

REGULATORY COUNCIL

DECISION No.2015-0079
BY THE REGULATORY COUNCIL
OF THE REGULATORY AUTHORITY OF
TELECOMMUNICATION/ICT
IN COTE D'IVOIRE
(PROTECTION AUTHORITY)
DATED SEPTEMBER 15, 2015
ON APPROVAL OF PERSONAL DATA
PROCESSING BY THE COMPANY
CARGILL WEST AFRICA

THE REGULATORY COUNCIL,

- Given the order N° 2012-293 dated March 21, 2012 on Telecommunications and Information Technology and Communication / ICT;
- Given the Law N° 2013-450 dated June 19, 2013 on the personal data protection;
- Given the Law N° 2013-451 dated June 19, 2013 on the fight against cybercrime;
- Given the Law N° 2013-546 of July 30, 2013 on electronic transactions;
- Given the decree N° 2014-106 dated March 12, 2014 laying down the conditions for the establishment and preservation of the written and electronic signature;
- Given the decree N° 2014-105 dated March 12, 2014 defining the conditions for providing cryptology services;
- Given the decree N° 2012-934 dated September 19, 2012 on the organization and functioning of the Regulatory Authority of Telecommunications / ICT Côte d'Ivoire (ARTCI);
- Given the decree N°2013-333 dated May 22, 2013 appointing the members of the Regulatory council of the Regulatory Authority of Telecommunications / ICT Côte d'Ivoire;
- Given the decree N° 2015-173 dated March 19, 2015 appointing a member of the Regulatory council of the Regulatory Authority of Telecommunications / ICT Côte d'Ivoire;
- Given the decree N° 2013-332 dated May 22, 2013 appointing the General Manager of the Regulatory Authority of Telecommunications/ ICT Côte d'Ivoire;
- Given the decree N° 2015-79 dated February 4 2015 laying down the procedures for lodging statements, presenting applications, granting and withdrawing approvals for personal data processing;
- Given the decree N° 511 / MPTIC / CAB dated November 11, 2014 on profile definition and setting the conditions of service of the correspondent to the personal data protection;
- Given the decision N° 2014-0020 of the Regulatory Council of the Regulatory Authority of Telecommunications / ICT Côte d'Ivoire dated September 3,

2014 adopting the rules of conduct on personal data protection and processing.

Given the decision N° 2014-0021 of the Regulatory Council of the Regulatory Authority of Telecommunications / ICT Côte d'Ivoire dated September 3, 2014 on the conditions and criteria for restricting personal data processing;

Given the decision N° 2014-0022 of the Regulatory Council of the Regulatory Authority of Telecommunications / ICT Côte d'Ivoire dated September 3, 2014 on the conditions for the removal of links to personal data, copies or reproductions of those existing in electronic communication services accessible by the public;

Given the decision N° 2013-0003 of the Regulatory Council of the Regulatory Authority of Telecommunications / ICT Côte d'Ivoire dated September 20, 2013 on internal rules;

For the following reasons,

Considering the approval request for personal data processing on the producer profile initiated by the company Cargill West Africa to the ARTCI, the Authority for the personal data protection dated February 2, 2015;

Whereas the protection Authority may, under the provisions of the Law on the personal data protection, approve by a decision, any collection, any treatment, any transmission, any storage and any use of personal data by a person, the State, local governments, legal persons of public or private law;

Whereas the personal data processing carried out by the company Cargill West Africa, to professionalize the management of the cocoa sector, are of those who fall under this definition;

Considering the mail referenced LA / AK / AR / 0815 of Cargill West Africa through which the said company shall notify to the protection Authority, the designation of its correspondent to the personal data protection;

- About the admissibility of the approval application

Whereas the analysis of the application to the protection Authority reveals that the company Cargill West Africa is in charge of the processing, the meaning of Article 39 of the Law N° 2013-450 dated June 19, 2013 on the personal data protection

Whereas it is for this reason that it is seeking approval for the personal data processing, which include the phone number of the concerned persons; that in doing

so, demand of the company Cargill West Africa respects the provisions of Article 7 of the abovementioned law ;

Whereas, moreover, the minimum information required by Article 9 of the same law are contained in the request made by the company Cargill West Africa;

Whereas it is appropriate to note that the request made by the company Cargill West Africa meets the conditions of forms required by Articles 7 and 9 of the Law N° 2013-450 on the personal data protection;

And therefore the protection Authority considers the request of the company Cargill West Africa admissible as submitted;

- About the purpose

Whereas data processing envisaged by the company Cargill West Africa are intended to establish a database containing profiles of producers for audits purposes and for meeting international standards as part of the certification process;

Whereas the purpose of such treatment is determined, explicit and legitimate within the meaning of Article 16 of the Law on the personal data protection;

Whereas, however, the data processed by the company Cargill West Africa cannot be used for purposes other than those specified in the request for approval; and that any reuse of such data for other purposes shall be subject to approval by the protection Authority;

