

Athens, 18-04-2018 Prot. No.: G/EX/2967/18-04-2018 AUTHORITY FOR THE PROTECTION OF PERSONAL CHARACTER DATA A P O F A S I NO. 33 / 2018 The Authority for the Protection of Personal Character met, after invitation of its President, to a regular meeting at its headquarters on 27-02-2018, following the meeting from 06-02-2018, in order to examine the case referred to in the history of the present. Konstantinos Menudakos, President of the Authority, and regular members Konstantinos Christodoulou, as rapporteur, Antonios Symvonis, Konstantinos Lambrinoudakis, Spyridon Vlachopoulos, Charalambos Anthopoulos and Eleni Martsoukos were present. The meeting was also attended by order of the President, without the right to vote, Theodora Toutziaraki, specialist scientist - legal auditor, as assistant rapporteur, who left after the discussion and before the conference and decision-making, and Irini Papageorgopoulou , an employee of the administrative affairs department, as secretary. The Authority took into account the following: ATTICA BANK notified the Authority that it securitized and transferred a portfolio of loans and credits in definitive delay to the special purpose company (SPV) with the name "ARTEMIS SECURITISATION S.A." ("SPV S.A.") based in Luxembourg, which by contract assigned the management of the portfolio in question to the domestic company with the name "THEA ARTEMIS - LOAN AND CREDIT CLAIMS MANAGEMENT COMPANY" ("THEA ARTEMIS S.A.") based in Athens. Subsequently, ATTICA BANK requested to inform the natural persons connected with the above claims in any capacity (such as, indicatively, debtors/co-debtors, guarantors, debtors in rem 1, special or universal successors of the above, assignees or proxies of the above etc. ..), that their personal data regarding the above claims will be transmitted by ATTICA BANK to SPV S.A. in the context of securitization/transfer of claims and, by order and on behalf of the latter, to the company THEA ARTEMIS SA. for the purpose of their management. The Authority accepted the submitted request under the following conditions mentioned in the operative part of Decision 134/2017 (G/EX/2979-1/17-11-2017): "2.1. The text of the submitted information draft be amended so that a) the categories of receivables that have been securitized are clearly stated (e.g. all terminated contracts up to a certain date and the overdue receivables from the twenty loan contracts that will be listed only with their number) in order for data subjects to be able to easily recognize that it concerns them, and b) to clarify to which controller data subjects can turn in order to exercise their rights of access and objection regarding securitization and regarding with claims management. 2.2. The information in question should be published in the five (5) nationwide newspapers with the largest circulation, both in print and in their corresponding electronic editions. 2.3. The information in question should also be carried out through the five (5) news websites with the highest traffic in Greece. 2.4. This information should be repeated monthly until the release of the relevant data to the recipient

Claims Management Company is completed and repeated twice, per quarter, after the release is completed. 2.5. The information in question should also be posted on the Bank's website and reproduced on the website of the Hellenic Banks Association. 2.6. To carry out, also, personalized electronic information, via electronic mail (e-mail), in all cases in which this becomes possible and in particular if the relevant information has been provided to the Bank by the data subjects." From the additional data sent after the issuance of Decision 134/2018 (G/EIS/661/24-01-2018 and G/EIS/834/30-01-2018), it emerged that condition 2.1 was not fully complied with. of this, given that the text of the information was modified and published with the wording "20 overdue loans and credits for which termination decisions had been taken on 31.03.2017", i.e. without mentioning the unique numbers or other identifying information of the relevant 2 contracts, so that the data subjects can readily recognize that it concerns them. Following this, ATTICA BANK was legally summoned to a hearing during the discussion of the case before the Authority on 06-02-2018 with summons No. C/EX/853/31-01-2018 and attended. During the meeting, the invited party presented her views orally, which she then developed thoroughly with her relevant memorandum (prot. no. C/EIS/1165/09-02-2018). The Authority, after examining all the elements of the file, after hearing the rapporteur and the assistant rapporteur, who left after the discussion and before the conference and decision-making, and after a thorough discussion, OLD IN ACCORDANCE WITH THE LAW 1. In article 2 para. a', b', c', g', h' and j' of Law 2472/1997, as applicable, define the concepts of simple and sensitive data, the subject thereof, the controller, the processor and the receiver, respectively, while in the item d' of the same article defines the concept of processing, which includes "transmission, ... or any other form of disposal". Subsequently, in article 4 of the same law the basic principles of processing are defined, while in article 5 the individual conditions for its legality are defined. Furthermore, according to article 11 of the same law 2472/1997: "1. The controller must, during the stage of collecting personal data, inform the subject in an appropriate and clear manner of at least the following information: a. his identity and the identity of any representative, b. the purpose of processing, c. the recipients or categories of recipients of the data, d. the existence of the right of access. 2. If, for the collection of personal data, the data controller requests the assistance of the subject, he must inform him specifically and in writing of the elements of par. 1 of this article as well as of his rights, in accordance with articles 11 to 13 of this law. With this information, the controller informs the subject whether or not he is obliged to provide his assistance, based on which provisions, as well as the possible consequences of his refusal. 3. If the data is communicated to third parties, the subject is informed of the communication before them." The fulfillment of the above notification obligation is further specified by the no. 1/1999 3 Regulatory Act of the

