

Athens, 18.05.2018

Prot. No.: G/EX/3815/18.05.2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 45 / 2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on Wednesday 16.05.2018 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, as

rapporteur, in

replacement

of

regular members Antonios Symvonis and Konstantinos

Lambrinoudakis respectively, who, although legally summoned in writing, were not

attended due to obstruction. Regular member Charalambos Anthopoulos and

its alternate member, Grigorios Tsolias, although they were legally summoned in writing,

did not attend due to obstruction. Evangelia was present without the right to vote

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. first ... (ADDPH G/EIS/2674/05.04.2018) his application, the 251 General

Aviation Hospital (hereinafter Hospital 251) forwarded to the Authority under no.

first ... application of A, and in this way asks the Authority for permission regarding

the provision of sensitive data concerning B. Specifically the Hospital
251 requests permission to grant A "an exact copy from its original
medical information note, which is allegedly signed by C, ... of
Clinic of 251 GNA ... and lacks the date of issue and protocol number"

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for judicial use, i.e. to refute the action for monetary satisfaction to
recovery of moral damage from violation of the right to personality
and wrongful conduct by B before the Multi-Member Court of First Instance
of Athens against A (ordinary procedure - reg. no. ... with a deadline
submission of proposals on...). The conduct request is based, among other things, on untruths
and offensive to the plaintiff the defendant's claim that the submitted by
that in pending criminal proceedings, the above medical note is fake.

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 discussion of the case 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
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 the compensation for the property damage, the court may award monetary satisfaction reasonable at its discretion to restoration of moral damage, which is also due in the event of an insult personality right (57, 59 AK).

3. Because the provision of article 920 of the Civil Code provides that "whoever, knowing or culpably ignorant, supports or spreads false news that exposes you to danger the faith, the profession or the future of another, he has the obligation to compensate him".

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4. Furthermore, because, in accordance with the provisions of articles 362 and 363 of the Civil Code "whoever in any way in front of a third party he asserts or propagates any other fact which may damage his honor or reputation shall be punished by imprisonment for up to two years or monetary penalty.." and "if in the case of article 362 of the Civil Code, the fact is false and the offender knew this to be false shall be punished with imprisonment for at least three years months.."

5. Because, based on the provision of article 229 par. 1 PC "Whoever knowingly another falsely or reports about him before the authority that he has committed a criminal act or disciplinary offense with the intention of causing him to be prosecuted for it, shall be punished with imprisonment of at least one year"

6. Since, in the considered case, A is requesting as a third party (Article 2 para.

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

(health data) relating to B and kept in the records of Hospital 251,

as data controller (article 2 letter g of Law 2472/1997). From his data

of the case file, it appears that the purpose of the processing consists of rebuttal

of the action for monetary satisfaction to restore the moral damage from

violation of the right to personality and wrongful conduct

brought by B before the Multi-Member Court of First Instance of Athens against A. Pio

specifically, A requests to be granted "an exact copy from its original

medical information note, which is allegedly signed by C, ... of

Clinic of 251 GNA ... and lacks the date of issue and protocol number",

in order to prove that his allegation of forgery of said document

is true and therefore to refute the above action against him.

7. The intended processing purpose is consistent with its aforementioned provision

article 7 par. 2 item c' of Law 2472/1997 and at the same time its principle is fulfilled

proportionality of the data (article 4 par. 1 letter b of Law 2472/1997) with the

granting by Hospital 251, as controller, to A a certificate about it

whether or not a medical certificate was issued for B and whether one or more were issued

to show from them which disease, if any, B suffers from or has suffered from, since when and if

as a result, he was hospitalized in the said hospital and for what period of time.

It should be noted that for the investigation of counterfeit or non-medical

certificate presented in the pending criminal procedure responsible for

investigation of the validity of the relevant claim of the civil claimant therein,

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defendant in the civil trial, it is the criminal judge who handles the case. The

Hospital 251 must, as a data controller, inform in accordance with

defined in the provision of article 11 par. 3 of Law 2472/1997 B for the transmission

of her sensitive personal data to applicant A for judicial use, i.e. for

the filing of motions in the context of the above-described legal dispute.

FOR THOSE REASONS

The Authority grants permission to Hospital 251, as controller, to grant

to A a certificate on whether or not a medical certificate was issued for B and whether

one or more were issued to show from them what any disease he suffers from or suffered from B, since when and as a result of it she was hospitalized in the said hospital and for what period of time. The applicant will use these certificate(s) in context of the above-described legal dispute arising from the case no. cat. ... lawsuit. Hospital 251 will inform B.

The Honorable President

George Batzalexis

The Secretary

Irini Papageorgopoulou