

Athens, 09-05-2018

Prot. No.: G/EX/2373-1/ 09-05-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 44/2018

(Department)

The Personal Data Protection Authority met in composition

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

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

in the history of the present. The 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, in place of the regular members

Antonios Symvonis, Constantinos Lamprinoudakis and Charalambos Anthopoulos,

respectively, who, although they were legally summoned in writing, did not appear for the reason

obstruction. 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 the no. prot. APDPH C/EIS/2373/26.03.2018 his application, the G.N.A "O

Evangelismos-Ophthalmology Clinic of Athens-Polyclinic" (hereinafter "EVANGELISMOS")

transmits to the Authority the application of A, an obstetrician-gynecologist, and

requests the Authority's permission to process sensitive personal data.

Specifically, A requests to receive from the aforementioned Hospital "full copies of

of B's medical file, to refute the claim for compensation and money

satisfaction to restore moral damage from medical error and

as a result of, according to her claims, damage to her health, which the latter has brought against the applicant doctor and the private clinic with her name "REA GYNAICOLOGIKI M.X.TH.D", as legally represented, before of the Single Member Court of First Instance of Athens (regular procedure – filing no. ... – with deadline for submission of proposals on ...). According to the above action, B then scheduled appointment went to the private REA GYNECOLOGY clinic M.X.Th.D in order to be submitted to During surgery, according to her claims, obstetrician-gynecologist A demonstrated illegal and culpable behavior in the exercise of his duties and the provision of medical services during the intervention of the plaintiff and also postoperatively resulting in serious damage to her health. Then, B was introduced in "EVANGELISM" to deal with her health problems.

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, according to article 914 of the Civil Code, whoever damages another illegally and at fault has an obligation to compensate him. Furthermore, according to article 932

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AK, in case of tort regardless of the compensation for the property damage, the court may award reasonable monetary damages at its discretion satisfaction due to moral damage.

3. Because, in the case under consideration, A requests in the capacity of a third party (article 2 item i' of Law 2472/1997) the granting of sensitive personnel data character (health data) concerning B and kept in his file as of the Upper Hospital as data controller, (article 2 letter g of Law 2472/1997).

From the data in the case file it appears that the purpose of processing consists in the rebuttal of the above-mentioned claim for compensation and monetary satisfaction to rehabilitate moral damage as a result of medical of error brought by B against the applicant doctor and the anonymous of a company with the name "REA GYNAICOLOGIKI M.X.TH.D", as legally is represented before the Single Member Court of First Instance of Athens.

4. The intended purpose of processing the rebuttal of the above action consistent with the aforementioned provision of article 7 par. 2 item 3 of n. 2472/1997, while at the same time the principle of data proportionality is fulfilled (article 4 par. 1 letter b of Law 2472/1997), because the granting of the medical file to the requesting physician is deemed necessary and appropriate in view of the above purpose of processing.

The Hospital must, as the controller, inform, in accordance with defined in the provision of article 11 par. 3 of Law 2472/1997, B for the transmission of her sensitive personal data to doctor A for judicial use in

context of the described legal dispute.

FOR THOSE REASONS

The Authority grants the license to G.N.A. "The Evangelism - Ophthalmology Clinic of Athens -

Polyclinic", as controller, to grant the obstetrician-

gynecologist A the requested health data mentioned above and which

concern B, in order to use them in the context of each other as

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upper legal dispute, based on the no. registered ... lawsuit, since the Hospital

inform B in advance.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou