

Correct repetition in terms of rhythm

of the Decision

PRINCIPLE FOR DATA PRIVACY

FOR OPIC CHARACTER

Athens, 10-09-2019

Prot. No.: G/EX/4646/10-09-2019

A P O F A S H 18/2019

The Personal Data Protection Authority met, after

invitation of its President to a regular meeting at its headquarters on 02-26-2019

and time 10:00, following the meeting from 08-05-2018, in order to

examine the case referred to in the present history. They were represented by

President, K. Menudakos, regular members K. Christodoulou, as rapporteur, A.

ymbonis, K. Lamprinouidakis, C. Anthopoulos and E. Martsoukou. the

meeting was not attended due to obstruction, although it was legally called in writing, the

regular member. Vlachopoulos. they also attended the meeting by his order

President, without the right to vote, E.

I. Tsakiridou, lawyer-specialist

scientist, as assistant rapporteur, who left after the debate and before

from the conference and decision-making, and E. Papageorgopoulou, clerk

of the department of administrative affairs, as secretary.

The Authority took into account the following:

With the no. prot. G/EI /8291/17-11-2017 its application, the Anonymous Company

TEIRE IA SA, requested the approval of the Authority for the inclusion of the Companies

of Claims Management (Law 4354/2015) to the legalized recipients of

data from the "Default System" files (hereafter referred to as "Default System" or "black

list") and "Grant aggregation system" (hereinafter X or "white list"),

which it adheres to, with the same terms and conditions that apply to Banks.

She also attached to her said application her request submitted to her

"Eurobank FPS Anonyme Company for the Management of Claims from Loans and

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Credits", 100% subsidiary of EUROBANK ERGASIAS A.E., no

granted access to the "Default System" files

(AU/"black list") and "grant concentration system" (X/"white

list") of TEIRE IA for the stated reasons.

As pointed out by TEIRE IA SA. in its application, based on Law 4354/2015,

as amended and in effect, designated that loan receivables management

and credits granted or granted by credit or financial institutions

can only be assigned to Loan Receivables Management Companies and

Credits (hereinafter Receivables Management Companies or EDA), which

licensed and supervised by the Bank of Greece. if not

transfer of these claims, the acquiring company (if it is not

licensed credit institution) must have a contract with the Company

Claims Management, to which it will entrust the management of these (see article 1

par. 1 a', b' and c' of Law 4354/2015). Furthermore, the Claims Management Companies

they may receive permission from the Central Bank to grant new loans and/or

loans to borrowers, whose loans or credits they manage, with

for the sole purpose of refinancing their loans or restructuring

of the borrower company. New loans and credits are counted as

bank loans and credits and are governed by Greek Law (article 1 par.

20 of the aforementioned law). Claims Management Companies are considered in every

case lenders and suppliers, within the meaning of the law on

of Consumer Protection, and must adhere to their Code of Ethics

Banks, the rules governing the granting of loans and credits apply to credit institutions, as well as all those related to sponsored by credit and financial institutions loans and credits decisions of the Bank of Greece and to take special care of socially vulnerable groups (article 1 par. 22 of as above law). Claims Management Companies are counted as financial institutions, within the meaning of article 4 par. 3 of Law 3691/2008 (Prevention and suppression of money laundering from criminal activities and the financing of terrorism and other provisions) and as an obligation persons within the meaning of article 5 par. 1 of the same law, and are supervised by the Council of Ministers (article 1 par. 25 of Law 4354/2015).

As TIREIA S.A. points out, on the occasion of the request of "Eurobank FPS

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Anonyme Company for the Management of Claims from Loans and Credits" (where attached to its application), the direct-autonomous access of the Companies

Claims Management in the files of the Defaulting System (AK or "black list") and Grants concentration system (X or "white list")

of TEIREIA, with the same conditions of access as banks, is absolutely

necessary especially for the cases of loan receivables management and

credits that were granted by credit or financial institutions and have

transferred to Companies for the Acquisition of Claims from Loans and Credits (vs article 1 par. 1 b' of Law 4354/2015). in these cases the Management Companies

Receivables acting on behalf of a Receivables Acquisition Company, h

which is the beneficiary of the receivables under management and is not itself subject to supervision in Greece, since it can be located anywhere in

world. The access, therefore, of the Claims Management Companies to

aforementioned files of TEIRE IA are, according to the claims made, necessary, not only for the assessment of solvency and credit capacity (X) of the creditors, the claims against which they manage, but also for their compliance with the Credit Code of Conduct institutions (Article 1 par. 22 Law 4354/2015) and the regulatory framework for money laundering and the financing of terrorism. In particular, as points out TEIRE IA, in case the Claims Management Companies manage receivables from loans and credits that have been transferred, the transferred receivables are considered bank receivables, and those originally granted banks are completely alienated from these loans and credits Claims Management Companies, according to TIREIA, should be exclusively and solely responsible for updating the AY and X file TIRE IA regarding the fate of managed loans and credits. Finally, TEIRE IA points out the need to apply to its borrowers principle of equal treatment in the sense of non-differentiation of the borrower of him, the management of whose debts has been assigned to Management Companies Claims of Law 4354/2015, against those for which the management has remains in the banks. Also, any exclusion of the Management Companies Requirements from the access to the above systems of TEIREIA, with them same terms and conditions that apply to Banks, may, according to 1-3 Kifisias St., 11523 Athens, Tel: 210 6475600, Fax: 210 6475628, contact@dpa.gr / www.dpa.gr

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TEIRE IA, to raise issues of unfair competition and unequal treatment in weight of the same, since the same terms can be applied to them disposition but also the principle of reciprocity, based on which the systems are fed.

The Authority, with the no. prot. C/EX/3268/30-04-2018 call to hearing, called

TEIREIA SA, as controller, to support its application.

He also invited the Hellenic Banks Association and the Management Company

of Claims "Eurobank FPS Anonyme Company for the Management of Claims from Loans

and Credits" (whose request to TEIRE IA is attached to sub

judgment G/EI /8291/17-11-2017 application), noting that the latter can,

also, to attend the discussion of her aforementioned application

TEIRE IA and express their views. the meeting of the Authority on 08-

05-2018, Ioannis Mourgelas (with

AM/D A ...) and Kiki Tsourou (with AM/D A ...) and on behalf of "Eurobank

FPS Anonyme Company for the Management of Claims from Loans and Credits" the A

Director [...], Vassilis Aliaris (with AM/D A ...) Legal Adviser of

Bank and the Second Director [...] of Eurobank. During the meeting, the invitees

they gave clarifications on the above request and presented their opinions orally

their. Subsequently, TEIRE IA and "Eurobank FPS SA".

Management of Claims from Loans and Credits" submitted memorandum documents

(see G/EI /3843/21-05-2018 and G/EI /3893/22-05-2018 respectively, see also related

question of the DPO (DPO) of the same Claims Management Company with no.

prot. G/EI /886/04-02-2019).

The Authority, after examining all the elements of the file, after hearing him

rapporteur and the clarifications from the assistant rapporteur, who left after

discussion both before the conference and decision-making, and after thorough

discussion,

THOUGHT ACCORDING TO THE LAW

1. Since 1999, the Authority has already issued the no. 109/31-03-1999 and

523/19-10-1999 Decisions of which define the conditions of compliance

file of adverse/negative financial behavior data from

TEIRE IA SA and the rules for categorizing this data (which constitute the default system, "black list"). In 2004 the Authority reiterated its above decisions (with no. 24 and 25/2004 Decisions), in order, as regulatory acts, to be published in its Gazette of Government (Government Gazette B' 684/11-05-2004). according to its above Decisions

Principle, the observance of unfavorable financial behavior data by the TEIRE IA SA is also allowed without the consent of the subject(s).

of the data, based on article 5 par. 2 para. e' of Law 2472/1997 (higher legitimate interest, which consists in minimizing the risks from conclusion of credit agreements with insolvent customers and in general by creation of bad debts, in the protection of commercial credit and in consolidation of financial transactions) and were further specialized categories of data that are allowed to be kept by TEIRE IA S.A.

for the specific purpose, the time of observance thereof, its recipients of a specific file, the way of fulfilling the obligation to update, etc.

specifically, the recipients of this file were initially defined only as "the traps, financial institutions and credit card issuers,

as well as public sector taxes, not third parties involved in the financial transactions and even a few non-participants. ..." (sec. 4 of Decision no. 109/31-03-1999, which was repeated with no. 24/2004, Official Gazette B' 684/11-05-2004), and subsequently, the recipients were included "a) the brokerage firms

business claims (of Law 1905/1990 – Law 2076/1992, no. 24, par. 1, section b).

b) Lease financing companies (of Law 1665/19986, as applicable - Law

2076/1992, no. 24, par. 1, sec. c).'¹ (see section B. of Decision no. 523/19-10-

1999, which was repeated with no. 25/2004, Official Gazette B' 684/11-05-2004).

