

Registration number: NAIH-4822-8/2021.

Subject: request

decision

place

tax

To the National Data Protection and Freedom of Information Authority (hereinafter: Authority)

XXXXXXX [place and time of birth: XXXXXX, mother's name: XXXXXX (hereinafter:

Applicant),] legal representatives:

XXXXX [place and time of birth: XXXXX, mother's name: XXXX, address: XXXX], and

XXXXX [birth name: XXXX, place and time of birth: XXXX, mother's name: XXX, address:

XXXX], on behalf of XXXXXX lawyer (XXXXXXXXXXXXX) providing representation

with the XXXXX Foundation Kindergarten, Elementary School and Primary Art School (XXXXXX,

hereinafter referred to as: Respondent) unlawful handling and publication of personal data

was initiated as a result of your request submitted on May 11, 2021 (hereinafter: Request)

brought the following in a data protection official procedure

H A T R O Z A T O T .

The Authority grants the Applicant's request in part and

1. Finds that the Applicant

- The offending video recording on the institutional YouTube channel as an "unlisted" video

breached the general

points a), b), c) of Article 5 (1) of the Data Protection Regulation, related to a

Article 25, Article 5(2), Article 6(1)(a), and Article 17.

Article (1) point b).

- The offending video recording

institutional YouTube channel path

during the data processing related to its publication on the institutional website

violated points a), b), c) of Article 5 (1) of the General Data Protection Regulation,

in connection with this, Article 25, Article 5 (2) and Article 6 (1)

point a) of paragraph

- The offending video recording

institutional YouTube channel path

not during data processing related to its publication on the institutional website

violated Article 17, Paragraph 1, Point b) of the General Data Protection Regulation.

- On the video recording before the offending video recording is made public

did not comply with the general requirements regarding the personal data of the children involved

data protection

information

requirement.

indicated in the article

preliminary

decree

13.

2. Finds that the Respondent is related to the recording of the infringing video recording

in terms of data management

- did not carry out illegal data processing,

- did not violate the principle of purpose-boundness and data saving,

- did not violate the Applicant's right to exercise rights as a stakeholder, as well as a

principle of fair procedure and transparency.

3. Ex officio obliges the Applicant to

- the provisions of the General Data Protection Regulation and the provisions of this Decision

adapt your data protection policy and data management accordingly

practice;

.....

.....

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- the amended data protection policy on the institutional website (www.XXXXXX.hu)

make it public;

- on data management

regarding which are not for the performance of public duties

are based on the legal obligation of the consenting parent

you are necessary

declarations in all cases

school event is accurate

name, if the data is also published, the declaration is separate

the place of publication of the data should be indicated in the consenting section,

duration (from now to when), as well as the date of the declaration.

contain the

4. The Authority orders HUF 10,000, i.e. ten thousand forints, to be paid to the Applicant

payment due to exceeding the administrative deadline - at your choice - to a bank account

by money order or postal order.

The Respondent fulfills the obligations indicated in point 3 from taking the measure

in writing within 15 days - together with the presentation of supporting evidence -

must certify to the Authority.

In the event of non-fulfillment of the obligations under point 3, the Authority shall issue a decision implementation.

There is no place for administrative appeal against this decision, but from the announcement within 30 days from the date of issue, with a letter of claim addressed to the Capital Tribunal can be challenged in a lawsuit. The claim must be submitted electronically to the Authority, which forwards it to the court together with the case documents. The request for the holding of the trial is submitted by the must be indicated in the application. For those who do not receive full personal tax exemption the fee for the judicial review procedure is HUF 30,000, the lawsuit is subject to the right to record fees. THE Legal representation is mandatory in proceedings before the Metropolitan Court.

I N D O C O L A S

I. Facts, history

The Applicant is dated May 8, 2021 and received by the Authority on e-Paper on May 11, 2021 in its submission, a request for a data protection official procedure was submitted, according to which

"on the protection of personal data in terms of processing and such data is free of April 27, 2016 on the flow and repeal of Directive 95/46/EC

Regulation (EU) 2016/679 of the European Parliament and of the Council (hereinafter: general data protection decree) Article 57 (1) point f) and on the right to informational self-determination and CXII of 2011 on freedom of information. Act (hereinafter: Infotv.) Section 60 (1) on the basis of paragraph

(i) establish that the Respondent has implemented unlawful data processing by without an adequate legal basis, legality, purposefulness and data saving was prepared and published to the general public in violation of the principle of

Affected, as the image and sound recording depicting the Petitioner's minor child;

(ii) establish that the Respondent is for the deletion of the Applicant's video and audio recording by ignoring his request to exercise his right, he violated the

Applicants affect their right to exercise their rights, as well as the fair procedure and the

principle of transparency;

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(iii) condemn the Applicant for the violations under points (i) and (ii), at the same time

- for general preventive purposes - instruct the Applicant to comply with its data management practices

review and to continue lawful data management activities in the future."