Authority on the "Data Subject Update pursuant to Article 11 of Law 2472/1997" (Government Gazette B' 555/1999), as well as with the provision of Article 24 par. 3 of Law 2472/ 1997 which, although it is a transitional provision, reflects a broader and permanent will of the legislator for the cases in which it is a "large number of subjects" (see Decision 24/2004 of the Authority), in conjunction with the no. 408/1998 Regulatory Act of the Authority for "Information of subjects of personal data processing through the Press" (Government Gazette B' 1250/1998) which specifies both the concept of "a large number of subjects" by defining that this applies when the number of such persons is equal to or greater than one thousand (article 1) as well as the manner in which this information must be provided (articles 3 and 4).¹ 2. With reference to term 2.1. of Decision 134/2017, with its relevant oral and written clarifications on how to inform data subjects related to the twenty (20) specific overdue debts, ATTICA BANK states, among other things, that for all cases of the category of this, in November and early December 2017, a special and personalized information was sent to the creditors (but also to the guarantors) through the courier service ELTA PORTA PORTA (ELTA Courier) documents of information letters (see attached to the memorandum relevant letters with the respective documents and the accompanying ELTA notices). Also, the Bank maintains that of the original twenty (20) debtors, whose claims were securitized/transferred, one case was inadvertently included in the relevant list of undisclosed loans while, following subsequent checks, its contract was terminated . In those of the above cases (mainly guarantors) despite the repeated dispatches for service to the addresses existing in the Bank's files or files, ELTA Courier returned them as undeliverable, the effort to find new addresses for their service continues. From the above, it can be concluded that the ATTICABANK bank, while it had the opportunity to individually inform a large part of the subjects personal data belonging to the aforementioned category requested from

Principle of information permission through the press and for these subjects without showing the required care for their individual information. With these data the relevant request was submitted abusively. Furthermore, the Bank's claim of

¹ It should be noted that Regulation (EU) 2016/679 now expressly promotes the principle of transparency of processing and subsequently strengthens the subject's right to information (see articles 5, 13 and 14 of Regulation and corresponding recitals in its preamble).

("20 overdue for which termination decisions had been taken with a date 31.03.2017 of loans and credits", i.e. without mentioning the unique numbers or other identifying elements of the relevant contracts) due to doubt which it lacked, in its view, the "grammatical wording" of its relevant term of Decision 134/2017, is not valid, because from the relevant wording of the above decision it becomes clear that the Authority set as a condition that the categories of claims that have been securitized and, in particular, as to the twenty non terminated contracts to be "mentioned only by their number", in order to data subjects to be able to readily recognize that it concerns them.

Moreover, since the Bank established, as it claims, that there is no unique one loan/credit agreement number identifying and identifying the type, the nature of the time of conclusion, etc. of all types of contracts at Bank level (since each of its stores maintains a separate register of contracts from which derives the number of contracts, therefore, for a contract number can corresponding contracts at least as much as the Bank's branches), owed to fulfill the relevant condition of the Decision in any appropriate way (e.g. by reference in contract number and store code or other identifying information for each contract).

The Authority, taking into account all the elements of the file, in particular the fact that the controlled bank unnecessarily caused the issuance of a decision stating that there was objective impossibility to inform the data subjects individually on specific cases and requesting priority consideration of the case due to its urgent nature, it considers that it should be addressed to the ATTICA bank BANK relevant recommendation in accordance with article 19 par. 2 item c' of Law 2472/1997.

FOR THOSE REASONS

The Authority directs a recommendation to ATTICA BANK to demonstrate the appropriate

due diligence to fulfill its fundamental obligation to inform the

5

of data subjects in accordance with article 11 of Law 2472/1997 in conjunction with

the no. 1/1999 Regulatory Act of the Authority, in particular to exhaust the possibilities

personalized information before submitting an application for the exceptional information

of the subjects through the formula.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou

6