



**GARANTE
PER LA PROTEZIONE
DEI DATI PERSONALI**

The Italian Data Protection Authority and RFID

Radio-Frequency Identification: Applications and Public
Policy Considerations

Why a General Provision by the Italian DPA?

- ✚ To implement EU principles, in particular developed by art. 29 WP, at national level
- ✚ To adapt the general rules concerning data protection to the specificities of RFID
- ✚ To give guidelines to practitioners and producers, in the light of the increasing investments in this sector

p.s.: we are talking about RFID implementation that involves processing of personal data relating to identified or identifiable third parties (not f.i. corporate distribution chain)

The Especially Sensitive Issues in This Sector

- ✦ We are dealing with personal dignity and integrity
- ✦ RFID may impact on freedom of movement
- ✦ Processing of personal data may be carried out without data subject's knowledge
- ✦ Increased risks if RFID devices are integrated within network infrastructures
- ✦ Enhanced safeguards for employment context and underskin implants

General Principles - 1

- ✚ **Data Minimisation Principle:** avoiding the use of personal data if this is not absolutely necessary in connection with the purposes to be achieved
- ✚ **Lawfulness:** legal grounds → for public bodies: discharge of public tasks; for private entities: compliance with legal obligations, or freely given, explicit consent by the data subject
- ✚ **Purposes and Data Quality:** data controllers may only process personal data for specific, explicit and lawful purposes; data must be relevant, not excessive, accurate and updated; erased or anonymised after having achieved the purpose

....General Principles 2

- ✚ **Proportionality**: data controller must verify that processing mechanisms are not disproportionate compared to the purposes to be achieved (f.i. no functioning of tags outside the shop unless this is necessary to deliver a service specifically and freely requested by data subject)
- ✚ **Information Notice**: data controller must refer to the presence of RFID tags and specify that personal data may be collected without data subjects' intervention; how to remove/deactivate tags should also be highlighted; appropriate information notice placed on objects and/or tags if tags remain active once outside the premises where RFID technologies are implemented

...General Principles 3

- ✚ **Consent:** should be specific and explicit (data subject's conclusive conduct is irrelevant in this respect; for sensitive data it must be given in writing and the processing may only be carried out upon the Garante's prior authorisation)
- ✚ **Exercise of Rights:** manufacturers of RFID systems should lay down suitable mechanisms for ensuring that data subjects can easily exercise their rights (right of access, erasure, rectification etc.)
- ✚ **Tag Deactivation/Removal:** data subject must be afforded the possibility to have the RFID tags removed and/or deactivated, free of charge and in an easy manner once use is over



Employment Context

When RFID is used to check access to workplaces, it should be considered that

- > Specific legislation in Italy prohibits implementation of devices and equipment for the distance monitoring of employees' activity;
- > If such devices are necessary for other purposes, (f.i. controlling access to certain areas), the safeguards set out in relevant labour laws and in the DP laws must be complied with (data minimisation, purpose specification and proportionality principles)

Underskin Implants

- ✚ In principle subcutaneous microchip implants must be ruled out, because in conflict with personal dignity and bodily integrity
- ✚ Allowed only in exceptional cases further to documented, justified requirements concerning protection of individuals' health
- ✚ Data subject should be in a position to have the microchips removed at any time and free of charge, and the presence of the tag in his/her body should not be revealed
- ✚ This kind of processing requires the Garante's prior checking

Additional Requirements (Imposed on Data Controllers by the DP Code)

- ✚ **Notification** of the processing to the Garante:
 - concerning data on the geographic location of individuals and/or objects by means of electronic communication networks
 - carried out with the help of electronic means in order to define a data subject's profile or personality, or else analyse his/her habits and choices as regards purchased products
- ✚ Obligations related to **security measures**
- ✚ Specifying the entities that are authorised to process data in their capacity as either **data processors** or persons in charge of the processing

Thank You

- ✚ You can find the English version of this provision in the Garante's website at the following address:

<http://www.garanteprivacy.it/garante/doc.jsp?ID=1121107>

