

Athens, 09/03/2018

Prot. No.: G/EX/955-1/09-03-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 26 /2018

(Department)

The Personal Data Protection Authority met as a Department in

its headquarters on 7.3.2018 at 10:00 a.m. following the invitation of its President, in order to examine the case referred to in the present history.

The President of the Authority, Konstantinos Menudakos, and the substitute members were present

Xaralampos Tsiliotis and Grigorios Tsolias, as rapporteur, to replace the regular members

Spyridonos Vlachopoulos and Charalambos Anthopoulos respectively, who, although summoned

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

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. first APDPH C/EIS/955/02-02-2018 request of A, through the attorney

lawyer of Georgios Dionas, the private doctor A, asks the Authority if it is in accordance with the

legislation on the protection of personal data the use by him before him

Multi-member Court of First Instance of Thessaloniki, B's health data that he keeps in his file

of his practice in order to counter the action for damages for tort and morals

damage brought by B against him before the Multi-member Court of First Instance of Thessaloniki

(registered file no. ... - regular procedure) with a scheduled hearing on

According to B's allegations, doctor A committed medical negligence and omissions against

during the arthroscopic part. INSIDE mensectomy DE which he performed himself as a healer

doctor, as a result of which B becomes infected with the germ of *Staphylococcus aureus* etc

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inflammation occurred in her right knee with serious changes in her cartilage.

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,

THOUGHT 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

set out the terms and conditions for the lawful processing of sensitive personal

health data. With the provisions of articles 5 par. 3 and 13 par. 3 item b

of Law 3418/2005 (Code of Medical Ethics) provides for the exceptional granting

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

the conditions for lifting medical confidentiality are met. Furthermore, 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, according to article 914 of the Civil Code, whoever damages another illegally and culpably has

obligation to compensate him. Furthermore, according to article 932 of the Civil Code, in case

tort regardless of compensation for property damage, the court may

award monetary satisfaction reasonable at its discretion due to moral damage.

3. In the case under consideration, doctor A requests to use the complete medical file of

of patient B that he keeps in his practice, in order to counter a claim for compensation before him

of the Multi-member Court of First Instance of Thessaloniki (registered file no. ... - regular procedure) for

tort and moral damage brought by B against itself and the "Euromedica" clinic

A.E Medical Services Provision - Private clinics - Private Diagnostic laboratories Private

Polyclinic", as set out in the history of the present. Through the use of medical

B's file, doctor A wants to prove that B's alleged state of health and in general its development is not due to medical negligence and omission of the same, as according to his claims gave the plaintiff all that medical science required medicines.

4. The projected processing purpose is consistent with the aforementioned provision of article 7

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par. 2 item c' of Law 2472/1997. At the same time, the principle of proportionality of data (article 4 par. 1 letter b of Law 2472/1997), as through the granting of the medical file the competent court will be able to know if the damage caused to B it is the result of the contrary to the commonly accepted rules of medical science treatment of the plaintiff's health problem by doctor A. Doctor A owes, as controller, to inform, in accordance with the provisions of article 11 par. 3 of Law 2472/1997, B for the use of her personal data by him before of the competent Court before this use.

FOR THOSE REASONS

The Authority grants permission to doctor A to use B's medical file before him Multi-member Court of First Instance of Thessaloniki for judicial use, as it is specialized in history of the present, after the doctor previously informs B.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou