

GOOGLE ANALYTICS: UNLAWFUL PERSONAL DATA TRANSFER IN THE U.S.A. - IP ADDRESS IS PERSONAL DATA - ROLE OF THE CONTROLLER AND ADEQUATE TECHNICAL MEASURES.

On 9 June 2022 the Italian Data Protection Authority (“IDPA”) issued a decision, published on 23 June, concerning the use of Google Analytics’ services by a third company and the unlawful personal data transfer in the U.S.A.

The decision sets forth that the web site of a third company, which uses Google Analytics’ services without the adequate guarantees provided by the European Regulation No. 679 of 2016 (“GDPR”), breaches the data protection rules with respect to the unlawful transfer of personal data in the U.S.A., country currently considered without an adequate level of protection.

The IDPA verified that the managers of the web sites, which use Google Analytics’ services, collect, through cookie, information concerning the users’ interactions with the aforementioned sites, the individual pages visited and the services offered. The collected data are: IP address of the user's device, information about the browser, the operating system, the screen resolution, the selected language, as well as the date and time of the website visit IP. The listed information have been transferred in the U.S.A.

The IDPA, in particular, declaring the unlawfulness of the processing, established that the IP address is a personal data and also in case it will be cutted, it is not an anonymous data, taking into consideration Google’s skill to enrich it with other data in its possession and thus make the user identifiable, even indirectly.

In such respect, the IDPA highlighted, in particular, that US-based governmental and intelligence agencies may access the personal data being transferred without the required safeguards; it pointed out in this regard that the measures adopted

by Google to supplement the data transfer instruments did not ensure an adequate level of protection for users' personal data in the light of the guidance provided by the European Data Protection Board through its Recommendations No. 1/2020 of 18 June 2021.

The IDPA with the above decision reprimanded the company Caffeina Media S.r.l. to be compliant with the GDPR and ordered to the website operator to adopt by ninety days adequate technical measures with respect to the personal data transfer, otherwise there will be the suspension of the data flows through Google Analytics in the U.S.A.

In light of this decision, companies that use Google Analytics' services for the collection and transfer of users' personal data must review their security measures implemented in compliance with the GDPR with particular reference to the data anonymization and verification of agreements with the importer for the transfer of personal data to the U.S.A.

It is understood that the aforementioned principles are also referable to any other relationships that have the contents and characteristics similar to the relationship between Caffeina Media S.r.l. and Google Analytics.

SILS' legal team is specialized in the assistance of the companies in data protection matters also with respect to the transfer of personal data toward the U.S.A. For further information and queries, please send an e-mail to the partner Mr. Luigi Zumbo (luigi.zumbo@silsitalia.it) and to the senior associate Ms. Federica Dendena (federica.dendena@silsitalia.it).

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