

Athens, 05-02-2018

Prot. No.: G/EX/1005/05-02-2018

## PRINCIPLE OF DATA PROTECTION

### OF A PERSONAL CHARACTER

A P O F A S H 9/2018 (Department)

The Personal Data Protection Authority met in

composition of the Department at its headquarters on Wednesday 31.1.2018 at 10:00 a.m. after

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

refers to the present history.

They were attended by the Deputy President, Georgios Batzalexis, who was in his way

of the President of the Authority, Constantinos Menoudakou, and the alternate members

Panagiotis Rontogiannis, Charalambos Tsiliotis and Grigorios Tsolias, as

rapporteur, replacing regular members Antonio Symvonis, Spyridonos

Vlachopoulos and Charalampos Anthopoulos respectively, who, although they were summoned

legally in writing, they did not attend due to obstruction. Unauthorized presence

vote was Fereniki Panagopoulou, legal auditor - lawyer, as assistant

rapporteur, and Irini Papageorgopoulou, employee of the administrative department,

as secretary.

The Authority took into account the following:

With the no. first... (ADDPH G/EIS/7853/01.11.2017) document OKANA requests

from the Authority the license in order to grant as a data controller, with

based on the provisions of Law 2472/1997 on the Protection of Individuals from

processing of personal data, to A information regarding

the medical examinations carried out by his estranged wife B. According to

A's claims, his estranged wife is pregnant with their child who

conceived within their marriage and during pregnancy does  
 daily use of drugs, which – according to his claims –  
 burden the normal development of the fetus. With his application he asks for her  
 access to the results of medical examinations that are directly related to  
 the pregnancy of B.

With the no. prot. ADPPH C/EIS/8565/29.11.2017 supplementary document, A  
 clarifies that he is requesting the requested information in order to counter an application  
 temporary injunction of B against the same that he has exercised  
 itself before the Single Member Court of First Instance of Athens (registered file no....—  
 Department of Insurance Measures) with a fixed hearing on ....

With the no. 148/2017 decision the Authority did not grant the permit  
 to OKANA to grant copies of B's medical examinations, which  
 contain sensitive personal data, for use in the context of  
 the aforementioned legal dispute. With the above decision, the Authority ordered to  
 a copy of the present will be forwarded to the Public Prosecutor of Athens  
 of the decision, of the applicant's complaint, and any relevant document in the file  
 of the case, for the reasons mentioned in the rationale.

With  
 the  
 under no.

first  
 APDPX/G/EIS/196/10.1.2018

and  
 APDPH/G/EIS/356/15.1.2018 A informs the Authority that their audience was born  
 child and therefore now requests B's health data, in order to

file a custody case for their child.

The Authority, after examining the elements of the file, after hearing him  
rapporteur and the clarifications from the assistant rapporteur, who attended without  
right to vote and withdrew after the discussion of the case and before  
the conference and decision-making, 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. With the provisions of  
of articles 5 par. 3 and 13 par. 3 item. b' of Law 3418/2005 (Medical Code  
of Ethics) provides for the exceptional granting of medical certificates to  
third party, as long as he has a legitimate interest and proves it as well

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conditions for lifting medical confidentiality.

2. According to A's claims, he requests access to the data  
health of his estranged wife in order to use them to  
defense of the custody action of their child who is going to  
submit before a competent court.

According to the established administrative practice of the Authority (see index Decisions 8, 9/2005 and  
81/2009, posted on the Authority's website), for the granting of a license  
processing of sensitive personal data the third party must invoke  
but also to prove the pursuit of the legitimate interest and the  
necessity of granting the requested data upon its presentation  
of a relevant petition to the Authority, while it should be specified when the  
set trial or when the deadline for submission of motions expires. In

present case, exceptionally and because of his stated claim  
requesting father that his child is in danger due to the use  
of his mother's narcotic substances, it is deemed necessary to administer the disputed one  
certificate for the submission of the petition for custody of the minor  
of his child before a competent court (see also Decisions 130/2012 and  
149/2017).

5. Consequently, the granting of the above certificate is deemed necessary in this case  
and suitable for the defense of the above rights exclusively before  
of the competent court, strictly excluding any other use.

OKANA is burdened, as data controller, with the obligation to  
inform that sensitive personal data is about to be disclosed  
to the estranged spouse of A, in accordance with the provisions of the article  
11 par. 3 of Law 2472/1997.

Pursuant to the above, the requested license can be provided for him  
exclusive purpose of using his sensitive personal data as above  
said subject of them.

#### FOR THOSE REASONS

The Authority grants permission to OKANA in order to grant sensitive  
B's data to A, exclusively and only for judicial use  
is described in the rationale of this decision, since previously the

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OKANA inform B.

The Honorable President

The Secretary

George Batzalexis

