

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

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 National Bank (prot. no. C/EX/2811/03-04-2017 and C/EX/7386/16-10-2017), in response to of the last document, National Bank sent a written information note with the views of (no. prot. G/EI /8662/01-12-2017). Subsequently, the National Bank was legally summoned at a hearing during the discussion of the case before the Authority on 14-02-2018 with the no. prot. C/EX/1036/06-02-2018 call and attended, and was informed about the postponement of discussion and rejoined the meeting of 03-21-2018. During the meeting, the National Bank presented its views orally, which it then developed thoroughly with relevant its memorandum document (prot. no. G/EI /2567/30-03-2018 and 2676/05-04-2018).

In particular, according to the clarifications of the National Bank (hereinafter the Bank):

Regarding compliance with the Principles required to govern the informing of debtors for overdue receivables, the Bank points out that special importance is given in principle to ensuring the accuracy of those registered in the Bank's customer-centric system customer data, through the receipt of the corresponding confirmation documents, as expressly provided for in the current legislative and regulatory framework. Regarding its fulfillment obligation to confirm the debts and the identification of the customer before the transmission of the of his details to the cooperating debtor information companies (EEO), the Bank points out that to ensure the correctness and validity of the relevant data uses a special automated and secure electronic process in order to eliminate any incorrect transmission of customer data. in this context, any errors identifications of customer data before its transmission to EEO are now at Bank isolated incidents, which are probably due to non-updating of contact details on the part of the customers whether they concern customers who despite them

repeated efforts on the part of the Bank demonstrate a refusal to cooperate for the finding a solution with the aim of settling the debt.

With reference to the specific cases, the Bank has never forwarded data of those cases customers in EEO, on the contrary, the relevant calls were made by its internal department of the Bank (Department of Internal Overdue Debt Management of the Bank) or partners her. The Bank acknowledges that in one case a call was made by mistake, while the specific phone was already marked as "CANCELED". in any case, the minimum these (4) complaints, which related to a past period of time without the complainants to have come back again by making a relevant protest or complaint, in the Bank's view, they are completely isolated incidents, which were settled immediately, while at the same time corresponding control valves were developed by the Bank in order to avoid any repetition of them.

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 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 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 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 (G/EI /403/19-01-2017 and G/EI /4597/13-06-2017), which were forwarded to the Authority by the General Secretariat of Trade and Consumer Protection with the under no. first ... and ... documents. The appellant, a client of the Bank, sent on 05-06-2013 email, in which he complained about calls he received on the landline his home phone number from NBG. The Bank, after investigating the case, of replied in writing on 26-06-2013 that the above calls were made by mistake due to inaccurate data entry and that the Bank immediately took the necessary steps actions, so that there is no further disturbance of it. The appellant came back with a newer message on 28-09-2016, protesting that he was called by a law firm, for an account customer with the same name. After investigating his new complaint, the Bank sent him on 07-10-2016 a new reply, in which it is stated that his calls from the said law firm have nothing to do with the National Bank. Finally, the applicant came back with an email to the client's advocate of NBG on 04-11-2016, requesting clarifications regarding the transmission of his personal data to a law firm office. During the review of the case it was confirmed that, after the changes that were carried out in June 2013, the applicant's phone had not been called back. In addition, the case of the customer with the same name, for whose account he had detour initially called, has never been assigned to a law firm. For the above, Mr the appellant was informed by a new letter from the Bank on 01-23-2017 (see attachments in from 29-03-2018 reminder letters of the Bank to A).

3.2. For the case of B (G/EI /4782/17-09-2015), which was forwarded to the Authority by General Secretariat of Trade and Consumer Protection with the no. prot. 92873/11-09-2015

