

PRINCIPLE FOR DATA PRIVACY

FOR OPIC CHARACTER

Athens, 21-08-2018

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(Department)

The Personal Data Protection Authority met, following his invitation of its President, in a regular meeting on 09-05-2018, following from 21-03-2018 meeting that took place as adjournment from the meetings dated 02-14-2018 and 07-03-2018, in order to examine the case referred to in the history of the present.

They were attended by the Deputy President Georgios Batzalexis, obstructing the President of Principle Constantinos Menoudakou, and alternate members Panagiotis Rontogiannis, Grigoris Tsolias, as rapporteur, and Evangelos Papakonstantinou, in replacement of of regular members Antonios Hymbonis, Charalambos Anthopoulos and Konstantinos Lambrinoudakis, respectively, who, although legally summoned in writing, did not attend due to obstruction. Present without the right to vote were Eumorfia – Iosifina Tsakiridou lawyer-specialist scientist, as assistant rapporteur, and Irini Papageorgopoulou, employee of the administrative affairs department, as secretary.

The Authority took into account the following:

A large number of complaints regarding telephone harassment have been submitted to the Authority are carried out in the context of informing debtors about overdue claims (either these are made, on behalf of creditors, by debtor information companies (hereafter EEO) – which is the most common case – whether they are done by the lenders themselves). The relevant complaints have been grouped for their more effective handling (cf. Decision 98/2017 and Annual Reports 2012, 2013, 2015 and 2017 of the Authority). The majority of of these complaints concern the issue of the legality of making the data available to EEO

without the prior consent or prior (general or specific information) of

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debtors, an issue on which the Authority has already ruled (see Decision 98/2017 and recommendations no. prot. G/EX/4744/12-07-2013).

the cases examined with this one are complained of by citizens as a nuisance in error

person and the issue of data accuracy and correction must be considered

of these. Between 2015 and 2017, there were a total of eleven (11) complaints

against Alpha Bank, four (4) against National Bank and three (3) against Eurobank.

specifically, all complainants complain about telephone harassment they receive

without having a relationship with the debtors sought in the context of debtor information.

in most cases the telephone number previously belonged to a debtor or was given,

as the banks claim, from the debtors themselves when drawing up the contract.

On the other hand, complainants are admittedly in a difficult position because, usually, they do not

they know from which lender the phone calls are being made, so that they can exercise it

right of objection [see and Decision 53/2016, according to which the telephone

communication must be strictly limited to the search of the debtor and, until achieved

conversation with the debtor, not to reveal to third parties more information that affects the

debtor, in case the debtor is not located but third parties should be

the conversation is gracefully interrupted, without revealing the purpose of the call and the

identity of the caller (as the call is for the debtor's personal matter)].

it is noted that complainants do not usually exercise the right to object to lenders,

so that the necessary actions can be taken to correct the details of the debtors and

not disturbing them in the future (since they are not related to the debtors and the debt). The

complainants usually submit complaints directly to the General Secretariat of Trade

and Consumer Protection (hereafter GSEPK) which has the general competence as a rule

supervision of the activity of informing debtors, in accordance with article 10 par. 1 of the

3758/2009, or to the Authority that has special exceptional competence for specific only violations of Law 3758/2009. Therefore, the banks are informed of the relevant complaints by GGEPC or from the APDPH, i.e. from the supervisory authorities that request clarifications on the reported.

in the context of examining the above complaints, the Authority requested clarifications from the Bank Eurobank Ergasias S.A. (prot. no. C/EX/7474/17-10-2017), which were submitted in writing (prot. no. G/EI /8549/28-11-2017 and G/EI /9151/19-12-2017). Subsequently, the

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Eurobank was legally summoned to a hearing during the discussion of the case before the Authority on 14-02-2018 with the no. prot. C/EX/1031/06-02-2018 call and attended, was informed for the postponement of the debate and came again to the meeting of 03-21-2018. During the meeting, Eurobank presented its views orally, which it further developed thoroughly with a relevant document and its reminder (prot. no. Γ/EI /2556/30-03-2018).