XXXX Foundation Kindergarten, Primary School and

Elementary School of Art, as a preparatory school suitable for the Applicant's kindergarten care

was admitted to the group. On December 7, 2020, the Applicant informed by e-mail a

the parents of children attending the group - including Applicants - about the fact that the group attends

children will appear in a Christmas performance, which is based on the epidemiological situation

considering that the relatives will not be able to view it personally, live, but will be "recorded

on video and sent to everyone", and "the headmistress would like all of the school

family with this approx. To greet Christmas with a 15-minute program".

On December 17, 2020, the applicant, in the electronic mail received from the Application, a YouTube

the video recording was available embedded in the link. According to the Application, "Applicants by clicking on the link

they were shocked to find that the video recording on Youtube is the public, so

it has been shared in a way that is freely accessible to anyone and can be forwarded without restriction,

since the Respondent did not inform the Applicants of this in any way and to that end the

he didn't even ask for their consent."

The screenshot attached by the Applicant shows the unlisted video from Youtube (with path

marked, which is not visible in its entirety, but at the same time there is a closed one in front of the YouTube caption

padlock symbol is visible) XXXXXXXX. with an address where the Applicant can be clearly identified,

can be identified beyond doubt. You can also clearly see the video recording on Youtube

setting - "unlisted" - which, according to the Applicants' point of view, means that "the video recording

can be viewed by anyone who has the link, and also that by forwarding the link a

video recording is unlimited, can be shared with anyone and thus accessible by anyone and without limits

can be divided further”.

On January 29, 2021, the Applicant's parents informed the Applicant by e-mail that the

The applicant was expelled from the institution, and the reason for this was, among other things,

that "the child's appearance on YouTube was done without permission, the parents

they were not informed in time, and at the same time they requested that the video recording be removed from YouTube

immediately

be deleted.”

According to the respondent's response letter sent on February 12, 2021, "the child's participation in the

institution did not upload it to the YouTube channel that can be viewed by everyone. The school YouTube

only the parents of the children attending us who have permission from the institution can see it

they got". However, according to the Applicant's parents, this statement of the Applicant is the above

based on his opinion regarding the referenced screenshot, he did not comply

reality, therefore, in his letter sent on February 17, 2021, he called the Applicant again

to delete the video recording immediately.

In his reply sent on February 19, 2021, the Respondent stated that "the

we deleted the school YouTube video on the website". According to the Applicant's parents, that's all

reported that the Respondent only deleted the video recording from the website www.XXXXX.hu,

however, the Respondent despite the request of the Applicant's parents from www.youtube.com

has still not deleted the availability of the recording, based on the available link a

it was still accessible and shareable. Therefore, the Applicant's father is 2021.

on March 11th, he contacted YouTube staff to announce the permission

a video recording that was published without permission, accessible and shareable, and requested its deletion. THE

After investigating the report, Youtube staff determined the data protection

violation and the video recording was deleted on March 15, 2021.

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On March 26, 2021, the applicant's parents sent a letter through a legal representative to

To the applicant, according to which, although the child's appearance in the Christmas program was allowed and they were not opposed to recording it on video either, that's obvious it did not, could not, mean that the video recording was for the general public they would have also agreed to make it freely accessible, therefore the opinion of the Applicant's parents according to the Respondent violated its obligation to provide information, processing data without a legal basis performed and did not delete the offending video recording even when requested by the Applicant, therefore the Applicant violated the Applicant's right to image and sound recording.

Through its legal representative, the respondent submitted in its response letter dated April 22, 2021 that in his opinion, the Respondent did not violate the Applicant's personal rights. He denied that the Christmas program would have been accessible to the general public, according to his claim it was only available to "the school community". He also referred to that

At the time of enrolment, applicants made a written statement to the effect that your child's "name, photos, etc. they can be posted on the internet forums operated by the institution". According to the applicants' statement in this regard, this statement does not correspond to reality either, since the Respondent neither requested nor received written consent from the Applicants statement regarding data management, neither with the quoted content nor with any other content.

