

## Helsinki Information Law Moot Court Clarification Questions 2024

### Questions about the Athena

**How many users does Athena have?**

Athena has around 90 million active users per month.

**Does Special Friend Mode have any measures that will let customers be made aware of how much they are spending? For example, is there an alert when the money spent on extra conversations in the Silver Plan surpasses the fee of the Gold Plan?**

No, Special Friend Mode does not contain any such alerts. Silver Plan customers can see their usage figures in the “Usage” section of the Accounts page.

**Is Athena available for all ages? If so, are there age verification and control procedures in place during account creation?**

The free version of Athena is available to users over 13 years of age. Silver and Gold plans are limited to users over 18 years old. Users are required to enter their birthday during registration, and must provide their credit card details when signing up to Silver and Gold plans.

**What is the mechanism behind the responses that Athena gives? What’s the degree of human involvement in Athena’s systems and decision-making process?**

Per AR-PLIK’s description, “Athena uses cutting-edge machine learning and neural net technology to interpret language and predict text. You could compare it to the autosuggest on your phone, although that would be like comparing a paper aeroplane to a spaceship. Our algorithms have analysed hundreds of thousands of millions of texts to, effectively, solve language and break down each paragraph, sentence and word into chunks which it understands.”

Athena’s language generation is not subject to any *ex ante* control by human oversight.

**Were the differences between the Silver and Gold plans made clear and explained in plain language to the Athena users?**

Yes.

**Is the renewal of the ‘Silver plan’ done automatically or manually by the user?**

Both plans are automatically renewed. Users can turn off autorenew at any time, using a prominently displayed button on the Accounts page.

**What is the purpose of storing the transcripts of the conversations between Athena and its users?**

The records of transcripts are used for training and improvement of Athena. These purposes were specified to the users in the privacy policy.

**What is the current policy for the data retention of Athena? Does it specify how long the data will be collected, or does it provide certain criteria to its users under its privacy policy?**

The privacy notice states that personal data will be kept for 13 months after a user's account becomes inactive, although, according to AR-PLIK, users often come back after a time of inactivity.

After 13 months of inactivity, the data is kept in anonymous form. AR-PLIK state in their privacy notice that they honour all individual requests for erasure of their personal data.

**Were the data subjects informed of the use of the data for automated decision-making in accordance with Article 22 of the GDPR? How much of the technicalities of processing by Athena, as an AI bot, were they made aware of, including meaningful information about the logic involved?**

AR-PLIK rejects the idea that processing related to Athena falls under the scope of Article 22, GDPR. It therefore does not provide users with the information required by provisions associated with Article 22, except where that information overlaps with information provided under their general transparency obligations and marketing materials.

## Questions about AR-PLIK

**How does AR-PLIK market Special Friend Mode and Athena? How are the commercials, and which venues are they most apparent (social media websites, video streaming platforms, TV, etc.)?**

Both Athena and Special Friend Mode is exclusively marketed through word of mouth, interviews with various tech outlets, and viral social media campaigns. The marketing output is deliberately provocative, pushing the idea that its users experience the cutting edge of technology and actively taking part in the AI Revolution.

**Are there any measures to make users aware of the risks of the AI-bot to their mental health and well-being? Furthermore, is Athena developed and monitored in consultation with any mental health professionals?**

AR-PLIK denies that its users' mental health and well-being are at risk. During the development, AR-PLIK consulted a mental health professional, who said that there was no conclusive scientific evidence to support the idea that users' mental health and well-being would be put at risk due to interaction with an AI chatbot.

**Did AR-PLIK implement appropriate technical and organisational measures designed to implement the data protection principles and integrate the necessary safeguards in line with Article 25(1) of the GDPR?**

AR-PLIK has implemented technical and organisational measures which it states are designed to implement the data protection principles and integrate the necessary safeguards in line with Article 25(1) of the GDPR.

**Who prolongs the conversation between Athena and its users? Does she give limited answers?**

Athena is designed to be a natural language engine. The nature of her answers, and whether those answers might prolong the conversation, is therefore intended to naturally reflect the type of conversation being had.

**Does AR-PLIK use the data from Athena in its other products? If so, for which purpose or purposes?**

No.

**Did AR-PLIK conduct a Data Protection Impact Assessment before initiating the data processing done by Athena? If so, what was the result of it?**

AR-PLIK did conduct a Data Protection Impact Assessment. The Assessment found that there were some risks to data subject rights, but suggested a number of mitigations, which are either implemented or scheduled to be implemented by AR-PLIK.

**Is the data given to Athena pseudonymised before processing?**

AR-PLIK use a variety of data protection techniques, including both pseudonymisation and anonymisation, where deemed appropriate by their DPIA.

**Does AR-PLIK have any safeguards for the processing of data of vulnerable individuals?**

AR-PLIK has introduced age gates to prevent young users from accessing the service.

