

Athens, 15-02-2018

Prot. No.: G/EX/6139-1/15-02-2018

PRINCIPLE OF DATA PROTECTION

OF A PERSONAL CHARACTER

A P O F A S H 16/2018

(Department)

The Personal Data Protection Authority met in composition

Department at its headquarters on 14.2.2018 at 10:00 a.m. following an invitation from

Its President, in order to examine the case mentioned in the history

of the present. They were attended by the Deputy President, George Batzalexis,

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

alternate members Panagiotis Rontogiannis and Charalambos Tsiliotis, as

rapporteur, and Grigorios Tsolias to replace the regular members of Antonio

Symvonis, Spyridon Vlachopoulos and Charalambou Anthopoulos, respectively, the

who, although legally summoned in writing, did not attend due to obstruction.

Present without the right to vote was Fereniki Panagopoulou, legal auditor

- lawyer, as assistant rapporteur and Irini Papageorgopoulou, employee of

administrative department, as secretary.

The Authority took into account the following:

With the no. first... (ADDPH C/EIS/648/24.1.2018), according to a correct estimate

thereof, General Hospital X (hereinafter Hospital) forwards an application to the Authority

of A and thus submits a question to the Authority if the applicant

may obtain a copy of the medical file of B's estranged wife

for judicial use and specifically to support the application he has

bring an action against B himself before the Single Member Court of First Instance X with a fixed date

hearing on ... (security measures procedure) and deadline for submission

relevant documents until

The Authority, after examining the elements of the file, after hearing him

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rapporteur and the clarifications from the assistant rapporteur, who attended without

right to vote and withdrew after the discussion of the case and before

the conference and 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. c

of Law 2472/1997 determine the terms and conditions for the legal

processing of sensitive personal data related to health. The

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

of Medical Ethics) provide for exceptional administration

medical

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

and the conditions for lifting medical confidentiality. Because, further, Article 11

par. 3 of Law 2472/1997 stipulates that if the data is disclosed to third parties, the

subject is informed of the announcement before them.

2. Because article 1511 of the Civil Code provides, among other things, that every decision

of the parents regarding the exercise of parental care must aim at

interest of the child, as well as that the court decides on the assignment

of parental care or the manner in which it is exercised based on his interest

child.

3. Because, in the considered case, A is requesting as a third party (art

2 pcs. 'i' of Law 2472/1997) the granting of sensitive personal data

(health data) concerning his estranged wife B. From the data

of the case file it appears that the purpose of processing consists of

support of the child custody application (security measures procedure) before the Single Member Court of First Instance X which she has brought against B with which he requests that he be temporarily entrusted with custody of the minor children her. According to A's claims, B because of her mental condition of health, due to which he was hospitalized in the past at the applicant hospital, is unable to exercise custody of their minor children. As cm therefore, requests to receive B's mental health data from the Hospital, in order for them to be considered by the court.

4. This proposed processing purpose is consistent with

aforementioned provision of article 7 par. 2 item c' of Law 2472/1997, while

2 at the same time, the principle of data proportionality is fulfilled (Article 4 para.

1 pc. b' of Law 2472/1997), since through the evaluation of these data the

court will be able to judge whether B is able to take over

custody of their minor children. However, the granting of copies of the full

of B's medical file exceeds the intended purpose of processing,

in accordance with the provisions of article 4 of Law 2472/1997. And this,

because the support of the claims put forward can be achieved with

milder means, and in particular, by the granting of a medical certificate, in which

the periods of B's hospitalization as well as the reason for her hospitalization are indicated,

in accordance with the provisions of article 5 par.3 of Law 3418/2005 and in particular the

applied therapeutic method and the administered pharmaceutical treatment as well as

the general state of health when he left the Hospital and the expected

its development as well as the prescribed pharmaceutical treatment that must be given to it

is granted. The granting of the medical certificate with the above information

deemed necessary and appropriate for the defense of the above

of his rights before the aforementioned court. The Hospital
is burdened, as controller, with the obligation to inform B that
her sensitive personal data will be disclosed to A, in accordance with
defined in the provision of article 11 paragraph 3 of Law 2472/1997.

FOR THOSE REASONS

The Authority grants permission to Hospital X to provide A with medical treatment
certificate regarding the state of mental health of B with the above
referred content, which they will use in the context of each other
as above legal dispute after the Hospital has previously informed B.

The Honorable President

George Batzalexis

The Secretary

Irini Papageorgopoulou