-About the retention period of processed data

Whereas the company Cargill West Africa indicated it will retain the data processed for a period of five (05) years, unless otherwise required by law;

Whereas given the nature of the data processed and the purpose of treatment, the protection Authority considers this period reasonable and notes it;

- About the proportionality of collected data

Whereas the data processed are:

- a. Regarding the identification: the name, surname, date of birth, gender, education level, marital status, phone number,
- b. Regarding the contact information: the address, town, city, country of residence

Whereas in relation to the purposes of the processing, it should be noted that such data are "adequate, relevant and not excessive";

- About the concerned people and the lawfulness of processing

Whereas Cargill West Africa Company has specified in its application for approval that the concerned people are cocoa producers, members of accredited cooperatives to the company Cargill West Africa;

Whereas data collection can take place only with the prior consent of the concerned people; the protection Authority recommends the establishment of a process of collecting the prior consent of the adhering farmers;

-About the recipients or categories of recipients entitled to receive data communication

Whereas the request submitted by the Company Cargill West Africa states that may have data communication, under the responsibility of the person in charge of data, within the limits of their duties and for the purpose of the exercise of the processing purposes:

- The ADG (group administrators) subcontractor;
- The auditors of certification bodies;
- The parent company Cargill BV (Netherlands);
- STI SOLUTIONS LLC (TRACE SOURCE);
- ANADER (National Agency for Rural Development Support) subcontractor;

Whereas, apart from ANADER and ADG, all other entities that have reporting data reside in third countries;

Whereas this is a case of transfer of data to third countries subject to prior approval and to be the subject of a particular application;

Whereas the company Cargill West Africa has not introduced to the Protection Authority an application for the approval of transfer; the processed data cannot be transferred to third countries;

Accordingly, the protection Authority approves the communication of data to local subcontractors (ADG), to ANADER and local staff of the company Cargill West Africa in charge of the file;

The company Cargill West Africa has the responsibility to ensure the compliance with the provisions of the law on the personal data protection by its subcontractors

About the transparency of processing

Whereas the request of the company Cargill West Africa indicates that a questionnaire will enable the concerned people to be informed of their rights, prior to any processing;

Whereas the protection Authority takes note and recommends to the company Cargill West Africa to complete this formality through posters showing the rights of the concerned people in the premises or places of personal data processing and copies are transmitted to it;

- About the right of direct access, opposition, rectification of the concerned people

Whereas the request submitted by the company Cargill West Africa indicates the means used to exercise direct rights of access, opposition, correction and deletion, as well as the details of the person to which these rights are exercised ;

Whereas the protection Authority takes note and reflects the compliance undertaking, signed by the person in charge of processing and attached to the permit application file;

- About security measures

Whereas the documents provided that the person in charge of processing has taken all necessary basic measures to ensure data security, in compliance with Article 41 of the Law N° 2013-450 dated June 19, 2013 on the personal data protection; As a result the necessary logical and physical security measures are safeguarded;

After considering the matter,

DECIDES

Article 1:

The company Cargill West Africa is authorized to perform the below collection, recording, data storage, relating to cocoa farmers profile, members of accredited cooperatives to the company Cargill West Africa

- the name ;
- first name ;
- the birth date ;
- Sex;
- The education level;

- Marital status (single, married, divorced, widowed)
- Address (town, city, neighborhood, country);
- phone number.

Article 2:

The company Cargill West Africa shall not transfer, **without prior consent of the protection Authority**, the processed data to third countries. Consequently, the company Cargill West Africa shall not communicate the processed data to any established structure outside the Republic of Côte d'Ivoire.

The Protection Authority carries out checks to the company Cargill West Africa to verify compliance with this provision whose violation will result in penalties, in compliance with the regulations in force.

Article 3:

Cargill West Africa ensures compliance with the provisions of the law on the personal data protection by its subcontractors.

Article 4:

The company Cargill West Africa is implementing a process of collection of prior consent of adhering farmers, concerned by the processing approved by this decision.

Article 5:

The correspondent to the protection, designated by the company Cargill West Africa, maintains a list of processing carried out, immediately accessible to any concerned person upon request.

Article 6:

Pursuant to article 42 of the Law N° 2013-450 dated June 19, 2013 on the personal data protection, the company Cargill West Africa establishes an annual report on compliance with the provisions of Article 41 of that law.

The company Cargill West Africa discloses the report to the Protection Authority.

Article 7:

This Decision shall enter into force on the date of its notification

Article 8:

The Director General of ARTCI is responsible for the implementation of this decision that will be published in the Official Journal of the Republic of Côte d'Ivoire and on the website of the ARTCI

Issued in Abidjan, On September 28, 2015

In two (02) original copies

The chairman



Dr Lémassou FOFANA
OFFICER OF THE NATIONAL ORDER

