

Athens, 22-03-2018

Prot. No.: G/EX/512/22-03-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 27/2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on Wednesday 21.03.2018 at 10:00 a.m. upon invitation

of its President, in order to examine the case mentioned in its history

present. They were attended by the Deputy President, Georgios Batzalexis, who was disabled

of the President of the Authority, Constantinos Menoudakos, the alternate members

Panagiotis Rontogiannis, Evangelos Papakonstantinou and Grigorios Tsolias, as

rapporteur, replacing regular members Antonios Symvonis, Konstantinos

Lambrinoudakis and Charalambos Anthopoulos, respectively, who, although they were summoned

legally in writing, they did not attend due to disability. Attendees without the right to vote

was 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 the under no. first... (APDPH C/EIS/537/22.01.2018) application by the Navy

Anti-Militarized Fund (hereinafter NAT) forwards to the Authority the no. first ... application of A

to the NAT as well as the prosecutorial order of the First Instance Prosecutor's Office from ...

Piraeus and requests the Authority's permission to process sensitive personal data

data. Specifically, A requests to receive from NAT "copies of the decisions

retirement due to disability but also any amending award decision

disability pension as well as medical opinions pursuant to which they were awarded or

the disability pension decisions with beneficiary B were amended, during the period 1981-

2017". A requests the granting of the requested data in order to support before the Single-Member Court of First Instance X the declaratory-claim action (ordinary procedure – filing no. ... with deadline for advance filing of propositions the ...) which he has brought with C and D against E, F and B, brother of the plaintiffs. With the supplementary document No. C/EIS/2274/21-03-2018 the Z forwarded to the Authority the above-mentioned document of the cognizance-assertive action, by which the plaintiffs seek to be recognized at the rate of 1/6 indivisible each, of the properties mentioned in the history of the lawsuit, to oblige the defendants to assign to them (the plaintiffs) the percentage of 1/6 indivisible in properties mentioned in the lawsuit, as the no. ... contract of sale of said properties to each of the first two defendants at a rate of 50% from third defendant and brother of the plaintiffs is invalid, to order the reinstatement of of things in the prior state and to settle the plaintiffs according to the percentage them and specifically by a percentage of 1/6 indivisible each, otherwise they should be allowed to do so at the expense of the defendants. With the aforementioned under no. first ... application and according to the correct assessment of this, A wants to prove that his brother, B, who is against the plaintiff's claims by 1/6 indivisible of those referred to in the lawsuit real estate, "since the year 1973 he has been suffering from a mental disorder for which he was hospitalized for a long period of time in the Athens Psychiatry but also in other nursing institutions. He has been judged since 1981 by committees that he is mentally disabled and he is granted disability pension and is therefore unable to work and any legal action". (as stated in the above lawsuit)

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 case was discussed and before the conference and reception

decision, after 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 articles 5

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

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provide for the exceptional granting of medical certificates and opinions to

a third party, as long as he has a legitimate interest and proves it, as well as the

conditions for lifting medical confidentiality. Because, further, article 11 par. 3 of n.

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

is informed of the announcement before them.

2. Because, in the case under consideration, A is requesting in the capacity of a third party (article 2 item i

of Law 2472/1997) the granting of sensitive personal data

(health data) relating to his brother, B and kept in the NAT records, as

data controller (article 2 letter g of Law 2472/1997). From the folder details

of the case it follows that the purpose of processing consists in supporting the above

declaratory-claim action, as has been analyzed in the history of the present.

3. The projected processing purpose is consistent with its aforementioned provision

article 7 par. 2 item c' of Law 2472/1997. However, its principle is not fulfilled

proportionality of the data (article 4 par. 1 letter b of Law 2472/1997), because the

granting the requested health data of B to A is not necessary and convenient

to support the above action, the object of which is its recognition

ownership of the plaintiffs according to their claims undivided

their percentage of the disputed properties, as well as the performance by the defendants to

those of the above rate and the restoration of things to the previous state

as stated in the lawsuit. For these purposes, however, it is not required invoking health reasons of the third defendant - seller at the conclusion of the dispute contract, although proof of co-ownership of the plaintiffs and the third party is sufficient of the defendant on the disputed properties, because the subject of the action is not the recognition of the invalidity of the transfer or the disputed contract due to state of health of the third defendant. Next, the requested license cannot be granted.

FOR THOSE REASONS

The Authority does not grant NAT permission, as controller, to grant A the requested information as specified in the history of the present and concerning the

B.

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The Honorable President

The Secretary

George Batzalexis

Irini Papageorgopoulou