In particular, according to the clarifications of Eurobank Ergasias SA. (hereinafter Eurobank or Bank):

First of all, the Bank declares that its main concern and task is the control of accuracy of its customers' data. Its relevant obligation derives from the provisions of law 2472/1997 (article 4 par. 1 sub. c), but also by the supervisory framework, to which it is subject as a credit institution supervised by the Bank of Greece. In particular, the certification and verifying the identity of the customers is an obligation of the credit institutions, h which is provided by the decision 281/2009 of the Banking and Credit Commission Issues of the Bank of Greece, in accordance with the "know your customer" principle, which aims to prevent money laundering from illegal activities. the frame this the Bank when submitting to it an application for receiving a banking service (deposit, credit card, loan, etc.) collects from the customer, among other necessary his details, and his telephone number, which it registers in its systems,

as an element of her communication with him, and the client based on a relevant provision in her OGs

Bank is obliged in case of change of the above contact information to

notifies the Bank in writing or electronically - where provided - of this change.

Furthermore, the Bank itself takes care of the regular updating of customer details

of, among them and the telephone contact number with them. To this end,

Bank:

a) informs those dealing with it about their obligations arising from

from the above legislation, i.e. the provision of data and information that certify the

identity and the origin of their incomes and the need to update them

at regular intervals through the provision of a special "registered" form of the Hellenic

Union of Banks in the reception areas of its branches,

b) confirms in each new communication with the customer or in connection with the provision to him

other banking services, the accuracy and correctness of its data

supporting documents to verify the relevant information (e.g. for the telephone number

of: mobile or landline account),

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c) sends invitations to its client to update his details through a periodical

statement, with recorded messages from the telephone service

EuroPhone Banking as well as with messages from the E-Banking/Mobile Banking service,

d) in the context of the delay resolution process based on the revised Code

Code of Ethics of Law 4224/2013 invites the customer who has an overdue debt, which

falls under the above procedure, to update his details with the warning that,

as provided by the Code, his failure to respond to the above invitation constitutes a reason

categorizing him as a "non-cooperative borrower",

e) especially with regard to the telephone numbers of its customers: as long as the Bank informs

that the phone call number used to inform the debtor is not his

belongs to, carries out a special marking in its computerized system, so that this number henceforth become inactive and not to be used again. then investigates correctness of the information and if there is a strong indication that this number does not actually belong to the debtor, the Bank proceeds with the definitive deletion of the specific telephone number number. After all, the deletion of his phone number from the Bank's relevant file debtor based on just a telephone statement of a person, while previously has been cross-checked by the Bank the accuracy of the data, would constitute according to the Bank and violation of Law 2472/1997 to the extent not ascertained on the basis of this statement and only the inaccuracy of the data, it is usually the debtor or his relative who answers in the call, in order to avoid making a telephone call, to falsely claim that is not the debtor and that the telephone number used is not accurate.

With reference to the specific complaints, with which the applicants protested, because they were summoned by EEO, the Bank states that the telephone numbers of the complainants had been given by customers of the bank in the context of drawing up a contract with the bank for granting them consumer credit products (see attached documents from 08-12-2017 and from 28-03-2018 its memorandum). That before the notification action the Bank identified its debtors based on the information they had declared in its context of their transactional relationship and which were kept in its computerized system. Finally, that when the inaccuracy of the data was established, he took care of the deletion of the data in question phone numbers from her file and that she immediately informed the complainant that her addressed the written protest.

The Authority, after examining all the elements of the file, after hearing the rapporteur and the assistant rapporteur, who left after the discussion of the case and before the conference

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and making a decision, and after thorough discussion,

THOUGHT ACCORDING TO THE LAW

1. According to article 4 par. 1 item c' of Law 2472/1997, the personal data to subject to lawful processing must be accurate and, if necessary, submitted to update, in accordance with article 4 par. 4 sec. a' of Law 3758/2009: "4. Before any action Confirmation of the debts from the lender to the debtor with each is required as an update available method and the identification of the debtor, as well as informing him of the transmission of the of his data to the Company in accordance with article 11 of Law 2472/1997, as apply.". Finally, in accordance with article 10 par. 1 of Law 3758/2009, as amended and in force: "1. Without prejudice to the written provisions for the protection of personnel data character, such as laws 2472/1997 (Government Gazette 50 A`) and 3471/2006 (Government Gazette 133 A`) and others of more special provisions, by decision of the Minister of Development is imposed at the expense of the Companies "and lenders" who violate the provisions of this law, a fine of five thousand (5,000) to five hundred thousand (500,000) euros. In case of relapse the maximum the fine is doubled and the Minister of Development can also order a temporary one deletion of the Company from the Register for a period of one (1) to six (6) months and, in in case of further recurrence, may order the definitive deletion of the Company. Especially for violations of paragraphs 4 and 5 of article 4, paragraph 7 of article 6 and paragraph 2 of article 8, of which the right to personal protection is affected of natural persons' data is the Authority for the Protection of Personal Data Character. This paragraph applies to the amount of the fine."

2. In particular, the Authority within the framework of its special competence has decided (see recommendations C/EX/4744/12-07-2013) that: "1. Fulfillment of the obligation to check the accuracy of the data (article 4 par. 1 item c' of Law 2472/1997 in combination with Article 4 par. 4 sub-section a' of Law 3758/2009). The lender must process accurate information about the borrower. This means what the lender must confirm the debts and have identified the debtor before any action of informing debtors by him or before the announcement of them information to a debtor information company. The relevant file can be updated

in any suitable way, as for example by cross-checking the data from public accessible sources (e.g. telephone directories available to the general public), with telephone

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communication with the debtor or by sending a relevant letter to confirm the details.

In the event that it is established that the information that was declared to the lender is incorrect or false (for example, when the called citizen declares to the lender that he has nothing to do with the debtor or the debt or that the debtor no longer resides in the particular house), the burden for finding the true details of the debtor is the responsibility of the lender. Therefore, it is not allowed to citizens are asked to provide documents to prove that they do not have any relationship with the debtor or the debt (as proof of the inaccuracy of the data and until finding the truth, the lender may keep the conversation with the person who declared, e.g. that he is not the same debtor or that the specific telephone number no longer belongs to him debtor because he resides elsewhere).

3. In this case, from the data in the files of the relevant cases, the following:

3.1. For the case of A (Γ/ΕΙ /2224/07-04-2016), which was submitted through the online portal of the Authority. The applicant complains that since 2007 he has been harassed on his mobile phone for B's debts to Eurobank. The appellant never addressed her Bank, considering, as he states, that he cannot demand from the Bank to change the data of another person, who in fact has no relationship and does not even know. According to appellant, the nuisances stop temporarily, but after months or even years, they may call another EEO. The last call was made, as the appellant states, on 29-03-2016 by a EEO. The Bank declares that the phone number in question had been declared as a number communication from the client of B (see the contract attached to the memorandum). According to the Bank, her client never updated his details, despite repeated requests her invitations. Finally, the Bank declares that before the announcement of the number in question to

EEO, made an effort to verify its correctness based on a publicly accessible source, however, her client's phone number had been registered anonymously. According to them claims of the Bank, given that the customer had no other transactional relationship and communication with the Bank, the only way to update the item in question at in this case only, it was the redial of the same number.

3.2. For the case of C (G/EI /07-07-2015), which was forwarded to the Authority by General Secretariat of Trade and Consumer Protection with the no. prot. 70948/01-07-2015 document. The appellant complains in 2015 that for 8 months he received calls on his mobile phone calls from EEO looking for someone unknown to him. According to the bank, the person in question telephone number had been given by D's client (see the contract attached to the memorandum), the

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who then proceeded to update that item of his. However, the Bank acknowledges that he made a mistake, because of which even though he had to be deleted old telephone number, this was not deleted and announced to the EEO. the then, when the error in question came to the attention of the Bank, the Bank proceeded to deletion of incorrect contact information.

