



GARANTE PER LA PROTEZIONE DEI DATI PERSONALI

In today's meeting, with the participation of [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED] and [REDACTED], [REDACTED]; and [REDACTED];

Having regard to legislative decree No 196 of 30 June 2003 (Personal Data Protection Code, hereinafter 'Italian DP Code' or the 'Code') as amended by legislative decree No 101 of 10 August 2018 containing 'Provisions to adapt the national legal system to Regulation (EU) 2016/679 (GDPR)';

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 complaint lodged by a German national with the Berlin supervisory authority regarding the allegedly unlawful processing of data concerning him as a consequence of his registration with the [REDACTED] website and of having received a confirmation email containing his password in clear text;

Taking account of IMI Art. 56 procedure No 134002 that was opened by the Berlin SA insofar as an instance of cross-border data processing was at issue, which was communicated to the other EEA SAs on 26 June 2020;

Taking account that the Italian SA accepted to act as the lead supervisory authority in the said procedure since the controller has its main establishment in Italy;

Having regard to the draft decision approved by the Garante's Panel of Commissioners at the meeting of 13 May 2021, which was shared with the other supervisory authorities concerned without receiving any relevant and reasoned objections in compliance with the cooperation and consistency principles set out in Article 60 of the Regulation;

Having regard to the records on file;

Having regard to the considerations submitted by the Secretary General in pursuance of Section 15 of the Garante's Regulations No 1/2000;

Acting on the report submitted by [REDACTED];

WHEREAS

1. The complaint and the relevant inquiries

The case originates from the complaint lodged with the Berlin SA by Mr [REDACTED] against the allegedly unlawful processing of his personal data by [REDACTED] S.r.l. – an Italian company operating in the sports accessories sector; the latter had reportedly sent him a password in cleartext via the email confirming his registration with the [REDACTED]

website without his having explicitly requested such password. This had led the complainant to question the adequacy of the security measures implemented to protect personal data.

Having accepted to act as the lead supervisory authority in the case at issue since the controller has its main establishment in Italy, the Garante sent a letter to [REDACTED] s.r.l. (which had become [REDACTED] as from [REDACTED], headquartered in [REDACTED] [REDACTED]) requesting them to provide the following:

- A description of the user registration procedure for the [REDACTED] website, including the reasons why the password chosen by the user was sent him in cleartext in the confirmation email;
- A description of the arrangements for storing the passwords of users that have registered with the [REDACTED] website, including the encryption techniques (such as hashing and salting) possibly used to protect them.

The controller replied by two letters dated 28 September 2020 and 2 November 2020 where information was provided that the SA deemed to be satisfactory. This applies to the registration procedure – which was modified based on the technical report submitted by the company, whereby it does no longer envisage sending passwords in cleartext in the confirmation emails – as well as to the password storage arrangements. Indeed, the controller specified the encryption algorithm relied upon, which is generally considered adequate as of now in terms of the security it affords.

Account is taken of the submissions made by the company also in the light of Section 168 of the Code, and that the company cooperated actively with the Garante throughout the proceeding.

2. Assessment by the SA

In the light of the findings from the investigations as shared with the other supervisory authorities concerned, the proceeding at hand may be closed without taking corrective or fining measures within the meaning of Article 58(2) of the Regulation.

Under Article 57(1)(d) of the Regulation, the Italian SA is tasked among other things with promoting the awareness of controllers and processors of their obligations under the Regulation. Accordingly, the Italian SA finds that the proceeding at issue may be concluded in line with Article 60(7) of the Regulation by calling upon the controller to continuously verify and update its standards to ensure security of processing activities.

The Berlin SA is required to inform the complainant of this decision under the terms of Article 60(7) of the Regulation, being the authority with which the complaint was lodged.

BASED ON THE FOREGOING PREMISES, THE GARANTE

Taking note of the feedback that was provided by [REDACTED] - also via the technical reports submitted - regarding the security measures in place, which were found to have been enhanced in the course of the proceeding at issue, as well as of the said company's active cooperation,

- a) Provides that the proceeding at hand be concluded within the meaning of Section 143(3) of the Code and Sections 11(1)(d), 14 and 18 of the Garante's Internal Regulation No 1/2019 concerning internal procedures having external impact as related to discharge of the tasks and exercise of the powers committed to the Garante per la protezione dei dati personali;

- b) Calls upon [REDACTED] under Article 57(1)(d) of the Regulation to continuously verify and update its standards to ensure security of processing activities.

Under Article 60(7) of the Regulation, this decision shall be notified to the controller, who may challenge it under the terms of Article 78 of the Regulation as applied jointly with Section 152 of the Code and Section 10 of legislative decree No 150 of 1 September 2011 by lodging an appeal with the court of the place where the controller is resident or has an establishment or else with the court of the data subject's place of residence by thirty days from notification hereof, or by sixty days if the appellant is resident abroad.

Under Article 60(7) of the Regulation, the supervisory authority with which the complaint was lodged shall inform the complainant on this decision.

Rome, 10 March 2022

THE PRESIDENT

THE RAPPORTEUR

THE SECRETARY GENERAL