

Athens, 24-04-2018

Prot. No.: G/EX/1708-1/24-04-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 35/2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on Wednesday 18.04.2018 at 10:00 p.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, and 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 no. first APDPH C/EIS/1199/12.02.2018 application and due consideration

of this, A and B, through their attorney Dimitris Ayfantis, request the

permission of the Authority for the processing of sensitive personal data and

specifically giving them "a copy of C's medical record" for

judicial use. Then, and after informing the applicants about the

procedure before the Authority as provided for in article 7 par. 3 of the law.

2472/1997, the G.N.A. "C. GENNIMATAS" (hereinafter "GENNIMATAS") with no.

first ... (APDPH C/EIS/1708/28.02.2018) supplementary document, forwarded us the

by ... application of the above applicants, through their attorney Dimitris

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Aifanti, to "GENNIMATAS" and requests an opinion from the Authority regarding the

lawfulness of the requested processing. Specifically, A and B request "to them

granted a copy of C's medical file, which is kept at the G.N.A. "C.

CONGENITAL" because of the two operations he underwent on ... and ... and

of his hospitalization as a result of postoperative complications from ... to ...". Her

grant of the requested information is requested by the above applicants in order to

oppose the claim for compensation and monetary satisfaction for restitution

of the moral damage from a traffic accident and health damage caused by G

against

them and the anonymous insurance company with the name

"INTERSALONICA ANONYMOUS DAMAGE INSURANCE COMPANY" before the

Single-member Court of First Instance of Athens (special car-property procedure

disputes – no. of filing ... with a fixed hearing on ...)

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)

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

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 culpably

has an obligation to compensate him. Furthermore, according to article 932 of the Civil Code, s

case of tort regardless of compensation for property damage, the

a court may award monetary satisfaction reasonable at its discretion to

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recovery of moral damage.

4. Because further article 930 par. 3 of the Civil Code states that "the compensation claim does not

it is excluded that someone else has the obligation to compensate or support

the one who was wronged".

5. Because even in the provision of article 931 of the Civil Code it is provided that "disability or

deformity caused to the sufferer is taken into account in particular, according to

awarding compensation, if it affects his future".

6. Because, in the case under consideration, A and B request in the capacity of a third party (article 2

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

(of health data) concerning C and

kept on file

of

"GENNIMATAS", as data controller (article 2 letter g' of Law 2472/1997). From

the data of the case file shows that the processing purpose consists

in the rebuttal of the claim for damages and money

satisfaction to

recovery of moral damage from a traffic accident and damage to health

brought by C against them and the anonymous insurance company under the name

"INTERSALONICA ANONYMOUS DAMAGE INSURANCE COMPANY" before the Single-member Court of First Instance of Athens. More specifically, A and B request "to them granted a copy of C's medical file, which is kept at the G.N.A. "C. BIRTH" because of the two operations he underwent on ... (possible mistake of the applicants by way of way as the above plaintiff was admitted to "BIRTH" on ... as appears from the lawsuit) and ... and his hospitalization as a result of postoperative complications from ... to ...".

7. The projected processing purpose is consistent with its aforementioned provision article 7 par. 2 item c' of Law 2472/1997. However, in order to be fulfilled at the same time, the principle of proportionality of data (article 4 par. 1 letter b of Law 2472/1997), must be granted by "GENNIMATAS", controller, to applicants A and B, only a medical certificate from his or her treating physicians C, in which the reason for hospitalization, the evolution of the health condition should be mentioned to date and what is its current status. The administration of the medical certificate with the above information is deemed necessary and appropriate in this case for the defense of the above rights of the applicants before him of the aforementioned court, as a result of which the principle of proportionality is observed for the requested processing (Article 4 of Law 2472/1997).

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"GENNIMATAS" must, as controller, inform, according to the provisions of article 11 paragraph 3 of Law 2472/1997, Law C on the transmission of his sensitive personal data to A and B for use during the trial of ... in the context of the described legal dispute.

FOR THOSE REASONS

The Authority grants permission to "GENNIMATAS", as data controller, to grant A and B only a medical certificate with the information mentioned

in the

history of the present and concern C, which applicants will

use in the context of the above-described legal dispute based on

No. cat. ... lawsuit, after "GENNIMATAS" previously informed G.

The Honorable President

The Secretary

George Batzalexis

Irini Papageorgopoulou