

Athens, 18-01-2018

Prot. No.: G/EX/455/18-01-2018

## PRINCIPLE OF DATA PROTECTION

## OF A PERSONAL CHARACTER

A P O F A S H 05/2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on Wednesday 17.01.2018 at 10:00 a.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, the alternate members

Panagiotis Rontogiannis, Charalambos Tsiliotis as rapporteur, and Grigorios Tsolias

in replacement of regular members Antonios Symvonis, Spyridonos Vlachopoulos and

Charalampos Anthopoulos, respectively, who, although legally summoned in writing,

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

Vassilopoulou,

legal

controller, as

assistant

rapporteur

and

the peace

Papageorgopoulou, employee of the administrative affairs department, as secretary.

The Authority took into account the following:

With the application dated 28.11.2017 (ADDPH G/EIS/8608/30.11.2017) the General

Thessaloniki Hospital "IPPOKRATEIO" forwards to the Authority the application from ...

of A of Georgiou to the Thessaloniki First Instance Prosecutor's Office and requests permission of the Authority for the processing of sensitive personal data. Specifically, A requests to receive from the above Hospital "certificate of hospitalization of her grandmother, B". Her granting of the requested data is requested by A in order to refute before him of the Single Member Court of First Instance of Thessaloniki the application for temporary regulation of the situation (procedure for protective measures – filing no. ... with a hearing scheduled on ...) on

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which has been brought against it by the anonymous company with the name "X" and C. With the no. prot. C/EIS/53/03.01.2018 supplementary document the General Hospital Thessaloniki "IPPOKRATEIO" forwards the above application form to the Authority temporary regulation of the situation. After, however, only verbal information from power of attorney of A, Drizi Giulia, a new trial was appointed, the ..., after adjournment during the originally scheduled trial of .... With the above application insurance measures, the applicants request that a decision be issued which compels the A to hand over all the keys, which he possesses illegally and without permission them, two properties leased by those, pursuant to lease agreements which contracted in 2014 and 2016 with B's grandmother, a real estate owner according to their claims, to be prohibited from using them and to stop obstructing her use of the properties in question by the applicants. With the aforementioned application, A wants to prove that her grandmother, B, who is according to her claims the beneficiary of the properties in question, while the small ownership is held by herself (A) "she was in burdened health condition that did not allow her to be fully aware of her actions when he concluded the contested long-term rental contracts (the years 2014 and 2016)" (as mentioned in the above application for insurance measures).

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

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

(health data) relating to B's grandmother and kept in the archives of the General

Hospital of Thessaloniki "IPPOKRATEIO", as data controller (Article 2

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

purpose of processing is to refute the request for temporary regulation

statement submitted by the anonymous company with the name "X" and G

before the Single Member Court of First Instance of Thessaloniki and specifically wants to

prove that her grandmother "was in an aggravated state of health that did not suit her

allowed herself to be fully aware of her actions when she entered into the disputes

long-term rental contracts (in the years 2014 and 2016)", as it has

referred to in the history of the present.

3. The proposed processing purpose is consistent with its aforementioned provision

article 7 par. 2 item c' of Law 2472/1997. However, its principle is not fulfilled proportionality of data (article 4 par. 1 letter b of Law 2472/1997), because the granting the requested health data of B to A is not necessary and appropriate to refute the above request for insurance measures, its object which consists of the delivery by each A of all the keys of leased real estate, which he owns illegally and without the permission of the applicants insurance measures, the prohibition of their use by the defendant and its termination obstructing the use of said properties by the applicant tenants and not n invalidity or otherwise of the tenancies invoked in the application for insurance measures of contracts, which could have been achieved in due course procedure by bringing the relevant action and certainly not in the context of the procedure of insurance measures with the aforementioned object. Next, the applicant permission cannot be granted.

#### FOR THOSE REASONS

The Authority does not grant the license to the General Hospital of Thessaloniki "IPPOKRATEIO", as a data controller, to provide A with the requested information, such as are specialized in the history of the present and concern B.

The Honorable President

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The Secretary

George Batzalexis

Irini Papageorgopoulou