Also, since 2002, the Authority has issued a decision on the conditions

keeping a "risk pooling or whitelisting" record by TEIRE IA

S.A. specifically, the Authority with Decision 86/2002 decided that, contrary to the

file of unfavorable financial data ("black list"), the creation of art

due to a file ("white list") by TEIRE IA SA, without consent

of the subject is against the law and exceeds the purpose of the processing.

In other words, it was accepted that the file in question ("white list"), which contains the

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up-to-date debts and debts in arrears, without these being debts

confirmed and required (as in the case of the "black list"), it may

be created and operate only on the basis of his consent

data subject.

then, the legislator, with the provision of article 40 of Law 3259/1004, regulated the

operation of the "black list" file of TEIRE IA, in a way that

essentially identical to the content of the Authority's Decision no. 109/31-

03-1999 (which allowed TEIRE IA to create the file in question without

the consent of the data subject), and modified them

specific categories of data, which the Authority defined with no.

523/19-10-1999 Decision, and the time of compliance thereof. Next, with her

provision of article 70 of Law 3746/2009 replaced the aforementioned

provision of article 40 of Law 3259/2004. specifically, with this provision, in addition

that the conditions and the time of compliance with the specific ones were modified

(adverse data) categories (see par. 1 and 3, as they were replaced

again with article 4 par. 1 and 2 of Law 3816/2010, see also articles 3-5 n.

3816/2010), it was expressly defined that:

"2. Credit and financial institutions are allowed to transmit to entry of data on currently outstanding loan balances or of credits, including existing ones, that grant in kind or legal persons or associations of persons, in a file of economic data of behavior that liturgy legally, for their sake, without the condition of of article 5 par. 1 of Law 2472/1997 (Government Gazette 50 A').

The access of credit and financial institutions to the above d structures are allowed only according to the terms and conditions of Law 2472/1997, as applicable and applicable.

The time of observance and use by credit institutions or data files behavioral names that operate legally because of this data do not may exceed five years."

2. With the present application, the Authority is requested to approve the autonomous-direct access of Claims Management Companies, as data controllers (or jointly liable) when acting on behalf of the Acquiring Companies

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Claims (beyond their possible indirect access as performing the processing when acting on behalf of the banks) in its files

TIERE IA (files AV and X), essentially expanding the recipients of art due to records, which were initially defined by the above-mentioned Decisions of the Authority, which were issued under the regime of Law 2472/1997, and subsequently with the aforementioned provisions of the law. Considering the above and the fact that the Claims Management Companies were introduced by a provision of law, whereby

the framework was established for their legal action, their licensing by the Bank of Greece, their role, responsibilities, etc. when acting on behalf of the banks or on behalf of Debt Collection Companies, it is expedient by law to also provide for their access to the files of the TEIRE IA that is connected with their legal action (see No. 153/8.1.2019 Executive Act Committee of the Bank of Greece, article only, item no. 17, according to which the EDAs of sections A.1. (based in Greece) and A.2 (based outside Greece, but operating through a branch in Greece) are due before the start of their operations to have ensured cooperation with recognized economic data collection and processing bodies behavior and the creditworthiness of the debtors, without, however, to the EDAs, as data controllers, are included in the legal ones recipients of TEIRE IA's files). More generally, it is purposeful with legislation provision to resolve the issue of the inclusion (or not) of the new companies of the law.

4354/2015

(Claims Management Companies and Acquisition Companies

Claims) to the legalized recipients of its AY and X files

TEIRE IA.

3. in accordance with the General Regulation (EU) 2016/679 (articles 57-58) already in force, the Authority is no longer competent to authorize/approve personal processing data (see also Decision no. 52/2018 of the Authority). consequently, the controller determines its purposes and recipients personal data processing character in which it occurs, taking into account the principle of accountability (article 5 par. 2 GDPR).

The obligation of the data controller to carry out an assessment is highlighted

impact, where required according to the provisions of article 35 GDPR, unless

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these are processing operations that have been licensed/checked by the Authority

before May 2018 (under the regime of Law 2472/1997) under

specific conditions, which remain unchanged (see also the relevant Opinion

of the Article 29 Working Group Guidelines for its evaluation

data protection notice (DPA) and its definition

whether the processing "may result in a high risk" to its subjects

of anonymity 2016/679 (WP 248 rev. 01).

4. In particular, according to article 35 par. 1 GDPR, when a type of processing,

especially using new technologies, considering the nature of the field

application, the context and purposes of the processing, may result

high risk for the rights and freedoms of natural persons, o

controller carries out, before the processing, an assessment of the effects

of the planned processing operations in the protection of personnel data

character. a set of similar transactions can be considered with one estimate

processing, which involve similar risks. Indicative types of actions

of processing which involve a high risk are listed in par. 3 of the same

of article [see, in particular, case a) systematic and extensive evaluation

personal aspects regarding natural persons, which is based on

automated processing, including profiling, and in

which are based on decisions that produce legal effects about it

natural person or similarly significantly affect the natural person, causal

paragraph 91 and the impact assessment guidelines (WP 248)].

Because the planned act of processing, expansion of the recipients of the said

files of TEIREIA, subject to the requirement for an assessment

impact (see also Decision no. 65/2018 of the Authority, by which

pursuant to article 35 par. 4 of the GDPR, a list of the types of

processing subject to an impact assessment, and in particular cases 1.1,

1.2, 1.3, or even 3.2, 3.3. As noted, this list is based on

article 35 of the GDPR and in particular paragraphs 1 and 3 thereof, as well as the guidelines

lines for the impact assessment (WP 248), which he also completes

further elaborates. Moreover, this list is not exhaustive and,

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therefore, there is an obligation to carry out an impact assessment on each

case of compliance with the conditions of article 35 par. 1 GDPR).

The impact assessment contains at least: a) systematic description of

intended processing operations and the purposes of the processing,

including, as the case may be, the legitimate interest pursued by

controller, b) assessment of the necessity and proportionality of

of processing operations in relation to the purposes, c) assessment of the risks for

the rights and freedoms of the data subjects and d) the

foreseen measures to deal with the risks, including

guarantees, security measures and mechanisms, in order to ensure the

protection of personal data and to prove the

compliance with the GDPR, taking into account the rights and laws

interests of data subjects and other interested parties

(see par. 7 of article 35). in this case, the data controller

must, when carrying out the impact assessment, also ask for their opinion

data subjects or their representatives for the planned

processing (see par. 9 of article 35 of the GDPR).

5. Because the

integration

of Claims Management Companies to

legalized recipients of said files of TEIREIA, when they act

on behalf of the Debt Collection Companies (CDCs), may

poses a high risk to the rights and freedoms of individuals

persons. For example, the risk of their disposal in EAA must be analysed, h

which is the beneficiary of the receivables under management and which is not subject to

supervision in Greece, since it can be located anywhere in

world, so the risk of their transmission within or and should be analyzed

outside the EU, or the risk of their disposal in an NCA in the event of termination of the relevant one

of the assignment contract concluded between EDA and EAA, in which case the files which

allocated to EDA are returned to EAA, which retains ownership

of the relevant portfolio, or are handed over to another NRA at the suggestion of the NRA.

In view of this, according to what is mentioned in the previous thought, the

carrying out an impact assessment regarding the inclusion of EDAs in

legalized recipients of the above files of TEIREIA. in case

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and provision by legislative provision of the expansion of the legalized

beneficiaries, the impact assessment should be carried out in its context

enactment of the relevant legislation (see article 35 par. 10 GDPR and

recitals 93 and 96). Moreover, during the evaluation

impact, the fact that relevant contracts exist must be taken into account

(e.g. contracts in operation between borrowers and banks, of

banks and Receivables Acquisition Companies, Management Companies

of Receivables and the banks or Receivables Acquisition Companies respectively) and

to request the opinion of the Acquisition Companies involved

Claims (in relation to the role of Claims Management Companies) and of

borrowers affected by the planned processing.

FOR THOSE REASONS

1. The Authority refrains from ruling on the application of TEIRE IA SA. to approve her

inclusion of Claims Management Companies, as data controllers, in

legalized recipients of the data of the above files.

2. The Authority considers that TEIRE IA SA should and the autonomous applicant, as

controller, access to said files of TEIRE IA Company

of Claims Management, to carry out, in accordance with the aforementioned,

impact assessment of the planned processing operations on protection

personal data.

The president

The Secretary

Constantine Menoudakos

Irini P p georgopoulou

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