

Athens, 04-04-2018

Prot. No.: G/EX/2487/04-04-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 30/2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on Wednesday 04.04.2018 at 10:00 a.m. after

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

in the history of the present. The President of the Authority, Konstantinos, was present

Menoudakos and the substitute members Panagiotis Rontogiannis, Evangelos

Papakonstantinou and Grigorios Tsolias, as rapporteur, in place of

of regular members Antonios Symvonis, Konstantinos Lambrinoudakis and

Charalambou Anthopoulos, respectively, who, although they were summoned legally

in writing, they did not attend due to obstruction. They were present without the right to vote

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 the under no. prot. ADPPH C/EIS/2487/28.03.2018 his application the Medical Center

of Athens forwards to the Authority the from ... application of A and B requesting its permission

Authority for the processing of sensitive personal data. Specifically, A

and B request to receive from the above Clinic "full copies of the whole

of data, elements, results, examinations and medical reports and/or

attestations and/or certificates of the medical file of their father C ... from

beginning of the year ... until today" in order to argue before him

of the Single Member Court of First Instance of Athens the application they have filed for submission

of their father in a state of complete lack of legal assistance

(procedure of voluntary jurisdiction – filing no. ... 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 the discussion of the case and before the conference and

making a decision, after a 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

of articles 5 par. 3 and 13 par. 3 item. b' of Law 3418/2005 (Medical Code

of 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, the

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 1666 of the Civil Code provides that judicial assistance is submitted

the adult, among others, when due to a mental or intellectual disorder or due to

physically disabled is unable, in whole or in part, to take care of the

his affairs. Furthermore, article 1667 of the Civil Code stipulates that the submission to the judicial

support is decided by the court, following an application, among others,

of the sufferer's children.

3. Because, in the considered case, A and B are requesting in the capacity of a third party

(Article 2 item i of Law 2472/1997) the provision of sensitive data

(health data) pertaining to their father C and kept in his records

of the Medical Center of Athens, as data controller (Article 2 letter g of Law

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2472/1997). From the evidence in the case file it appears that the purpose

processing consists of supporting the application for the judicial position

support that they have filed before the Single Member Court of First Instance

of Athens for the submission of C in complete deprivation of judicial support and the

their appointment as members of the supervisory board (articles 1666 et seq. of the Civil Code, 801 et seq.

CPoID).

4. The proposed processing purpose is consistent with the aforementioned provision

of article 7 par. 2 item c' of Law 2472/1997. However, in order to be fulfilled

at the same time, the principle of proportionality of data (article 4 par. 1 letter b

of Law 2472/1997), must be granted by the Athens Medical Center to

applicants only a medical certificate stating the period and the

reasons for hospitalization, the current state of health but also the form and degree

of C's mental/mental and physical illness (see indicatively no.

108/2016, 137/2017 decisions of the Authority at www.dpa.gr). Therefore, the grant,

in accordance with the provisions of articles 5 par. 2 and 3, 13 par. 3 item

b' of Law 3418/2005, the medical certificate with the above information is approved

in this case necessary and appropriate to support the application for the position in

judicial support

in front of

of the aforementioned court, with

result in observing the principle of proportionality for the requested processing

(Article 4 of Law 2472/1997).

The Medical Center of Athens must, as the controller, inform,

in accordance with the provisions of article 11 par. 3 of Law 2472/1997, C,
to the extent that this is deemed possible by the treating physicians, for the
transmission of his sensitive personal data to A and B for their use
during the trial of ... in the context of the above request for voluntary jurisdiction.

FOR THOSE REASONS

The Authority grants the license to the Athens Medical Center, as controller,
to grant to A and B, as mentioned in its major consideration
present medical certificate, in the context of the above legal case, since the
Clinic to inform C in advance, to the extent that he, at their discretion

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treating physicians of the Clinic, is able to perceive the concept and the
content of this update.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou