

Athens, 09-05-2018

Prot. No.: G/EX/2810-/09-05-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 43/2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on Wednesday 09.05.2018 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, and Grigorios

Tsolias, replacing regular members Antonios Symvonis, Konstantinos

Lamprinoudakis and Charalampou Anthopoulos, respectively, who, although they were summoned

legally in writing, they did not attend due to obstruction. Present without the right to vote

was 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 no. prot. ADDPHX C/EIS/2664/05.04.2018 document of, A, through

attorney, informed the Authority that he has submitted a request with the

content referred to the company with the name "NOSILEFTIKI S.A." and

the distinctive title "Agios Loukas" clinic (hereinafter "Agios Loukas" Clinic) and the

which Clinic will immediately submit the request to the Authority in order for the latter to

take legal action. With the no. prot. ADPPH G/EIS/2810/13.04.2018

application, the "Agios Loukas" Clinic forwarded A's application to the Authority, through

attorney of Athanasios Georgiadis, and in this way requests from

the Authority the permission regarding the granting of sensitive data concerning the

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hospitalization of B in the aforementioned Clinic and specifically the granting to the applicant "1)

a copy of B's ticket of ... to the aforementioned Clinic or any related party

a document from his medical file that shows the reason for his visit

in the Clinic, 2) a copy of the health history that when entering a patient in

nursing institution are taken by the doctors, so that his statements emerge, especially the

claims that he has a heart problem as a result of a car accident, 3) a copy

of the hospitalization sheet, in order to establish whether his hospitalization was related to

any heart disease, 4) copy of medical observations-instructions or other

relevant document in order to similarly establish the cause of his hospitalization and 5) each

any other relevant document from the file of the patient at the time relevant to possible

his heart disease as a result of a traffic accident" for judicial use, ie to

rebuttal of the action for compensation and monetary satisfaction for restitution

of the moral damage from a traffic accident and alleged damage to the health exercised by the

B before the Single Member Court of First Instance X against, among others, A (special

property disputes/cars/article 614 par. 6 C.Pol.D. - No. cat.

... 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

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.

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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

recovery of moral damage.

3. Because even in the provision of article 931 of the Civil Code it is provided that "disability or

disfigurement caused to the sufferer is taken into account, according to

award of compensation, if it affects his future".

4. Because, in the case under consideration, A, through his attorney, requests

the status of the third party, (Article 2 item i of Law 2472/1997) the granting of sensitive

personal data (health data) concerning B and

are kept in the records of the "Agios Loukas" Clinic, as controller (article 2

item g' of Law 2472/1997). From the data in the case file, it appears that Mr

purpose of processing consists in refuting the claim for compensation and

monetary satisfaction to restore moral damage from a traffic accident

and alleged damage to health brought by B against, among others, A

before the Single Member Court of First Instance X. More specifically, A requests "to his

granted 1) a copy of B's ticket of ... to the above Clinic or any

relevant document from his medical file from which the cause can be deduced

of his visit to the aforementioned Clinic, 2) a copy of the health history that at admission of a patient to a nursing institution is taken by the doctors, so that the his statements, especially his claims that he has a heart problem as a result of a car accident of an accident, a copy of the hospitalization sheet, in order to establish whether his hospitalization was related to any heart disease, 4) copy of medical observations-instructions or other relevant document in order to similarly establish the reason for his hospitalization and 5) any other relevant document from the file of the patient at the time relevant to possible his heart disease as a result of a traffic accident".

5. The intended processing purpose is consistent with its aforementioned provision article 7 par. 2 item c' of Law 2472/1997. However, in order to be fulfilled at the same time, the principle of data proportionality (article 4 par. 1 letter b of Law 2472/1997), must be granted by the "Agios Loukas" Clinic to the applicant only a medical certificate of B's treating physicians, in which to the date as well as the reason for the visit and admission to the

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Clinical, the duration and cause of his hospitalization as well as the diagnosis related to it disease from which he suffers, as well as the applied treatment for dealing with the problem or problems that appeared of which to determine as far as possible the generative cause. The administration of the medical certificate with the above information is deemed necessary and appropriate in this case for the defense of the above rights of the applicant before him of the aforementioned court, with the result that the principle of proportionality is observed for the requested processing (Article 4 of Law 2472/1997).

"St. Luke's" Clinic must, as data controller, inform in accordance with with the provisions of article 11 par. 3 of Law 2472/1997 B for the transmission of his sensitive personal data to applicant A for use against

the trial of ... in the context of the legal dispute described above.

FOR THOSE REASONS

The Authority grants permission to the "Agios Loukas" Clinic, as controller, to grant A only a medical certificate with the particulars referred to in history of the present and concern B, which the applicant will use in context of the above-described legal dispute based on no. cat. ... lawsuit, after the "Agios Loukas" Clinic has previously informed B.

The Honorable President

The Secretary

George Batzalexis

Irini Papageorgopoulou