identify her, as she is the candidate selected at the end of this procedure.

On the other hand, since 2014, the Authority, in the "Guidelines on the processing of personal data, also contained in administrative deeds and documents, carried out for purposes of publicity and transparency on the web by public subjects and other obliged bodies " (web doc. n. 3134436) clarified that “the practice followed by some administrations of replacing the data subject´s name and surname with initials alone is in itself insufficient to anonymize the personal data contained in the deeds and documents published online” and that "the risk of identifying the interested party is all the more probable when, among other things, further contextual information remains alongside the initials of the name and surname which in any case make the interested party identifiable", being necessary, in order to effectively make anonymous the data published online, "completely obscure the name and other information relating to the interested party which may allow identification even a posteriori".

Equally, the thesis, moreover not proven by the Municipality, that the claimant had already disclosed to the press her personal data contained in the determination, is without appreciation, as is the thesis that the conviction in the criminal court, from which the disciplinary proceeding against the claimant, "had already been removed from the sphere of confidentiality from the beginning by the judge, imposing the ancillary penalty of publication" of the operative part of the sentence in two newspapers.

In fact, public entities can disclose personal data only in the cases envisaged by a law or, in the cases envisaged by law, by regulation (Article 2-ter, paragraphs 1 and 3, of the Code), without noting that the the same data have already been disclosed in the context of the publication of judgments or measures for the purposes of legal IT (see articles 51 and 52 of the Code) or as an ancillary sanction, either by the interested party himself or by third parties for other purposes (on the point , see provision n. 35 of 13 February 2020, web doc. n. 9285411).

With reference to the circumstance that the Municipality was required, pursuant to art. 15 of Legislative Decree no. 33/2013, upon publication of the determination in question on the "Transparent Administration" section of its website, it is noted that, as clarified by the Guarantor in the Guidelines cited above, "where the administration finds the existence of a regulatory obligation which imposes the publication of the deed or document on one's institutional website, it is necessary to select the personal data to be included in these deeds and documents, verifying, case by case, whether the conditions for the obscuring of certain information are met", in accordance with the principle of data minimization (art. 5, paragraph 1, letter c), of the Regulation), "when the purposes pursued in individual cases can be achieved through anonymous data or other methods that allow the

data subject to be identified only if necessary ". With specific reference to the publication obligations of considerations and fees, in the same Guidelines it is clarified that "for the purposes of fulfilling the publication obligations, [...] it does not appear [...] justified to reproduce on the web the full version of accounting documents [...] as well as the indication of other excessive data [...]" (par. 9.c), such as, in the present case, the initials of the appellant in the dispute for which the professional was appointed and references to data relating to crimes.

Therefore, even in the presence of the publication obligations pursuant to Legislative Decree no. 33/2013, the subjects called to implement it cannot in any case "make […] intelligible personal data that is not pertinent or, if sensitive or judicial, not indispensable with respect to the specific transparency purposes of the publication" (Article 7-bis, paragraph 4 of Legislative Decree No. 33/2013). Therefore, the Municipality should have published "the details of the deed of assignment" (art. 15, paragraph 1, letter a) of Legislative Decree no. 33/2013) without reporting the full content of the deed, or making any reference, even indirectly, to the interested party.

The same considerations also apply to the obligations deriving from art. 124 of Legislative Decree 267/2000, invoked by the Municipality to justify the publication of the determination in the "Praetorian register" section of its institutional website, given that all the limits set forth above also apply to publications in the online praetorian register with regarding compliance with the principle of data minimization and the precautions in the event that the documents to be published contain data belonging to particular or judicial categories (see part II, paragraph 3(a) of the above-mentioned Guidelines). In the determination to be published, no identification data of the interested party should have been reported (e.g. initials of the name and surname) or other context data that could have allowed identification of the same, such as, for example, precise references to the of other administrative acts and documents. Moreover, the publication of the determination with these precautions would not have compromised the principle of adequate motivation pursuant to art. 3 of law 241/1990, since the integral version of the determination would have remained, in any case, in the records of the Municipality and would have been accessible, by qualified subjects, in the ways and within the limits established by law.

