

The Right to Financial Privacy: A Disappearing Era

Ruth Plato-Shinar

An important characteristic of the banking system is the principle of banking secrecy, which prohibits the bank from disclosing to third parties financial information relating to its customers. With the expansion of the financial sector and the entry of additional entities into the fields of financial activity, a broader concept of “right to financial privacy” is emerging, which reflects on the duty of secrecy imposed on all the financial entities towards their customers.

Despite the importance of the right to financial privacy, it is not an absolute right. Alongside the prohibition on disclosing the information, a recognition of certain exceptions under which the financial institution is permitted – and sometimes even obliged – to disclose the information, has been established. The main exception in this context is the duty of disclosure by virtue of law. In recent years – in Israel as in other countries – this exception is increasingly expanding, thereby significantly reducing the right to financial privacy.

The article contends that despite the great importance of the right to financial privacy, other interests may sometimes override it and justify the disclosure of information regarding customers. As long as the balance between the right to privacy and those interests is a proper balance that meets the requirements of the Basic Law: Human Dignity and Liberty, the duty of disclosure should be preferred, despite the severe injury to financial privacy.