

**DECISION no. 105 from 15 December 2007 regarding the processing of personal data performed in an evidence system of credit bureau type systems,**

Based on the provisions of art. 3 para. (5) and (6) of Law no. [102/2005](#) regarding the establishment, organization and functioning of the National Supervisory Authority for the Personal Data Processing, amended, and those of art. 6 para. (2) letter. b) of the Regulation of organization and functioning of the National Supervisory Authority for the Personal Data Processing, approved by the Standing Bureau of the Romanian Senate no. [16/2005](#),

Having regard to the provisions of art. 5, 12 and 17 of Law no. [677/2001](#) for the protection of persons regarding the processing of personal data and the free movement of such data, amended,

For the implementation of the provisions of art. 8 and 10 of Law no. [677/2001](#), amended,

Taking into consideration the risks for private life, intimacy and family life of individuals subsequent to an automatic processing of the nature of evaluating aspects like credibility and solvability,

Having regard to the fact that the operations performed upon these personal data included in an evidence credit bureau type system constitute personal data processing, governed by the provisions of Law no. [677/2001](#), amended, presenting risks for private life, intimacy and family life of individuals,

Taking into consideration the necessity of granting an efficient protection for the rights of individuals, whose data are processed in an evidence credit bureau type system, due to the nature of the data processed and also the purpose of the processing,

In order to avoid certain abuses during the activity of pushing the data into such a credit bureau type filling system, which may affect a considerable number of people,

Having regard to the legitimate interest of the financial and credit institutions of adopting efficient policies and procedures for knowing their clients and in order to prevent the use of the financial-banking system for the purpose of carrying out illegal activities,

In view of the Note of approval no. 5.332 from 13<sup>th</sup> October 2006 regarding the proposal to issue a decision considering the processing of personal data carried out within a credit bureau type filling system,

**the President of the National Supervisory Authority for the Personal Data Processing** issues the present decision.

## **Art. 1**

Personal data can be processed in credit bureau type filing systems, for the purpose of evaluating the solvability, reducing the risk of crediting and determining the level of debt of debtors, by respecting the legal provisions in the field of personal data protection, the financial-banking rules, and also the present decision.

## **Art. 2**

In the meaning of the present decision, the following terms should mean, by definition, as follows:

- a)** credit bureau type filing system, any data base organized in a central system administrated by an entity of private law, which consists of personal data communicated in relation to the activities fulfilled by financial and credit institutions, authorized according to the law, for the purpose of evaluating solvability, of reducing the risk of debt of individuals; these data bases can be consulted only by the entities which are participants to the system;
- b)** credit bureau – entity of private law which administrates the filing system as defined at letter a); the credit bureau has the quality of data controller in the meaning of Law no. [677/2001](#), amended;
- c)** participant – any entity of private law which transmits data to an filing system of credit bureau type, meaning the data collected in relation to a request/granting of a credit, based on a contract signed with the credit bureau, and which consults the data sent by the other participants on grounds of reciprocity; the participants have the quality of data controller in the meaning of Law no. [677/2001](#), amended. Participants to credit bureau type filing system may only be financial and credit institutions as defined by the Emergency Government Ordinance no. [99/2006](#) regarding credit institutions and the adequacy of capital, approved with amendments by Law no. [227/2007](#), and according to the Government Ordinance no. [28/2006](#) regarding the some financial-banking measures, approved with amendments through the Law no. [266/2006](#), insurance credit type products entities;
- d)** negative data – information concerning the delays for payments of the obligations deriving from the crediting relationships of individuals;
- e)** positive data – information concerning the credits granted to debtors, physical persons which are of nature to contribute to the evaluation of the debt level and the potential of the persons;
- f)** data relating to inadvertencies – uncorrelated information resulted from documents presented at the date of credit request, due to the solicitants` fault;
- g)** data referring to fraudulent – information regarding criminal offences or contraventions in financial-banking field, in a direct link to the participant, stated through a court decision that remained permanent and irrevocable, if the case may be, or through administrative and not appealed acts;

**h)** sensitive data – personal data as stated in art. 7 of Law no. [677/2001](#), amended

### **Art. 3**

**(1)** The processing of personal data within credit bureau type filling systems can have as object only personal data which are relevant and not excessive for the purposes mentioned at art. 1 and only in relation with the activity of granting credits.

**(2)** The processing of personal data within credit bureau type filling systems can not be done upon sensitive data and upon the data provided in art.10 of the Law no. [677/2001](#), amended, except for the data regarding fraudulent people as defined by the present decision.

**(3)** Personal data which may be processed within some credit bureau type filling systems are:

**a)** identification data of individuals: name, surname, father's/mother's initial, domicile/residence address, phone number /mobile phone number, personal numerical code;

**b)** negative data: type of product, term of granting, date of granting, date of term, granted credits, in debt sums, sums not paid, number of unpaid rates, expiry term of debt, the number of the days for the delay in paying back the credit, situation of the account, date for closing the account, currency of the account, frequency of payments, sum paid, monthly payment, name and address of the employer;

**d)** data referring to fraudulent people: fact committed, number and date of the court decision/administrative act, name of the issuing body;

**e)** data referring to inadvertencies.

**(4)** Physical persons whose personal data can be processed within credit bureau type filling systems are the borrowed people, co-debtors and guarantes.