The Authority NAIH-4822-2/2021. in the order issued on May 25, 2021 invited the Applicant to make a statement regarding the case. In this context, the following asked for answers to questions:

1. For what purpose and on which legal basis was it managed and made public by the Applicant personal data (audio and image recording) with the participation and participation of the child on a Christmas video recording? The purpose of processing personal data and the the existence of a suitable legal basis for data management with precise legal reference, given in this case, prove it with a suitable document!
2. On which interface/interfaces, when and how did you publish the complained video recording did you make it available around? Mark exactly these surfaces, publicly

delivery date. The Authority also requests information regarding whether these public interfaces available to anyone, or their availability to the stakeholders limited in terms of?

3. If the video recording was available to a limited number of people, how did you ensure that a the person entitled to access may not access the video recording (for example, by forwarding the link). a person not belonging to the circle?

4.

To your knowledge, is the complained video recording currently available?

5. Did the Applicant receive a general form from the Applicant's parents or legal representative the rights of data subjects contained in the data protection decree (for example, to delete personal data right, right to protest, etc.) request?

the. If so, when and how many times? Are they answered correctly and completely?

extensively these requests? For your answer, send the Authority to these copies of letters.

b. If not, inform the Authority of the reasons for this.

6. How did Articles 12 and 14 of the General Data Protection Regulation provide for the Applicants your rights under

7. Inform the Authority of your data management practices, attach a copy of regulations and internal standards for handling personal data.

8. Send the offending video recording to the Authority.

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Requested K-II-15/2021 dated June 4, 2021 for the order clarifying the facts of the Authority.

gave the following answers:

"[...] 1. The Christmas video - in which XXX's child, XXX, also appeared - is Christmas

as a greeting, I forwarded it to the family community of our institution. The Christmas one

before the pandemic, programs were broadcast by invitation of parents, grandparents, and relatives

for presentation, and at another time the student community of the school could also see it. THE
the recording of the Christmas program, the kindergarten teachers constantly talk about it during the preparation
and communicated to parents in writing. To prove this, they were attached
letters written by kindergarten teachers.

According to the statement made in relation to the question under point 1, the Applicant is from a family
requested a special permission to record the program, who rejected the statement of consent at the beginning of the year
was filled out, but at the same time the declaration of consent was signed by XXX.

2. - 3. With regard to question No. 2, the Respondent attached the offending video recording
on June 3, 2021. Based on this, the

the offending video recording was uploaded to the school's own YouTube channel December 2020

On the 17th as a non-public video and shared on the same day. The video recording
access path (link) only through the school's own e-mail communication channel a
was shared with parents (in a narrow circle), and only with the link was it possible to a
to view a video recording.

4. According to the respondent's statement, the video recording was no longer available at the time of the statement
available.

5. The offending video recording was removed at the request of the Respondent XXX submitted by e-mail by the
interface (according to the attached electronic mail, the
video recording), about which the Applicant's maintainer informed XXXX by e-mail.

6. For the transparent information of the data subjects specified in the general data protection regulation
guarantees its right as follows: "Every family who has a legal relationship with our institution
establishes, it receives information during enrollment and the first parent-management meeting
data protection regulation no. 4 according to its annex. On this occasion, it will be presented and
the declaration of consent signed by XXX personally. (Appendix No. 7)".

7. - 8. The applicant attached his data protection policy to his statement, respectively
the offending Christmas video recording. [...]"

According to the e-mail copy attached by the Respondent during the procedure, the present procedure 2020 in the requested electronic mail.

It was sent to 170 e-mail addresses on December 17 at 12:42 p.m.

In the Respondent's statement, in relation to the present case, he also informed a

Authority that "[...] XXX, on January 25, he suddenly terminated his child's legal relationship

with our institution, because XXX was not admitted to the institution's 1st year starting in 2021/2022.

for his grade.

On several occasions and on several points, he denounced the teachers who work with children and that

management of the institution at the Sustainer, - or by a lawyer - to each other multiple times

with contradictory statements. This video recording was part of that.

After the video recording was made available (December 17, 2020), XXX's parents and grandparents

on occasion, they verbally thanked him for this opportunity, with which he is a kindergarten teacher

my female colleagues wanted to show XXX's talent in this direction, emphasize her self-confidence

strengthen. [...]"

