



GECOSEI

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Registro Anagrafe Condominiale

The release of the list of contact details of individual condòmini. Powers of the condominium administrator and protection of sensitive data.

The contact details of individual condominiums can be considered "sensitive data"?

(Ivano Rossi - Privacy Consultant 05/06/2018) **The case.** The judge of the V Civil Section of the Court of Rome, with sentence no. 7192/2018, expressed itself on the request of a condominium to see recognized his right to obtain from the condominium administrator the release of the list of contact details of individual condominiums.

Exactly the condominium, part actress, cited the condominium invoking the nullity of the Assembly resolution for a number of reasons, including the request for delivery of the list of condominiums complete with contact details by the administrator, having seen denying during the meeting this his request.

The assumptions of the request of the recurring party are the access of the condominium documentation as recalled in the second paragraph of the Civil Code, which reads: "... omissis ... the room where the registers are listed in numbers 6) and 7) of the article 1130, as well as the days and hours in which each subject, upon request to the administrator, can obtain a free vision and obtain, upon reimbursement of the expense, a copy signed by him. "and therefore contrary to the right of each condominium to know condominium documentation.

The sentence. From reading the sentence, it is understood that during the meeting the condominiums present denied the transmission of the addresses, citing the nature of the data as "sensitive" and therefore subject to confidentiality.

The court seised intervened specifying that the justification for the refusal is "unfounded and pretentious not being able to qualify the address provided by a subject within a legal relationship a sensitive and therefore not ostensible (to show / show), much less in the with regard to those who participate in such relationships, let alone with reference to the relationships established within the condominium community ". For these reasons the request by the plaintiff was accepted.

To better understand the subject and the reasons for the judge's decision, let's make some clarifications.

The legislative decree of 30th June 2003 n. 196 defines **sensitive data**, all those "personal information" capable of revealing racial and ethnic origin, religious, philosophical or other convictions, political opinions, membership of parties, trade unions, religious or philosophical associations or organizations , political or trade union, as well as personal data suitable to reveal the state of health and sexual life ".

The recent regulatory changes. With the General Regulation for Data Protection (EU Regulation 2016/679), applicable from 25 May 2018, we lose the explicit definition of sensitive data and we introduce the particular category of data, which, although similar, embraces a wider type of data personal data and exactly fall into this set "personal data revealing the racial or ethnic origin, political opinions, religious or philosophical beliefs, or union membership, as well as processing genetic data, biometric data intended to uniquely identify a natural person, data relating to the health or sexual life or sexual orientation of the person ".

Therefore, the addresses requested by the applicant are not included in the category of particular data whose processing is generally prohibited except in the cases provided for by paragraph 2 of art. 9 of the EU Reg. 2016/679.



Postal addresses are personal data that identifies or identifies a person and in the specific case of the condominium, they are necessary for the exercise of certain rights such as the convocation of the meeting pursuant to art. 66 co. 1 of the provisions for implementing the Civil Code.

Therefore, the postal address becomes an essential data necessary to fulfill a legal obligation and for the exercise of a right such as the possibility to convene the condominium assembly or the pursuit of a legitimate interest.

At the same time it is necessary to pay attention to the contents of the register of the condominium registry and to the set of personal data held by the administrator present in the data sheets of the individual owners.

The legislator has been very clear in identifying what must contain the register of the condominium registry and exactly: "the generality of the individual owners and holders of rights and personal enjoyment rights, including the tax code and the residence or domicile, the cadastral data of each real estate unit ", (Article 1130 paragraph 1 No. 6), nothing else.

Only this information must contain the register and these can be communicated to those entitled. Faced with a request by a condominium, the administrator can not refuse to deliver a copy, upon payment.

The administrator can not and must not communicate other information regarding the condominium structure such as: telephone numbers not in public lists, email addresses or other personal information without the consent of the interested parties.

If he does so, even through his collaborators for which he is directly responsible, would be an unlawful processing with the communication to third parties.

Those who would see their rights infringed could file a claim with the Guarantor, bearing in mind the circumstances, to initiate proceedings against the same.

Recall that this information can also be disseminated against the will of the administrator. For example, through fraudulent access to the database by a hacker or through malware, malicious software, which could carry data from the administrator's office or via the sniffing technique, commonly used to intercept the data. Unsecured connection data.

The administrator will therefore have to worry not only what data will be able to communicate in the event of a direct request, but also of computer security so that the same information does not fall into the hands of bad intentions.

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