

(Department) The Personnel Data Protection Authority Character met as a Department at its headquarters on Wednesday 17.01.2018 at 10:00 a.m. upon the invitation of its President, in order to examine the case referred to in the present history. The Deputy President, Georgios Batzalexis, who was in the way of the President of the Authority, Konstantinos Menoudakos, was present, the alternate members Panagiotis Rontogiannis, Charalambos Tsiliotis, as rapporteur, and Grigorios Tsolias in place of the regular members Antonios Symvonis, Spyridonos Vlachopoulos and Charalambos Anthopoulos, respectively, who, although they were legally summoned in writing, they did not attend due to obstruction. Present without the right to vote were 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 no. prot. APDPH

C/EIS/9027/14.12.2017 application the Athens Medical Center forwards to the Authority the from ... application of A and requests the Authority's permission for the processing of sensitive personal data. Specifically, A requests "to remove the confidentiality of the medical file of patient B, who was hospitalized at the Athens Medical Center in the period before May 2006". The granting of the requested data is requested by A in order to support a) the appeal he has brought against B, C, D and E, with which he appeals under no. ... decision of the Multi-Member Court of First Instance of Athens before the Court of Appeal of Athens (regular 2 Procedure - filing no. ... with a fixed hearing on ...) as well as b) the appeal that he has brought against C, D and E in which he invokes the ' No. ... decision of the Multi-Member Court of First Instance of Athens before the Athens Court of Appeal (Regular Procedure - filing no. ... with scheduled hearing on ...). According to item (a) no. ... in his appeal, A is directed against B, who transferred his entire real property to the other defendant relatives, despite the irrevocable award against (B) and in favor of the appellant A of the latter's large claims and for the reason that the called at first instance issued under no. ... decision of the Multi-Member Court of First Instance ruled on the creditor harassment action (articles 939, 941, 942, 943 of the Civil Code) brought by A and accepted that "the disputed transfers (from B to his relatives and already defendants - defendants) were made without intention harm of (A)", but "due to a health problem of (B) and with the aim of rehabilitating his wife and children financially". As regards sub-item (b) with no. filing ... appeal and according to what is mentioned in it, A is directed against the acquiring relatives of B and against the respondent no..... decision of the Multi-Member Court of First Instance of Athens, which rejected his lawsuit on a legal basis in 479 AK, as essentially unfounded due to the plaintiff's default (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 left after the discussion of the case and before the conference and decision-making, following a thorough discussion , CONSIDERED ACCORDING TO THE LAW

1. Because the provisions of articles 2 par. b', 4 par. 1 and 7 par. 2 item. c' of Law 2472/1997 determine the terms and conditions for the legal processing of sensitive personal data related to health. 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 3 n. 2472/1997 stipulates that if the data is communicated to third parties, the subject is informed of the communication before them. 2. Because from the combination of the provisions of articles 939, 941, 942, 943 of the Civil Code it follows that creditors are entitled to demand the cancellation of any transfer made by the debtor to their detriment, as long as the rest of his property is not sufficient for their satisfaction. 3. Because according to the provision of article 479 of the Civil Code "If property or business was transferred by contract, the acquirer is liable to the lender up to the value of the transferred items for the debts belonging to the property or business. The responsibility of the transferor still exists. A contrary agreement between the parties that damages the lenders is void against them". 4. Because, in the case under consideration, A requests as a third party (Article 2 item i of Law 2472/1997) the granting of sensitive personal data (health data) concerning B and kept in the Medical records Center of Athens, as data controller (Article 2 item g of Law 2472/1997). From the data in the case file, it appears that the purpose of processing is, on the one hand, to support the appeal under point (a) with which A requests the disappearance of no. ... decision of the Multi-Member Court of First Instance of Athens and to accept the no. registered ... an action for trespassing against the above-mentioned defendants, based on the legal basis of articles 939, 941, 942, 943 of the Civil Code and on the other hand in support of the appeal under point (b) that he has brought in which he requests to disappear the sub no. ... decision of the Multi-Member Court of First Instance of Athens and to accept the no. registered ... his action in which he requests that the defendants and already defendants be obliged to pay him jointly and severally the actual value of the assets of B transferred to them, pursuant to article 479 of the Civil Code on the liability of the acquirer in case of transfer of property. More specifically, and with regard to the purpose of judicial use of the requested data under point (a), A requests "the removal of the confidentiality of the medical file" of B in order to oppose, as he specifies in his appeal filed above, before the Athens Court of Appeal , the admission of the Multi-Member Court of First Instance of Athens in no. ... decision, according to which B transferred his disputed assets "for reasons of moral obligation (toward the

acquirers), since on February 4, 2005 he had suffered a transient stroke, ... and in view of his health problem he wanted to financially rehabilitate his family ... (and) there was no intention to harm the plaintiff (A) on the part of the first defendant (B)".

As for the purpose sought under point (b), it consists in the disappearance of the no. ... of the decision of the Multi-Member Court of First Instance of Athens which rejected the action due to default by the plaintiff and already appellant A, without, however, the health problem of the transferring defendant B having been raised as a claim in support of the appeal and the action.

5. Because, the alleged under element (a) processing purpose is consistent with the aforementioned provision of article 7 par. 2 item. c' of Law 2472/1997. However, in order to fulfill at the same time the principle of proportionality of the data (article 4 par. 1 letter b of Law 2472/1997), it is necessary that the Medical Center of Athens grant to A a single medical certificate stating the period and the reason for B's hospitalization at the Athens Medical Center. With the granting of the said medical certificate to A, in accordance with the provisions of articles 5 par. 2 and 3, 13 par. 3 item b' of Law 3418/2005, the competent court may judge, based on the evidence submitted, the existence or not of an intention to harm A by B during the preparation of the alleged tortious acts, as well as the accepted health problem that led him to draw up the conventions mentioned. In this case, the granting of the medical certificate with the above information is considered necessary and appropriate for the defense of the above rights of A before the above-mentioned court, with the result that the principle of proportionality for the requested processing is respected (Article 4 Law 2472/1997). The Medical Center of Athens must, as the data controller, inform, in accordance with the provisions of article 11, par. 3 of Law 2472/1997, B about the transmission of her sensitive personal data to A in order to achieve their use during the trial of ... in the context of the legal dispute described under item (a). On the contrary, with regard to the purpose pursued under point (b), it is judged that the lifting of the confidentiality of the complete medical file of B is not consistent with the principle of proportionality of the processing of personal data (article 4 par.1 item b' of the law 2472/1997) and this because it is not presented in said appeal as

5

reason is the issue of health problems of the above, which is not even liable, and therefore it is not appropriate to provide his health data to A in the context of the legal dispute in question with trial on ....

FOR THOSE REASONS

The Authority grants permission to the Athens Medical Center, as data controller, to

grant A only a medical certificate with the information mentioned in  
history of the present and relate to B, only in the context of item (a)  
of their legal dispute, namely in the trial on the no. ... of A's appeal by default  
trial on ..., after the Clinic has previously informed B.

The Honorable President

The Secretary

George Batzalexis

Irini Papageorgopoulou