**Is AR-PLIK aware of the insensitive remarks made by Athena on suicidal thoughts previous to Alex's subscription? Were the users made aware/informed of such risks? Does Athena make it clear to its users that it is not an expert on these sensitive topics?**

AR-PLIK is aware that insensitive remarks have been made, and state that they are “continually updating the algorithm to prevent such incidents from taking place.”

At the start of each chat, users are informed that “Athena is not a licensed professional of any kind and may be very confidently incorrect, so please do not rely on what she says. Due to the nature of Athena's text generation, she may say some insensitive or unpleasant things from time to time. If this happens, please report the conversation, so that we can talk to Athena and teach her better manners!”

AR-PLIK was made aware of the conversations referred to in the problem within three days of them taking place.

## **Questions about Alex**

### **How did Alex find out about Athena? When did Alex start to use Athena?**

Alex found out about Athena while listening to *You And Me And This Week Online*, a weekly Tech podcast. He began using Athena in October 2022.

### **Can you confirm that Alex is an adult?**

Yes. Alex is 24 years old.

### **Can you confirm that Alex is not a public figure?**

Alex is not a public figure.

### **What does Alex do with his job as a part of a program to digitalize public administration?**

Alex's main responsibility involves transferring the information contained in paper records into the new electronic database.

### **Was Alex satisfied with the product before meeting Vicky?**

AR-PLIK states that there is nothing to indicate that Alex was unsatisfied with the product before meeting Vicky. Vicky states that Alex was a victim of exploitation and should therefore have been considered to be unsatisfied.

### **Did Alex give explicit consent for processing under Art.6 or Art.9 of the GDPR.**

Alex gave explicit consent to AR-PLIK's processing of his personal data as part of the registration process. This included for any processing necessary for operating or improving the Athena system.

## **Questions about Newtonia and the orders requested**

### **Did Newtonia grant additional powers to its DPA under 58(6) to order remuneration?**

Yes. Newtonia has a provision in its supplementary data protection laws that allows remuneration and restitution of paid service fees in case of “grave data protection violations”. There has not yet been any case law on this provision, nor has academic literature emerged to define what the nature of a grave violation is.

### **Is the request for back payment to Alex regarded as a compensational remedy under Newtonia’s legal system?**

Yes.

### **Do Alex and URS demand the deletion of all the records of the conversations between Alex and Athena or the deletion of all Athena’s users’ records in the 3rd claim?**

Alex and URS demand the deletion of all users’ records.

## **Questions about the data transfers**

**Where is the database of AR-PLIK located? If the database is in Kalifardia, is the data directly collected by AR-PLIK from its users and transferred to its processors/sub-processors based outside of Kalifardia?**

The main database is kept in Kalifardia. It is collected directly from its users. AR-PLIK states that any transfers made to processors and sub-processors are done in line with the general requirements under the GDPR and the Privacy Bridge.

**Is personal data transferred to Kalifardia from Newtonia? If so, what type of data is transferred? What is the purpose for such a transfer outside the EU?**

A user's account information, as well as the transcripts of the conversations, are transferred from Newtonia to Kalifardia. The purposes for such a transfer is the running and further development of the Athena system.

**Were the data subjects informed of the possible risks of data transfers?**

AR-PLIK state that they provide data subjects with all of the information required under the GDPR.

**What is Kalifardia's law like?**

For the purposes of the problem, Kalifardia's law is a copy of the equivalent provisions in US law relating to the governmental access to information and the implementation of the Data Privacy Framework. This includes:

- Rules setting out enforcement mechanisms under the Privacy Bridge;
- Preparations in domestic law for the implementation of the Privacy Bridge;
- Rules adopted by the Kalifardia intended to limit any interference with the fundamental rights of the persons whose data is transferred from the European Union to Kalifardia;
- Rules are set in place to demand necessity and proportionality regarding government access to personal data held by Kalifardian companies; and
- The existence and nature of independent oversight bodies and mechanisms for the government agencies that access and use personal data in Kalifardia.

**Are Newtonia or Kalifardia a part of the Convention for the protection of individuals with regard to the processing of personal data (Convention 108+)?**

Newtonia is a member of this convention. Kalifardia is not.

**Does Kalifardia have an Act similar to the California Privacy Rights Act?**

Yes, Kalifardia has implemented a direct copy of the California Privacy Rights Act into its law.

**Does AR-PLIK concede that if the EU-US DPF or similar Non-EU Member State "copy" frameworks are invalidated, that 'Privacy Bridge' is invalid as well?**

AR-PLIK does not concede this.



## **Open Questions**

**Was there any monitoring of the behavior of Alex under Article 3(2)(b) of the GDPR by Athena?**

Mooters are free to make submissions as to this point.