Furthermore, the circumstance that the determination was published, without prior anonymization, in the section dedicated to the historical register, beyond the period of time envisaged by the sector regulations (see art. 124, legislative decree 18 August 2000, n. 267 concerning the publication of local authorities' documents on the praetorian register, as well as Article 32, Law No. 69 of 18 June 2009), further connotes the dissemination of the personal data contained therein as unlawful.

As regards the circumstance that, in the opinion of the Municipality, the determination in question did not contain personal data of the complainant relating to criminal convictions and crimes, on the assumption that "the appeal against a resolution in the part in which it set as a requirement not to have criminal proceedings in progress does not automatically imply that the appellant has any, being only one of the many reasons that could underlie the appeal", it should be noted that with this determination, which referred to the administrative measures against which the appellant had appealed to the TAR against the Municipality , the information was disclosed that the complainant had been excluded from the selective procedure called by the Municipality and that, in particular, the same had requested the annulment of the determination, with which the notice of external mobility had been approved, in the part in which "it made it a requirement for participation not to have criminal proceedings in progress", essend o the connection between the provision of exclusion from the voluntary redundancy procedure and the failure to satisfy this requirement for the purposes of the applicant's interest in taking action is evident. Moreover, this circumstance was further inferable by consulting the administrative deed, object of appeal by the complainant (which was mentioned in determination n. XX, object of complaint) issued and published online by the Unione Comunale del Chianti Fiorentino, of which the Municipality belongs to and in which the complainant operated at the time under command, and which contained precise references to the existence of convictions against the interested party (to which reference was made by means of the registration number), consequently arranging the exclusion from the selection procedure established by the Municipality. With regard to the profiles relating to the diffusion of this latter determination, a separate proceeding was initiated against the Unione Comunale del Chianti Fiorentino.

It should also be noted that, contrary to what was claimed by the Municipality, information relating to events connected with the commission of crimes or criminal proceedings, involving a natural person, constitute "personal data relating to criminal convictions and crimes or related security measures "pursuant to and for the purposes of art. 10 of the Regulation, regardless of the circumstance that such information does not contain references to the specific crimes committed and the state of the criminal proceedings in question.

4. Conclusions.

In the light of the assessments referred to above, it should be noted that the statements made by the data controller during the preliminary investigation □ the truthfulness of which may be called upon to answer pursuant to art. 168 of the Code □, although worthy of consideration, do not allow overcoming the findings notified by the Office with the act of initiation of the procedure

and are insufficient to allow the closure of the present procedure, since none of the cases provided for by the 'art. 11 of the Regulation of the Guarantor n. 1/2019.

It is also represented that the violation of the personal data object of the investigation, by the Municipality, took place in full force of the provisions of the Regulation and of the Code, as amended by Legislative Decree no. 101/2018, and that, therefore, for the purpose of determining the regulatory framework applicable from a temporal point of view (art. 1, paragraph 2, of the law of 24 November 1981, n. 689), these constitute the provisions in force at the time of the order violation, which in the present case began on 24 December 2018, the date on which the Regulation was fully effective and Legislative Decree no. 101/2018 had entered into force.

Therefore, the preliminary assessments of the Office are confirmed and the illegality of the processing of personal data carried out by the Municipality of Greve in Chianti is noted, for having disclosed personal data relating to the complainant contained in the determination of the Secretary General n. XX of the XX, in the absence of suitable regulatory conditions, in violation of articles 6, paragraph 1, lett. c) and e), 2 and 3, lett. b), and 2-ter, paragraphs 1 and 3, of the Code, as well as the basic principles of treatment contained in art. 5, par. 1, lit. a) and c) of the Regulation; since the aforementioned determination also contained data relating to crimes (with simultaneous reference to an administrative act of the Union containing data relating to criminal convictions and offences), the publication also took place in violation of art. 10 of the Regulation, as well as art. 2-octies of the Code.

