

Personal data processing in banking sector within the context of banking secrecy

Abstract

Banking secrecy is a concept which has been intertwined with the provision of banking services since the very beginnings of this industry. Even though it is a universally known concept, its legal definition, including piercings of banking secrecy, is not comprehensive. In recent years, its form and the possibilities of piercing it have been evolving considerably due to often conflicting modern legislative trends (emphasis on consumer protection, emphasis on data processing transparency, support of client mobility in the banking sector, support of innovative financial services, sharing of data for crime prevention incl. terrorism, money laundering and tax evasion).

The goal of this thesis is to present banking secrecy in a complex manner including the categories and the respective individual concrete piercings within the context of data processing legislation, including laying out interpretation problems from practice and proposing concrete solutions. Further, the thesis, where suitable, the thesis also includes proposals de lege ferenda.

The thesis begins with an introduction to the subject matter and is further divided into four chapters, which are followed by a conclusion that sums up the partial conclusions made throughout the thesis. The first and second chapters are dedicated to the basic principles of banking secrecy and personal data protection, respectively, including historical development of these concepts. In the third chapter, the relationship between data that fall under banking secrecy and personal data, is explored. In the fourth, main chapter, the individual piercings in banking secrecy are described in detail, divided into categories, i.e. piercings based on a statutory provision, piercings unforeseen by the law and piercings based on a client's consent with focus on related questions which bring problems in practice, to which the author tries to suggest practical solutions. A part of this chapter is also dedicated to databases which accumulate data on individuals, which are later used by consumer loan providers, and in some cases other entrepreneurs, to assess the creditworthiness of clients, the legitimacy of collecting such data based on current legal framework and the tension between the personal data minimisation principle under GDPR and the protection of individuals from overindebtedness with i.a. the use of data from such databases.

Keywords: banking secrecy, personal data, banks