

Athens, 03-05-2018

PRINCIPLE FOR DATA PRIVACY

FOR OPIC CHARACTER

Original No.: G/EX/1886-1/03-05-2018

A P O F A S H 42/2018

(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 mentioned case

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

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

the alternate members Panagiotis Rontogiannis, Evangelos Papakonstantinou

and Grigorios Tsolias, as rapporteur, in place of the regular members

Antonios Hymbonis, Konstantinos Lamprinoudakis and Charalambos Anthopoulos,

respectively, who, although they were legally summoned in writing, did not appear for the reason

obstruction. Present without the right to vote were Evangelia Vassilopoulou,

legal auditor, as assistant rapporteur and Irini Papageorgopoulou, employee

of the department of administrative affairs, as secretary.

The Authority took into account the following:

With the no. first ... request (ADDPH G/EI /1886/08.03.2018) Municipality X, as

controller and specifically Department Ψ (hereinafter the Municipality) forwards

to the Authority, A's request for granting it personnel data

character that are kept in the file of the applicant and in this way requests

license no. 7 par. 2 of Law 2472/1997, as also appears from the no. first

Opinion of the Legal Service of the Municipality, regarding the possibility

provision of personal data that are the result of social research

in the context of a prosecutor's order from the Athens First Instance Prosecutor's Office and

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concern the applicant's mother, B, for judicial use. specifically, A requests a copy of the data kept on file by Municipality X for her mother, and in particular "social research, medical opinions", as stated in her application, to present them before the competent courts "for her defense and refutation of false allegations against her, the truth of which follows from the documents requested to be received in duplicate". As can be seen from elements of the file, the judicial use consists in rebutting a) the claim for the protection of personality and for monetary satisfaction to reparation of the moral damage that B suffered before the Multi-Member of the Court of First Instance of Athens against A and C (regular procedure - reg. no. ... with deadline for submission of proposals on ...), b) the action for monetary satisfaction in order to restore the moral damage that B caused before the Single Member of the Court of First Instance of Athens against A, C, D and E (regular procedure - no. cat. ... with a deadline for submission of proposals on ...) and c) of the application insurance measures to protect the right to its free development of personality exercised by B before the Single Member Court of First Instance of Athens against A and C (proceedings for protective measures - reg. no. ... with defined hearing on ..., when the relevant application was heard, as he informed her Principle A).

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 the decision-making, after thorough discussion,

IN ACCORDANCE WITH 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 the articles

5 par. 3 and 13 par. 3 item. b' of Law 3418/2005 (Code of Medical 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, article 11 par. 3

of Law 2472/1997 stipulates that if the data is communicated to third parties, the subject

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is informed of the announcement before them.

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

item i' of Law 2472/1997) the granting of personal data (among others

sensitive health data) concerning B's mother.

3. Because it appears from the evidence of the case file that the appellant

in the documents, the purpose of personal data processing consists of

rebuttal of the aforementioned lawsuits and the insurance claim

measures (petitions under items a' to c) that he has brought against her and others

defendants/defendants B before the competent courts

4. Because in order to be examined by the Authority if the invoked purpose

processing of the requested personal data in accordance with

aforementioned provision of article 7 par. 2 item c' of Law 2472/1997 and if

in addition, the principle of proportionality of personal data is also met

(article 4 par. 1 item b of Law 2472/1997), so that the Authority can decide whether

necessity and affordability of the use of the specific personal

data to refute the above lawsuits, its determination is required

file content.

5. Since it is not clear from the data in the case file what the above-mentioned conducted social research, if it includes personal data, nor if medical opinions are kept in the file of the Municipality regarding the B.

FOR THOSE REASONS

The Authority postpones the adjudication of the case in this case the data controller to send without delay a photocopy of the above file that he keeps and to specify in writing whether it has submitted a Notice of Formation and Operation file no. 6 or 7 of Law 2472/1997 or if he is exempted from the relevant obligations by no. 7A n. 2472/1997 and for what reasons.

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The Honorable President

The Secretary

George Batzalexis

Irini Papageorgopoulou

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