document. The appellant, a client of the Bank, sent an email on 08-21-2015, with which she complained about calls she received on 19-08-2015 on her landline of his residence with number ... from a law firm collaborating with the Bank and which concerned C. his e-mail the client mentions that in the past, and specifically in the year 2012, he had received calls on the said phone again, which were intended for C from a partner with EEO Bank. Upon investigation of her case it was established that the specific phone had indeed received the indication "CANCELED" in the year 2012 in the Bank's Bad Debt Management system in the data of C. Despite the above marking, the Bank acknowledges that apparently by the way, an attempt was made to communicate with C on the phone in question number. The Bank clarifies that B's complaint was settled after a verbal communication of the competent Customer Affairs Governance Department of the Bank with customer, while at the same time the necessary actions were taken to insert the indication/signaling "Do Not Call" in the Bank's system as well as related comments, so that there is a bigger one ensuring that the specific phone number is not called again. Following this, the due to phone number not used again. Finally, the Bank points out that the aforementioned number had been declared by C in February 2007. In order to update the contact details of the client, which, as the Bank states, presents important information overdue debts, two letters were sent to the above on 27-11-2016 and 26-02-2018 (see attached to the memorandum dated 29-03-2018 the Bank's letters to C), with which the they were asking him to provide recent supporting documents regarding the phones contact, while the client has not yet responded.

3.3. For the case of D (G/EI /1990/30-03-2015), which was forwarded to the Authority by General Secretariat of Trade and Consumer Protection with the no. prot. 31676/20-03-2015 document. The Bank clarified that the relevant calls were made by the Branch Katerinis of the Bank in an attempt to contact the Branch with its customer, E,

who had declared the telephone number in question as his contact telephone number. so on of D's statement that he is the owner of the telephone number in question, which he called Branch when trying to contact E, the Bank states that instructions were given in the Store to take the relevant actions so that the phone no longer appears this as the contact phone number of the aforementioned customer. The Bank also states that on 11-13-2017 he sent a letter to E, inviting him to provide the as soon as possible recent confirmation documents of his contact details with her Bank (see attached to the Bank's reminder letter dated 29-03-2018 to E). THE aforementioned customer, who presents significant overdue debts to the Bank never responded. Finally, the Bank points out that the appellant did not submit some document complaint/complaint/request to the Bank, but submitted directly the due to his complaint to the General Prosecutor's Office.

3.4. For the case of T (G/EI /4629/22-07-2016), which was forwarded to the Authority by General Secretariat of Trade and Consumer Protection with the no. prot. 74968/14-07-2016 document. The Bank clarifies that the appellant had no debts towards it, however the telephone number ... had been given by Z's son, while the rest were found through public catalogs of OTE. The case of Z during the period in question (20-03-2016 to 20-04-2016) was managed by the Overdue Debts Internal Management Department of the Bank, which states that for the said time period none arose complete conversation. The Bank declares that after the application submitted to the GEPK complaint of the applicant, the case was examined by the competent services of the Bank and the required actions were taken, so that no more calls are made to telephone numbers in question, about which the appellant was informed (see the letter dated 24-06-2016 the Bank's response to the GEPK which was communicated to the applicant).

in conclusion, the Bank expressly declares that in one of the four cases above, despite signaling the telephone number in question, it was used again (3.2. B).

With regard to A, the Bank categorically states that his reported calls from said law office in 2016 have nothing to do with the National Bank. Regarding with D, the Bank declares that there was a disturbance from a Bank Branch on the phone which the customer (E) had stated, and that he immediately took the necessary corrective actions. Finally, regarding T, an effort was made by the competent internal department of the Bank communication with Z about his debts, as soon as it was established that the phone numbers were not belong to the debtor, the necessary corrective actions were taken, of which he was informed the applicant with a relevant letter.

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 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 be 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.

The Authority, taking into account the number of complaints, the procedure applied by the Bank for checking and correcting the relevant data, the acknowledged error which appreciated in this particular case, 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 subject, such as this detailed above, considers that it should be imposed on the National Bank, as responsible

processing, the (minimum) sanction provided for in article 10 par. 1 of Law 3758/2009 which referred to in the ordinance and which is proportional to the gravity of the violation and its insult to the appellant from it.

The beginning

FOR THOSE REASONS

It imposes on the National Bank a fine of five thousand (5,000) Euros for not fulfillment of its obligation to keep and further process accurate data for its debtors to fulfill the purposes provided by Law 3758/2009 in a from the cases examined here (see paragraph 3, case 3.2.).

The Deputy President

The Secretary

George Batzalexis

Irini Papageorgopoulou