### **Art. 4**

**(1)** Credit bureaus collect personal data exclusively from the participants.

**(2)** The participants have the obligation to transmit to credit bureau type filling systems accurate and correct data.

**(3)** Credit bureaus are obliged to perform all necessary actions in order to redress the deficiencies noticed in relation to the inaccurate or incomplete character of the information.

**(4)** Data registered into credit bureau type filling system can be updated, modified, competed or deleted either directly by the participant, which transmitted the data or by credit bureau at the request or in accordance with the participant.

**(5)** The operations set out in para. (4) may take place also as a consequence of the exercise of the data subject` rights as provided by Law no. [677/2001](#), amended, based on a request of the National Supervisory Authority for Personal Data Protection or on the grounds of a decision of the court of law.

(6) The access or the supply of data registered into filing systems of credit bureau type to third parties is forbidden, public authorities and institution excluded, in cases and by respecting the legal provisions.

#### **Art. 5**

(1) Negative data are to be transmitted to credit bureau type filing systems 30 days after the debt enters into force.

(2) Positive data are to be transmitted after the day of signing the contract between the participant and the individual.

(3) Data referring to inadvertencies are to be transmitted after the establishing of the participant's fault which supplied uncorrelated information, by the competent compartments of the participants, respecting the provisions of art. 8 para. (4) of this decision.

(4) Data referring to fraudulent individuals are to be transmitted after they took knowledge of a definitive and irrevocable court's decision, as the case maybe, or after the date at which an uncontested administrative act became executorial and this act establishes the guilt of the individual, physical person who has a relationship with a participant, observing the provisions of art. 8 para. (4) of this decision.

#### **Art. 6**

(1) Personal data of the credit solicitants who have renounced to the credit request or whose request was rejected are to be stored within the credit bureau type filing system and be available for the participants for no longer than 6 months since the day of the data transmission to the credit bureau.

(2) Negative data are to be stored within credit bureau type filing systems and made available to the participants for the necessary time frame in order to achieve the purposes stated at art. 1, but no longer than 4 years since the day of payment of the last unpaid rate or since de day of the last sent update in case of unpaid sums until the term established.

(3) Positive data are stored within credit bureau type filing systems and made available to the participants only for the necessary time frame in order to accomplish the purposes stated at art. 1, but no longer than 4 years since the day of the last sent update.

(4) Data referring to inadvertencies and those referring to fraudulent individuals are to be stored within credit bureau type filing systems and made available to the participants for the time frame necessary in order to accomplish the purposes stated at art. 1, but no longer than 4 years since the day of their transmission to such systems.

### **Art. 7**

After the time limits mentioned at art. 6 have expired, personal data are to be erased from the credit bureau type filling system or transformed into anonymous data and processed for statistical purposes, as the case may be.

### **Art. 8**

**(1)** Personal data of the credit solicitants are to be transmitted to the credit bureau type filling systems only with the written consent of the data subject, obtained by the participants at the moment of the request of credit.

**(2)** Negative data, included those resulting from taxes or increasing fee rates, are to be transmitted to the credit bureau type filling systems, only after a notice has been sent in advance by the participants in writing, by phone, SMS or e-mail, to the data subject at least 15 days before the day of the transmission.

**(3)** Positive data are to be transmitted to the credit bureau type filling systems only after a written notice has been sent in advance to the data subject by the participant at the moment of the signing of the contract.

**(4)** Data referring to inadvertencies and fraudulent individuals are to be transmitted to credit bureau type filling systems only after a written, phone-call, SMS or e-mail notice has been sent in advance to the data subject by the participant before the day of the data transmission.

### **Art. 9**

**(1)** Participants have the obligation to provide, clearly and accurately, the information mentioned in art. 12 para. (1) of Law no. [677/2001](#) to data subject at the time of sending the notice provided in article 8, including information on:

**a)** personal data transmitted;

**b)** identity of the credit bureau/s to which the data are transmitted;

**c)** categories of participants to the credit bureau to which the data are transmitted;

**d)** period/s of data storage within the credit bureau type filling systems;

**e)** concrete modalities for the exercise of the right of access, intervention, opposition in relation to the participant and the credit bureau/s.

**(2)** Participants and credit bureau are obliged to take appropriate measures in order to observe the right of access, intervention and that of not being subject to an automatic individual decision according to art. 13, 14 and 17 from the Law no. [677/2001](#), amended.

(3) For grounded and legitimate reasons, related to particular and justified situations, the data subjects may oppose to the transmission or further processing of their own data within a credit bureau type filling system.

**Art. 10**

Participants and credit bureaus are obliged to adopt technical, security and organizational measures required for the protection of personal data under the terms of art. 19 and 20 from the Law nr. [677/2001](#), amended. Only authorized persons may be granted access to the personal data stored in a credit bureau type filling system.

**Art. 11**

The provisions of the present decision do not apply to the processing of personal data performed by the data controllers belonging to a different sector of activity having the objective of keeping record of bad-debtors and the evaluation of the solvability of their own clients, observing the legal provisions in the field of personal data protection.

**Art. 12**

The violation of the provisions of this decision provisions may involve the responsibility mentioned in the provisions of Law no. 677/2001, modified and amended.

**Art. 13**

The present decision enters into force within 60 days since the day of the publishing in the Official Journal of Romania, Part I.

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President of the National Supervisory  
Authority for the Personal Data  
Processing

**Georgeta Basarabescu**

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