

PRINCIPLE OF DATA PROTECTION
OF A PERSONAL CHARACTER

Athens, 09-03-2018

Prot. No.: G/EX/1298-1/09-03-2018

A P O F A S H 25 /2018 (Department)

The Personal Data Protection Authority met as a Department

at 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, Constantinos Menudakos, and the alternate members were present

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

Spyridonos Vlachopoulos and Charalambou Anthopoulos respectively, who, although summoned

legally in writing, they did not attend due to obstruction. 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. prot. ADDPH C/EIS/1298/14.02.2018 request for the "Private Diagnostic

Alexandrio Medical JSC" (hereinafter Alexandrio I.A.E.) asks the Authority if it is

in accordance with the legislation on the protection of personal data the grant

health data, specific copies of the medical record with magnetic imaging

scans and findings of A, to doctor B for judicial use.

The above doctor, B requests copies of the medical file and specific copies of the

images of the magnetic tomographies and the findings of those of A who

were carried out by the diagnostic laboratory of Alexandria I.A.E. in order to

opposes the action for compensation due to damage to her health but also for restitution

of the moral damage that A has brought against him before the Multi-Member Court of First Instance

Thessaloniki, which is to be tried under the new regular procedure (registered file no. ...)

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at With her lawsuit, A claims that her attending physician committed medical negligence and failure to deal with her health problem, in violation of the common recognized rules of medical science and the duty of care he owed as physician. Through the provision of A's medical file by Alexandrio I.A.E where MRIs were performed, Doctor B wants to prove that contamination from aureus and as a result the inflammation in her right knee and the deterioration of cartilage of A are not due to medical negligence and omission of the same.

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 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. c' of Law 2472/1997 determine the terms and conditions for the lawful processing of sensitive personal data health related 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 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, in accordance with 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, B requests copies of A's medical file from the Alexandria I.A.E in order to counter the claim for compensation due to damage to her health and also to redress the moral damage against him before the Multi-Member Court of First Instance Thessaloniki, which is to be tried under the new regular procedure (registered file no. ...) at With her lawsuit, A claims that her attending physician committed medical negligence and omissions.

The proposed processing purpose is consistent with the aforementioned provision of article 7 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 well as, through the granting of the medical

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file the competent court will be able to know if the health damage caused of A is a result of the negligence and omission of the generally accepted rules of medical science treatment of the plaintiff's health problem by the therapist physician, B. The "Alexandrio I.A.E" diagnostic center must, as the controller, to inform, in accordance with the provisions of article 11 par. 3 of Law 2472/1997, A before transmission.

FOR THOSE REASONS

The Authority grants permission to Alexandrio I.A.E. to grant B the medical file with copies of MRI images and findings for judicial use to opposes the action for compensation due to moral damage brought by A, since previously the diagnostic center Alexandrio I.A.E to inform A about the transmission of her personal information its data before transmission.

The president

The Secretary

Konstantinos Menudakos

Irini Papageorgopoulou