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In the same letter, the Applicant's parents informed the Applicant that their child

is expelled from the institution, and among several other reasons, the reason given is that a

for the publication of the Christmas video, the Applicant did not ask for it, and they did not give the

their contribution.

In his reply on February 12, 2021, the Applicant informed the Applicant's parents that

that "the institution does not publish the performance of the Child on the YouTube channel that can be viewed by everyone

uploaded it. Only the parents of the children who attend our school can see it on the school YouTube

they received permission for this from the institution."

The Applicant has attached a screenshot to the Authority of why, in his opinion, no

the Respondent's answer corresponds to reality.

In his reply to the Applicant on February 17, 2021, the Applicant's father

still firmly requested the deletion of the video recording, to which the Requested February 19, 2021-

I stated that "the school YouTube video on the website has been deleted", which is a

Reported deletion from www.XXX.hu. Therefore, the Applicant's father March 11, 2021.

on the day of, he contacted YouTube directly and requested the deletion of the offending video recording. THE

YouTube staff deleted the recording on March 15, 2021.

II. Applicable legal provisions

1. On the protection of natural persons with regard to the management of personal data

and on the free flow of such data, as well as outside the scope of Directive 95/46/EC

Regulation (EU) 2016/679 (hereinafter: General Data Protection Regulation)

Based on Article 2 (1), the General Data Protection Regulation shall apply to personal

for the processing of data in a partially or fully automated manner, as well as those

for the processing of personal data in a non-automated manner, which

are part of a registration system or which become part of a registration system

they want to do.

Based on recital (38) of the General Data Protection Regulation, "Children

their personal data deserve special protection, as they may be less aware of the

with the risks and consequences related to the management of personal data and the

with related guarantees and rights."

According to recital (42) of the General Data Protection Regulation, "If the data management is

is based on the consent of the data subject, the data controller must be able to prove it

knows that the data subject has consented to the data management operation. Especially what he did in the other case

in connection with a written statement, it is necessary to provide guarantees that the person concerned

be aware of the fact that you have given your consent and of what kind

did to an extent. Council Directive 93/13/EEC in contracts with consumers

the unfair conditions applied have been formulated in advance by the data controller

provides a declaration of consent, which is in an understandable and easily accessible form

make it available and its language should be clear and simple and not

may contain

information

to be considered based, the data subject must at least be aware of the identity of the data controller and

with the purpose of processing personal data. Consent cannot be considered

as a volunteer, if the person concerned does not have a real or free choice, and

it is not possible to refuse or withdraw the consent without it being to its detriment

would become."

conditions. To make a contribution

unfair

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Pursuant to Recital (60) of the General Data Protection Regulation, "The fair and

the principle of transparent data management requires that the data subject receives information about the data management

about its facts and goals. The data controller also provides additional information to the data subject

which are necessary to ensure fair and transparent data management,

taking into account the specific circumstances and context of the processing of personal data. The

the person concerned must also be informed of the fact of profiling and its consequences. If the

personal data is collected from the data subject, the data subject must also be informed that he is obliged to a

to disclose personal data, as well as what the lack of data provision is like

has consequences. This information can also be displayed with standardized icons

to be supplemented so that the data subject is clearly and easily aware of the planned data management

receive general information in an understandable and easy-to-read form. When the icons

are displayed in electronic format, they must be machine-readable."

Based on recital (61) of the General Data Protection Regulation, "For the data subject

related to the management of relevant personal data

information on data collection

must be provided to the data subject at the time, or if the data is not from the data subject, but collected from another source, taking into account the circumstances of the case, it must be within a reasonable deadline to make available. If the personal data can be legally disclosed to another recipient, a at the first communication with the addressee, the person concerned must be informed about it. If the data controller a wishes to process personal data for a purpose other than the original purpose of their collection, the additional prior to data processing, inform the data subject about this different purpose and everything else necessary must inform you of information. If the data controller cannot provide information to the data subject about the origin of personal data, as they come from different sources, general information must be provided."

According to recital (65) of the General Data Protection Regulation: "The data subject is entitled to be able to request the correction of his personal data and he has the right to do so "right to be forgotten" if the retention of the data in question violates this regulation or that EU or member state law, the scope of which extends to the data controller. The affected is particularly entitled to have his personal data deleted and no longer processed if a collecting or otherwise managing personal data with the original purposes of data management context is no longer necessary, or if the data subjects have withdrawn the data for processing their given consent, or if the handling of their personal data is not satisfactory in other respects and this regulation. This right is particularly important if the person concerned gave it as a child your consent when you were not yet fully aware of the risks of data management, and later you want to remove the personal data in question, especially from the Internet.

