

Athens, 23-04-2018

Prot. No.: G/EX/2582-1/23-04-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 36/2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on Wednesday 18.04.2018 at 10:00 p.m. after

invitation of its President, in order to examine the case referred to

in the history of the present. The Deputy President, George, was present

Batzalexis, obstructing the President of the Authority, Constantinos Menoudakos, and

the alternate members Panagiotis Rontogiannis, Evangelos Papakonstantinou

and Grigorios Tsolias, as rapporteur, replacing the regular members

Antonio Symvonis, Konstantinos Lambrinoudakis and Charalambos Anthopoulos,

respectively, who, although legally summoned in writing, did not attend due

obstacle. Present without the right to vote were Evangelia Vassilopoulou,

legal auditor, as assistant rapporteur and Irini Papageorgopoulou, employee

of the department of administrative affairs, as secretary.

The Authority took into account the following:

With his request from ... (APDPH G/EIS/2582/02.04.2018) the University General

Heraklion Hospital

– G.N.H.

"VENIZELIUM"

(hereinafter Hospital

"VENIZELIO") transmits A's application to the Authority and in this way

submits a question to the Authority regarding the provision of sensitive data

concerning the hospitalization of his estranged wife, B, in the psychiatric clinic
of the above hospital for judicial use and specifically for its support
action for divorce and assignment of custody of minor children that he brought before him
Single Member Court of First Instance [region] X against his estranged wife (special
family dispute procedure - no. cat. ... with adjourned trial on ...).

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Then, with the no. first APDPH C/EIS/2939/18.04.2018 supplementary
document, A sent the above complete document to the Authority.

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 the discussion of the case and before the conference and the
decision-making, 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 the 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 Law 2472/1997 stipulates that if the data is communicated to third parties, the subject
is informed of the announcement before them.

2. Because article 1439 sec. a' AK provides that each of the spouses can
to ask for a divorce, when the relations between them have been shaken so strongly, by
a reason that concerns the person of the defendant or both spouses, so that validly n
continuation of the marital relationship being intolerable for the plaintiff.

3. Because article 1511 of the Civil Code provides, among other things, that every decision of the parents regarding the exercise of parental responsibility must be in his best interest of a child, as well as that the court decides on the assignment of parentage of care or the manner of exercising it based on the best interests of the child.

4. Because, in the case under consideration, A is requesting as a third party (Article 2 item i' of Law 2472/1997) the granting of sensitive personal data (health data) concerning his estranged wife B. From his data file of the case it appears that the purpose of processing consists of support of the divorce action and assignment of sole custody to him of children which he brought before the Single-Member Court of First Instance [region] X against Art divorcing his spouse (special procedure - reg. no. ... with postponed trial on 2

...). Specifically, the applicant requests that their marriage be dissolved and that he be assigned the custody of their minor children, because according to his claims, B has she declares her "inability to raise the children alone" and psychiatrist C "has diagnoses emotional disorder and hypomania that can develop into mania". Additionally, in the same action as above, the plaintiff alleges, among other things, that due to the state of mental health of his estranged wife, unable to continue married life with her 'as she is unbearable' for him and their children. Therefore, it asks to receive data of B's mental health from the "VENIZELEIO" Hospital, in order for them to be taken into account by the court and specifically requests to be notified "with what symptoms was admitted to the clinic, what was the diagnosis, what was the treatment that received during hospitalization and what treatment he receives after and for what period of time" and at the same time requests "his full and free information regarding the state of mental health of his estranged wife,

citing legitimate interest, to protect their minor children from

any relapses or uncontrollable situations".

5. This projected processing purpose is consistent with the aforementioned provision of article 7 par. 2 item c' of Law 2472/1997. However, in order to at the same time, the principle of proportionality of the data is fulfilled (article 4 par. 1 item b' of Law 2472/1997), must be granted by the requesting Hospital to A only a medical certificate or opinion of B's treating physician(s), at which will state the reason for her hospitalization, the evolution of her mental state her health to date and what is her current condition. The granting of this of the medical certificate is deemed necessary and appropriate for the defense of the above rights of A before the aforementioned court and the principle of proportionality is respected for the requested processing (Article 4 of Law 2472/1997).

The Hospital is burdened, as a data controller, with the obligation to inform B that her sensitive personal data will be disclosed to A, in accordance with the provisions of article 11 par. 3 of Law 2472/1997.

FOR THOSE REASONS

The Authority grants permission to the "VENIZELEIO" Hospital to provide medical treatment to A

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certificate regarding the state of mental health of B with the above referred content, which it will use in the context of each other as upper legal dispute based on no. cat. ... lawsuit, since the aforementioned Hospital notify B in advance.

The Honorable President

The Secretary

George Batzalexis

