

Athens, 08-02-2018

Prot. No.: G/EX/364-2/08-02-2018

PRINCIPLE FOR DATA PRIVACY

FOR OPIC CHARACTER

A P O F A S H 12 /2018 (Department)

The Personal Data Protection Authority met as a Department

at its headquarters on 7.2.2018 at 10:00 a.m. following the invitation of its President, in order to examine the case referred to in the present history.

They were attended by the Deputy President, Georgios Batzalexis, obstructing the President of Authority, Konstantinou Menoudakou, and the alternate members Panagiotis Rontogiannis, Charalambos Tsiliotis, as rapporteur, and Grigorios Tsolias, in replacement of regulars of members Antonios Imbonis, Pyridonos Vlachopoulos and Charalambos Anthopoulos respectively, the who, although legally summoned in writing, did not attend due to obstruction. Present without the right to 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. primary ADPPH G/EI /364/16-1-2018 (no. primary Hospital) request the Hospital "Evangelismos" asks the Authority if it is compliant with data protection legislation of a personal nature the granting of health data of A to B for judicial use and specifically in support of the request to arrange communication after the minor child before the Single Member Court of First Instance of Athens (proceedings for protective measures) which has brought by the applicant against A (registration no. ... 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 then left from the discussion of the case and before the conference and decision-making afterwards

thorough discussion,

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#### ACQUIRED 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 lawful processing of sensitive personal data

health related data. The provisions of articles 5 par. 3 and 13 par. 3 item. b' of n.

3418/2005 (Code of Medical Ethics) provide for the exceptional granting of medical

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

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 article 1511 of the Civil Code provides, among other things, that any decision of the parents regarding

the exercise of parental care must aim at the child's interest, as well as that

a court decides on the assignment of parental care or the manner of exercise

with the best interests of the child in mind. Furthermore, according to article 1520 of the Civil Code, the parent

with whom the child does not live retains the right of personal communication with him.

3. Because, in the case under consideration, B requests in the capacity of a third party (article 2 item i) of

Law 2472/1997) the granting of sensitive personal data (health data) concerning

to his estranged wife A. From the data in the case file it appears that o

purpose of processing consists in supporting the request to arrange communication after him

of a minor child (security measures procedure) before the Single Member Court of First Instance

of Athens which she has brought against A (registration no. ...with set trial on ...).

according to B's claims, A prevents their minor child from communicating with

the applicant. the petition the applicant pleads that his estranged wife attempted to

past to kill himself and for this reason he was hospitalized at Evangelismos Hospital. As

therefore, requests to receive A's mental health data from the Hospital, in order to

considered by the court.

4. This proposed processing purpose is consistent with the aforementioned provision of article 7 par. 2 item c' of Law 2472/1997, while at the same time its principle is fulfilled proportionality of data (article 4 par. 1 letter b of Law 2472/1997), since through evaluation of these data, the court will be able to judge whether B should and with how to exercise the right of communication after his minor child in particular and due to the claimed illness of his mother. However, the granting of copies of the full

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of A's medical file exceeds the intended purpose of processing, in accordance with defined in the provision of article 4 of Law 2472/1997. And this, because the support of of claims presented can be achieved by milder means, and in particular, by granting of a medical certificate, which states the periods of hospitalization of A as well and the reason for her hospitalization, in accordance with the provisions of article 5 par.3 of the law. 3418/2005, namely the therapeutic method applied and the medication administered as well as the general state of health when he left the Hospital and the expected development of it as well as the prescribed medication that must be given to it. Its administration of a medical certificate with the above information is deemed necessary and appropriate in this case for the defense of his above rights before the aforementioned court. The Hospital is burdened, as data controller, with the obligation to inform A that her sensitive personal data will be communicated to B, in accordance with the provisions of provision of article 11 par. 3 of Law 2472/1997.

FOR THIS REASON

The Authority grants permission to Evangelismos Hospital to grant B a medical certificate regarding the state of A's mental health with the above-mentioned content, which he will use in the context of the above legal dispute between them since the Hospital inform A in advance.

A. Chairman

The Secretary

George Batzalexis

Iri Papageorgopoulou