The person concerned can exercise this right even if he is no longer a child. At the same time, the personal the further retention of data can be considered legal if the expression of opinion and exercising the right to freedom of information is a legal obligation compliance, or the execution of a task carried out in the public interest or entrusted to the data controller due to the exercise of a public authority, or in the public interest affecting the field of public health, for the purpose of archiving in the public interest, for scientific and historical research purposes or for statistical purposes

purpose, or necessary for the presentation, enforcement or defense of legal claims."

Pursuant to recital (69) of the General Data Protection Regulation, "Any person concerned

the right to have the data relating to their unique situation must also be ensured

object to its processing if the personal data can be processed legally, because it is

for data management in the public interest, or the exercise of a public authority granted to the data controller

to perform a task within the framework of, or the data controller or a third party is entitled

it is necessary based on your interests. The data controller proves that you are with the interests of the data subject

against his fundamental rights and freedoms, his compelling legitimate interest

can have priority."

Based on Article 2 (1) of the General Data Protection Regulation, the general data protection

regulation must be applied to personal data in part or in whole in an automated manner

processing, as well as those personal data in a non-automated manner

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which are part of a registration system or which

they want to make it part of a registration system.

According to Article 4, point 1 of the General Data Protection Regulation, "personal data": you are identified

any information relating to an identifiable natural person ("data subject"); can be identified

the natural person who, directly or indirectly, in particular

identifier such as name, number, location data, online identifier or natural

to a person's physical, physiological, genetic, mental, economic, cultural or social identity

can be identified based on one or more relevant factors.

Based on Article 4, point 2 of the General Data Protection Regulation, "data management": personal

any performed on data or data files in an automated or non-automated manner

operation or a set of operations, such as collection, recording, organization, segmentation, storage,

transformation or change, query, insight, use, transmission of communication,

by means of distribution or other means of making available, coordination or

connection, restriction, deletion or destruction.

Based on Article 4, point 7 of the General Data Protection Regulation: "data controller": the natural one or legal person, public authority, agency or any other body that a the purposes and means of processing personal data independently or together with others define; if the purposes and means of data management are determined by EU or member state law and, the data manager or the special aspects regarding the designation of the data manager can also be determined by EU or member state law.

Pursuant to Article 4, point 12 of the General Data Protection Regulation: "data protection incident": a breach of security that is transmitted, stored or otherwise handled personal data accidental or illegal destruction, loss, alteration, unauthorized results in disclosure or unauthorized access to them.

According to Article 5 (1) of the General Data Protection Regulation

(1) Personal data:

a) handling legally and fairly, as well as in a transparent manner for the data subject must be carried out ("legality, due process and transparency");

b) it should be collected only for specific, clear and legal purposes, and not those be treated in a manner inconsistent with these purposes; of Article 89 (1).

accordingly, the public interest is not considered incompatible with the original purpose for archiving purposes, for scientific and historical research purposes or for statistical purposes further data processing ("target binding");

c) they must be appropriate and relevant in terms of the purposes of data management, and they must be limited to what is necessary ("data sparing");

d) they must be accurate and, if necessary, up-to-date; all reasonable measures must be done in order to ensure that it is inaccurate in terms of the purposes of data management have personal data promptly deleted or corrected ("accuracy");

e) must be stored in a form that allows the identification of the data subjects only a

enables the processing of personal data for the time necessary to achieve its goals; the

Personal data may only be stored for a longer period of time if

insofar as the processing of personal data is in accordance with Article 89 (1).

for the purpose of archiving in the public interest, for scientific and historical research purposes or for statistical purposes

will take place for the purpose of the rights and freedoms of those concerned in this regulation

appropriate prescribed for its protection

provisions

subject to its implementation ("limited storage");

f) must be handled in such a way that it is appropriate

technical or organizational

ensured by applying measures

the personal data must be correct

security, unauthorized or illegal handling of data, accidental loss,

including protection against its destruction or damage ("integrity and

confidential nature")

technical and organizational

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According to Article 5 (2) of the General Data Protection Regulation, the data controller is responsible for (1)

for compliance with paragraph and must also be able to demonstrate this compliance

("accountability").

