

Injunction against Legea s.p.a. - November 21, 2018

Register of measures

no. 484 of 21 November 2018

THE GUARANTOR FOR THE PROTECTION OF PERSONAL DATA

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

NOTING that the Special Privacy Unit of the Guardia di Finanza, in execution of the request for information pursuant to art. 157 of the Code regarding the protection of personal data - Legislative Decree 30 June 2003, no. 196 (hereinafter referred to as the Code) (n. 7226/123076 of 2 March 2018), carried out the investigations referred to in the reports of operations carried out on 26 and 27 April 2018 against Legea s.p.a. VAT number: 02709351213, based in Naples, piazza dei Martiri n. 30, in the person of the pro-tempore legal representative, from which it emerged that the company, using two collection forms called "work with us" and "affiliate form" present on the website www.legea.it, carried out, as owner, a processing of data of the interested parties, without being given the information pursuant to art. 13 of the Code;

CONSIDERING the report no. 58/18 dated 9 July 2018 with which Legea s.p.a. was charged with the administrative violation, provided for by art. 161 of the Code, in relation to art. 13, informing you of the right to make a reduced payment pursuant to art. 16 of the law of 24 November 1981, n. 689;

RECORDED from the report, prepared pursuant to art. 17 of the law of 24 November 1981, n. 689, relating to the aforementioned dispute report, that the reduced payment does not appear to have been made;

HAVING REGARD to the written defenses sent pursuant to art. 18 of the law of 24 November 1981, n. 689, with which the company, with specific reference to the collection form called "affiliate form", highlighted how "Potential affiliates are companies or sole proprietorships and therefore all subjects registered (...) in the public registers kept at the Chambers of Commerce. In this sense, it must be considered that the freely indicated data of potential affiliates are those that are minimally indispensable for establishing a business-to-business contact and are perfectly coincident with those already filed in public registers (...)". Furthermore, on this point, he highlighted how "La Legea S.p.A. before concluding any commercial negotiation (...) it is required to first verify the truthfulness and validity of the same commercial data of the aspiring affiliates (...)". With

regard to the collection form called "work with us", he highlighted how "It goes without saying that those who ask for work are preliminarily aware and informed of the identity of the subject to whom they transmit their data and are aware of having to provide at least their personal details and other data useful for establishing contact";

CONSIDERING that the arguments put forward by Legea s.p.a. are not suitable to exclude their responsibility in relation to the disputed, given that none of the arguments produced relating to both the collection form called "affiliate form" and the collection form called "work with us", is in no way attributable to any of the cases of exclusion from the obligation to provide the information to the interested parties pursuant to art. 13 of the Code;

NOTING that the company has therefore processed personal data (art. 4 paragraph 1, letter a) and b) of the Code) without providing the required information to the interested parties pursuant to art. 13 of the Code both through the collection form called "affiliate form" and through the collection form called "work with us";

CONSIDERING the art. 161 of the Code which punishes the violation of the provisions of art. 13 with the administrative sanction of the payment of a sum from six thousand euros to thirty-six thousand euros;

CONSIDERING that, in the case in question, the conditions for applying art. 164-bis, paragraph 1, of the Code which provides that if any of the violations referred to in art. 161, 162, 162-ter, 163 and 164 is less serious, the minimum and maximum limits established in the same articles are applied in an amount equal to two fifths;

CONSIDERING that, for the purposes of determining the amount of the pecuniary sanction, it is necessary to take into account, pursuant to art. 11 of the law of 24 November 1981 n. 689, of the work carried out by the agent to eliminate or mitigate the consequences of the violation, the seriousness of the violation, the personality and economic conditions of the offender;

CONSIDERED having to determine, pursuant to art. 11 of the law n. 689/1981, the amount of the fine for the violation of art. 162, paragraph 2 bis of the Code in conjunction with art. 164-bis, paragraph 1, in the amount of Euro 2,400.00 (two thousand four hundred);

HAVING REGARD to the documentation in the deeds;

HAVING REGARD to the law of 24 November 1981 n. 689, and subsequent modifications and additions;

HAVING REGARD TO the observations of the Office, formulated by the Secretary General pursuant to art. 15 of the Guarantor's regulation n. 1/2000;

SPEAKER Dr. Giovanna Bianchi Clerici;

ORDER

to Legea s.p.a. VAT number: 02709351213, based in Naples, piazza dei Martiri n. 30, in the person of the pro-tempore legal representative, to pay the sum of 2,400.00 (two thousand four hundred) euros as a pecuniary administrative sanction for the violation, provided for by art. 161 of the Code, indicated in the motivation;

ENJOYS

to the same subject to pay the sum of Euro 2,400.00 (two thousand four hundred) according to the methods indicated in the annex, within 30 days of notification of this provision, under penalty of the adoption of the consequent executive acts pursuant to art. 27 of the law of 24 November 1981, n. 689.

Pursuant to articles 152 of the Code and 10 of Legislative Decree no. 150/2011, opposition to this provision may be lodged with the ordinary judicial authority, with an appeal lodged with the ordinary court of the place where the data controller has his residence, within the term of thirty days from the date of communication of the provision itself or sixty days if the appellant resides abroad.

Rome, 21 November 2018

PRESIDENT

Soro

THE SPEAKER

Cleric Whites

THE SECRETARY GENERAL

Busia