3.3. For the case of E (G/EI /2508/30-04-2015), which was forwarded to the Authority by General Secretariat of Trade and Consumer Protection with the no. prot. 44075/23-04-2015 document. The appellant complains that in 2015 he was receiving phone calls on his mobile phone harassment from EEOs who were looking for some T. The Bank declares that its number in question had been given by the aforementioned client (see contract attached to the memo), which then updated that element of it. However, the Bank acknowledges that he made a mistake, because of which even though he had to be deleted old telephone number, this was not deleted and announced to the EEO. the then, when the error in question came to the attention of the Bank, the Bank proceeded to deletion of incorrect contact information. Finally, the Bank sent directly to E, o

who, along with his complaint to the General Public Prosecutor's Office, also addressed his protest to the Bank, written letter of apology, informing him of full settlement of the issue (see the Bank's letter dated 04-15-2015 to E).

in conclusion, the Bank expressly states that in two of the three cases above (3.2. C and 3.3. E), even though its customers had updated their contact information them, introduced a bug, due to which the old phone numbers, although they should have been deleted, they were not. due to the above error, the therefore numbers were announced to EEO and used in the context of informing debtors.

However, according to the Bank, these are strictly isolated cases and isolated error, which just came to the attention of the Bank, proceeded to delete the incorrect contact details, and informed the applicant who had addressed her Bank. Regarding A, the Bank states that the appellant did not address the Bank and that in this particular case under the circumstances he mentions they were objective impossible to check the phone in question for its accuracy and correctness.

4. Regarding the fulfillment of the obligation to check the accuracy of the data (article 4 par. 1 pc. c' of Law 2472/1997 in combination with article 4 par. 4 sec. a' of Law 3758/2009), must accepted that the lender must process accurate information about the borrower. This means that the creditor must confirm the debts and have carried out his identification

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debtor before any action to inform debtors or before the announcement of information to a debtor information company. Updating the relevant file may be done in any convenient way, as for example by cross-checking the data from public accessible sources (e.g. telephone directories available to the general public), with telephone communication with the debtor or by sending a relevant letter to confirm them elements. Besides, banks usually take care of informing their customers about the need to update their information at regular intervals, through

distribution of a special "registered" form of the Hellenic Banking Union at the premises reception of its stores, through a recorded message in Phone transactions Banking, through electronic messages in E-Banking transactions, and with personalized informing the stores when it is established on the occasion of the transaction being carried out that their data is incomplete. it is reduced that in loan product contracts and/or of services usually includes a condition, according to which the other party, depositor or debtor, is obliged to notify the bank immediately of any change his contact details (contractual obligation). An institutional obligation arises both from the definition of the cooperative borrower, as well as the Bank's Code of Conduct Greece's.

in the event that it is found that the information that was declared to the lender is incorrect or false (for example, when the requested citizen declares to the lender that has nothing to do with the debtor or the debt or that the debtor no longer resides in specific house), the objection/correction request from the EEOs must be registered, to is transmitted directly to the lender on whose behalf the communication is made and to all necessary corrective actions are taken immediately. Signaling must be done immediately of the specific telephone number, so that it is not used in the future for any purpose informing or warning about third party debts (as proof of the inaccuracy of data and until the truth is found, the lender may keep the conversation with the person who declared e.g. that it is not the same debtor or that the specific number phone no longer belongs to the debtor because he lives elsewhere). If ascertained by public accessible sources or from information provided to the lender by the invited third-party debtor (e.g. bill copy or provider document for their phone number), then the specific telephone number provided by must be deleted immediately and permanently the debtor and to be informed in any appropriate way, if possible in writing, the above invited third party - non-debtor who requests to correct the observed data and to

stop the harassment on his own number.

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The Authority, taking into account the number of complaints, the procedure applied by the Bank for checking and correcting the relevant data, the admitted errors which appreciated in the specific cases, the seriousness of the violation of article 4 par. 1 item c' of Law 2472/1997 in combination with article 4 par. 4 sec. a' of Law 3758/2009 which it was also proven the offense caused by it to the data subjects, such as this one detailed above, considers that it should be imposed on Eurobank Ergasias S.A., as controller, the (minimum) provided for in article 10 par. 1 of the law. 3758/2009 sanction referred to in the executive order and which is proportional to the gravity of the infringement and the insult to the applicants from it.

The beginning

FOR THOSE REASONS

It imposes on Eurobank Ergasias S.A. a fine of five thousand (5,000) Euros for non-fulfillment of its obligation to keep and further process accurate data on its debtors to fulfill the provisions of Law 3758/2009 purposes in two of the cases examined here (see paragraph 3, cases 3.2. and 3.3.).

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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