Based on Article 6 (1) of the General Data Protection Regulation, personal data only

can be handled legally if and to the extent that at least one of the following is met:

a) the data subject has given his consent to the processing of his personal data for one or more specific purposes
for its treatment;

b) data management is necessary for the performance of a contract to which the data subject is a party
party, or the steps taken at the request of the data subject prior to the conclusion of the contract

necessary to do;

c) data management is necessary to fulfill the legal obligation of the data controller;

d) data management is vital for the data subject or another natural person

necessary to protect your interests;

e) data processing is in the public interest or the data controller is authorized by a public authority

necessary for the execution of a task performed in the context of its exercise;

f) data management to enforce the legitimate interests of the data controller or a third party

necessary, unless the interests of the person concerned take precedence over these interests

interests or fundamental rights and freedoms that make personal data protection

necessary, especially if a child is involved.

Pursuant to Article 7 (1) of the General Data Protection Regulation, if the data management

is based on consent, the controller must be able to prove that it is

consented to the processing of the personal data concerned.

According to Article 7 (2) of the General Data Protection Regulation, if the consent of the data subject

given in the context of a written statement that also applies to other matters, a

request for consent in a way that is clearly distinguishable from these other cases

must be presented in an understandable and easily accessible form, with clear and simple language. The

any part of such statement containing the consent of the affected person which violates e

decree does not have binding force.

Based on Article 17 (1) of the General Data Protection Regulation, the data subject is entitled to

upon request, the data controller shall delete the personal data concerning him without undue delay

data, and the data controller is obliged to provide the personal data concerning the data subject

delete it without undue delay if any of the following reasons apply:

a) the personal data are no longer needed for the purpose for which they were collected or

treated differently;

b) the data subject revokes Article 6 (1) point a) or Article 9 (2)

in accordance with point a) of paragraph

there is no other legal basis for data processing;

c) the data subject objects to the processing of his data on the basis of paragraph (1) of Article 21, and there is no overriding legitimate reason for data processing, or the data subject is subject to Article 21 (2)

objects to data processing based on paragraph;

d) personal data were handled unlawfully;

e) the personal data is prescribed by EU or Member State law applicable to the data controller must be deleted to fulfill a legal obligation;

f) for the collection of personal data referred to in paragraph 1 of Article 8, informational

it took place in connection with the offering of services related to society.

Based on Article 25 (1) of the General Data Protection Regulation, the data manager is science

and the state of technology and the costs of implementation, as well as the nature and scope of data management,

its circumstances and purposes, as well as the rights and freedoms of natural persons,

taking into account risk of variable probability and severity, all data management

when determining the method, as well as during data management such appropriate technical and

implements organizational measures, such as aliasing, which are aimed, on the one hand, at

effective implementation of data protection principles, such as data saving, on the other hand, e

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to fulfill the requirements contained in the decree and to protect the rights of the data subjects

the inclusion of necessary guarantees in the data management process.

Pursuant to Article 25 (2) of the General Data Protection Regulation, the data controller is appropriate

implements technical and organizational measures to ensure that default

according to that, only personal data that is specific to the given case shall be processed

necessary from the point of view of data management purposes. This obligation applies to the collected

the amount of personal data, the extent of their processing,

for the duration and

their accessibility. In particular, these measures must ensure that a personal data by default without the intervention of the natural person become accessible to an unspecified number of people.

their storage

According to Article 77 (1) of the General Data Protection Regulation, other administrative or without prejudice to judicial remedies, all interested parties are entitled to file a complaint with a supervisory authority - in particular your usual place of residence, place of work or in the Member State where the alleged infringement took place - if, according to the judgment of the data subject, the the processing of relevant personal data violates this regulation.

2. CXC of 2011 on national public education. law

Pursuant to § 43, paragraph (1), in the document management regulations of the public education institution, if any preparation is not mandatory, it is issued as an appendix to the SZMSZ of the public education institution the institutional data management and transmission must be defined in the data management regulations order. Education and training in the preparation and modification of the data management regulations in the institution, the parent organization and the school and dormitory student government has the right to comment. For data transmission, the head of the public education institution and - a within the framework of authorization - the manager or other employee authorized by him is eligible.

(2) Parental permission for voluntary data provision shall be registered until the end of the limitation period must be kept.

3. In the absence of a different provision of the General Data Protection Regulation, the request was initiated for official data protection procedure, Art. provisions shall be applied in Infotv with certain deviations.

