

Athens, 26-04-2018

Prot. No.: G/EX/2313-1/26-04-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 37/2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on Wednesday 25.04.2018 at 10:00 p.m. after

invitation of its President, in order to examine the case referred to

in the history of the present. The Deputy President, George, was present

Batzalexis, obstructing the President of the Authority, Constantinos Menoudakos,

and

the

substitutes

members of Panagiotis

Rontogiannis,

Evangelos

Papakonstantinou and Grigorios Tsolias, as rapporteur, in place of

of regular members Antonios Symvonis, Konstantinos Lambrinoudakis and

Charalambos Anthopoulos, respectively, who, although they were legally summoned

in writing, they did not attend due to disability. They were present without the right to vote

Evangelia Vassilopoulou, legal auditor, as assistant rapporteur and Irini

Papageorgopoulou, employee of the administrative affairs department, as

secretary.

The Authority took into account the following:

With no. first APDPH C/EIS/854/31.01.2018 application and due consideration

of this, A, through the attorney-at-law of Emmanuel Kapnisakis, requests it permission of the Authority for the processing of sensitive personal data and specifically giving him "copies of the medical certificates and of doctor B's opinions and in particular of the medical opinion of the person in question of a doctor, referring to the state of health" of C from the traffic accident

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of ... in which both were involved and after which C was admitted to University General Hospital [region] X and then to the infirmary P, for judicial use. Then, and after relevant information of the applicant for the procedure before the Authority as provided for in article 7 paragraph 3 thereof Law 2472/1997, Law No. first... (APDPH C/EIS/2313/22.03.2018) supplementary document, forwarded to us the application of the above applicant, through the power of attorney of Amalias Aspiotis, to Ps with the same as above content and at the same time forwarded the documents related to the case and requests an opinion from the Authority regarding the legality of the applicant processing. A requests the granting of the requested information in order to a) to deliver the documents to the Referee Judge, following the, after the summons from ... of A, discussion of the case at the Court of Appeal [area] X on ..., without having decision issued to date, to which the case was referred for appeal hearing with no. ... decision of the Supreme Court, which was reversed the under no. ... of the Court of Appeal [region] X concerning the disputed traffic accident, with parties the applicant and C, b) to counter the action for compensation from car accident brought by C against him, the anonymous insurance company with the name "INTERAMERICAN HELLINIKI DAMAGE INSURANCE COMPANY S.A.", as legally represented, and of of a company with the name "ELIT Ltd. - tourist businesses and rentals

cars", as legally represented, before the Single Member Court of First Instance

[region] X (special procedure for automobile-property disputes - no.

of deposition ... with a hearing set for ..., after adjournment of its hearing

...) and c) to support his appeal from ... against C and under no. ...

decision of the Single Member Court of First Instance [region] X (filing no. ... and ... with

set for trial on ... after adjournment from the trial of ...). Then, with the

under no. prot. APDPH C/EIS/2940/18.04.2018, the attorney of

applicant sent to the Authority the no. ... decision of the Supreme Court.

The Authority, after examining the elements of the file, after hearing the rapporteur

and the clarifications from the assistant rapporteur, who was present without the right to vote

and withdrew after the discussion of the case and before the conference and

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making a decision, after a thorough discussion,

THOUGHT ACCORDING TO THE LAW

1. Because the provisions of articles 2 par. b', 4 par. 1 and 7 par. 2 item. 3 of n.

2472/1997 determine the terms and conditions for legal processing

of sensitive personal health-related data. The provisions of

of articles 5 par. 3 and 13 par. 3 item. b' of Law 3418/2005 (Medical Code

of Ethics) provide for the exceptional granting of medical certificates and

opinions to a third party who has a legitimate interest and proves it,

as well as the conditions for lifting medical confidentiality. Because, further, the

article 11 par. 3 of Law 2472/1997 stipulates that if the data is communicated to

third parties, the subject is informed of the announcement before them.

2. Because, according to article 914 of the Civil Code, whoever damages another illegally and

at fault has an obligation to compensate him. Further, according to Article 932

AK, in case of tort regardless of the compensation for the

property damage, the court may award reasonable at its discretion

monetary satisfaction to restore the moral damage.

3. Because further in the provision of article 931 of the Civil Code it is provided that "disability or the disfigurement inflicted on the sufferer is particularly taken into account, v awarding compensation, if it affects his future".

4. Because, in the case under consideration, A is requesting as a third party (Article 2

item i' of Law 2472/1997) the granting of sensitive personnel data

character (health data) concerning C and kept in the files of P

as data controller (article 2 letter g of Law 2472/1997). From his data

of the case file it appears that the purpose of processing consists of a) to

deliver the requests to the Referee Judge, after the, after the summons from ...

of A, discussion of the case at the Court of Appeal [region] X on ..., without having

a decision has been issued to date, to which the case was referred for appeal

trial with no. ... decision of the Supreme Court, b) to oppose the lawsuit

compensation from a car accident that C has brought against him, the

anonymous insurance company

company with

her

brand "INTERAMERICAN

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HELLENIC DAMAGE INSURANCE COMPANY S.A.", such as

legally

is represented, and the company with the name "ELIT Ltd. - tourist

businesses and car rentals", as legally represented, before

of the Single-Member Court of First Instance [region] X (special procedure for automobiles—

property disputes – no. of filing ... with a fixed hearing on ..., then

postponement of the trial of ...) and c) to support his appeal against
of C and under no. ... decision of the Single Member Court of First Instance [region] X (no.
of filing ... and ... with a scheduled hearing on ... following adjournment by
trial of ...).

More specifically, A requests to be granted "copies of the medical records
certifications and opinions of doctor B and in particular the one from ... medicine
opinion of the doctor in question, referring to his state of health
C from the traffic accident of ... in which they were both involved and after it
whose C was admitted to University General Hospital [area] X and
then in Ps.

5. Because the projected processing purpose is consistent with the aforementioned
provision of article 7 par. 2 item c' of Law 2472/1997. Because, in addition,
grant of the requested data is deemed necessary in this case and
suitable for the defense of the above rights of the applicant before the
aforementioned courts and for the above under item purposes a to c,
as a result of which the principle of proportionality is observed for the requested processing
(article 4 par. 1 item b of Law 2472/1997). Because, finally, Ψ owes, as
controller, to inform, in accordance with the provisions of its provision
of article 11 par. 3 of Law 2472/1997, Law C on the transmission of sensitive personal
of the data to A for his use for the above mentioned under item.
a' to c' purposes in the context of the described legal disputes from a traffic accident
accident.

FOR THOSE REASONS

The Authority grants permission to P, as data controller, to grant A the
requested copies of medical certificates and opinions of doctor B and in particular

of the medical opinion of the doctor in question, concerning C, which o
applicant will use in the context of the legal disputes described above
(under items a' to c'), after Ψ previously informs G.

The Honorable President

The Secretary

George Batzalexis

Irini Papageorgopoulou