The violation of the aforementioned provisions makes the administrative sanction envisaged by art. 83, par. 5, of the Regulation, pursuant to articles 58, par. 2, lit. i), and 83, par. 3, of the same Regulation and art. 166, paragraph 2, of the Code.

In this context, considering, in any case, that the conduct has exhausted its effects, given that the publication of the determination in question on the Municipality's website has ceased, the conditions for the adoption of further corrective measures pursuant to art. '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; article 166, paragraph 7, of the Code).

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

Board [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).

In this regard, taking into account the art. 83, par. 3, of the Regulation, in the present case - also considering the reference contained in art. 166, paragraph 2, of the Code – the violation of the aforementioned provisions is subject to the application of the same pecuniary administrative sanction provided for by art. 83, par. 5, of the Regulation.

The aforementioned pecuniary administrative sanction imposed, depending on the circumstances of each individual case, must be determined in the amount taking into due account the elements provided for by art. 83, par. 2, of the Regulation.

In relation to the aforementioned elements, the particular delicacy of personal data unlawfully disclosed by the Municipality was considered, since it concerns data relating to criminal convictions and crimes (Article 10 of the Regulation), also in the light of the indications that, since 2014, the Guarantor , has provided all public subjects with the Guidelines on the processing of personal data, also contained in administrative deeds and documents, carried out for the purpose of publicity and transparency on the web by public subjects and other obliged bodies, mentioned above.

On the other hand, it was favorably noted that the Municipality of Greve in Chianti had taken steps to involve its personal data protection officer and to comply in good faith with the opinion of the same. There are no previous relevant violations committed by the data controller or previous provisions pursuant to art. 58 of the Regulation.

Based on the aforementioned elements, evaluated as a whole, it is decided to determine the amount of the pecuniary sanction in the amount of 4,000.00 (four thousand) euros for the violation of articles 5, par. 1, lit. a) and c), 6, par. 1, lit. c) and e), 2 and 3, lett. b), and 10 of the Regulation, as well as articles 2-ter, paragraphs 1 and 3 and 2-octies of the Code, as a pecuniary administrative sanction withheld, pursuant to art. 83, par. 1, of the Regulation, effective, proportionate and dissuasive.

Taking into account the particular delicacy of the data disseminated, as well as the extended period of time during which the aforementioned data were made available on the net, it is also believed that the accessory sanction of publication on the website of the Guarantor 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.

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

pursuant to art. 57, par. 1, lit. f), of the Regulation, declares the conduct held by the Municipality of Greve in Chianti to be unlawful, described in the terms referred to in the justification, consisting in the violation of articles 5, par. 1, lit. a) and c), 6, paragraph 1, lett. c) and e), 2 and 3, lett. b), and 10 of the Regulation, as well as articles 2-ter, paragraphs 1 and 3 and 2-octies of the Code, in the terms indicated in the justification

ORDER

to the Municipality of Greve in Chianti, in the person of its pro-tempore legal representative, with registered office in Piazza Matteotti n.8 - 50022 Greve in Chianti (FI), Tax Code 01421560481, pursuant to articles 58, par. 2, lit. i), and 83, par. 5, of the Regulation and 166, paragraph 2, of the Code, to pay the sum of 4,000.00 (four thousand) euros as an administrative fine for the violations indicated in the justification. 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 Municipality, in the event of failure to settle the dispute pursuant to art. 166, paragraph 8, of the Code, to pay the sum of 4,000.00 (four thousand) euros according to the methods indicated in the annex, within 30 days of notification of this provision, under penalty of adopting the consequent executive acts pursuant to art. 27 of the law no. 689/1981;

HAS

pursuant to art. 166, paragraph 7, of the Code, the publication of this provision on the website of the Guarantor, believing that the conditions set forth in art. 17 of the Regulation of the Guarantor n. 1/2019 concerning internal procedures having external relevance, aimed at carrying out the tasks and exercising the powers delegated to the Guarantor.

Pursuant to articles 78 of the Regulation, 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, July 2nd 2020

PRESIDENT

Soro

THE SPEAKER

Cleric Whites

THE SECRETARY GENERAL

Busia