The Akr. On the basis of § 103, paragraph (1), an application was made to the Ákr. for ex officio procedures the provisions relating to procedures in Art. 103 and 104. shall be subject to deviations

apply.

Infotv. According to § 61, paragraph (1), point a), it was made in the official data protection procedure in its decision, the Authority issued Infotv. Data management defined in paragraph (2) of § 2 in connection with operations according to Article 58 (2) of the General Data Protection Regulation may apply legal consequences.

Based on points b), c) and d) of Article 58 (2) of the General Data Protection Regulation, the supervisory authority, acting in its corrective powers, condemns the data controller or it data processor, if his data management activities violated the provisions of this regulation; instructs the data manager or the data processor to fulfill the data subject according to this regulation your request to exercise your rights; instructs the data controller or data processor to data management operations - where appropriate, in a specified manner and within a specified period of time - bring it into line with the provisions of this regulation.

Infotv. 75/A. pursuant to § 83 (2)-(6) of the General Data Protection Regulation, the Authority exercises its powers in accordance with the principle of proportionality, especially with the fact that you are in the legislation regarding the handling of personal data

The regulations defined in the mandatory legal act of the European Union are being implemented for the first time

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in case of violation, to remedy the violation with Article 58 of the General Data Protection Regulation in accordance with - takes action primarily with the warning of the data manager or data processor.

Infotv. According to § 38, paragraph (2), the Authority is responsible for the protection of personal data, and the right to access data of public interest and public interest

control and promotion of the validity of personal data in the European Union

facilitating its free flow within. According to paragraph (2a) of the same §, the general

tasks and powers established for the supervisory authority in the data protection decree

general data protection for legal entities under the jurisdiction of Hungary

is exercised by the Authority as defined in the decree and this law.

Infotv. According to Section 60 (1), enforcement of the right to the protection of personal data in order to do so, the Authority will initiate a data protection official procedure at the request of the data subject. In the absence of a different provision of the General Data Protection Regulation, the application was initiated for official data protection procedure CL. of 2016 on general public administrative order. Act (hereinafter referred to as the Act) shall be applied as specified in the Infotv with differences.

The Akr. On the basis of § 17, the authority's powers and jurisdiction are all the proceedings examines ex officio in the If you notice a lack of one, and without a doubt the authority with jurisdiction over the case can be determined, the case will be transferred to it in its absence, the application is rejected or the procedure is terminated.

The Akr. According to § 36, the request is submitted by the customer in writing or in person declaration, with which he requests the conduct of official proceedings and the authority's decision for his rights or in order to enforce your legitimate interest. Infotv. According to § 60 (2), it is 77 of the General Data Protection Regulation is a request to initiate a data protection official procedure. may be submitted in the case specified in paragraph (1) of Article

The Akr. Section 46, subsection (1), point a) states that the Authority will reject the application if the legally defined condition for initiating the procedure is missing, and the Ákr. to that it does not have any other legal consequences.

Infotv. Pursuant to § 60, subsection (5), in the case specified in subsection (2) a application contains more than what is specified in the Acr

- a) indication of the alleged infringement,
- b) a description of the specific behavior or state of action that led to the alleged violation,
- c) to identify the data manager or data processor who committed the alleged violation necessary data available to the applicant,
- d) the facts supporting the allegations related to the presumed violation of law and those evidence, furthermore

e) a definite request for a decision to remedy the indicated infringement.

III. Decision of the Authority

III.1. Examining the data management practices and the Data Protection Policy of the Requested Party

The Regulations were adopted by the Board of Education on August 30, 2018.

according to the decision, it is valid from the date of acceptance. The Regulations on September 3, 2018

commented by the school's parent organization and the student community.

According to the introduction of the Regulations, the XXX Foundation Kindergarten, Primary School and Elementary School

The educational body of the public education institution School of Arts is Infotv. based on, in accordance with

with the relevant provisions of the General Data Protection Regulation - on national public education

2011 CXC. Act § 70. It was accepted by acting in accordance with the authority provided in point k) of paragraph (2).

the Regulation in order to "be involved in information and data management

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inform persons of the personal information managed in the institution and forwarded from there

on the legal purity of the protection of data and other legally protected information, the data

on the legality of its management, protection and data transfer process."

2.3.1 of the Regulations. subsection, it was recorded that the processing of personal data is complete

process, the data protection principles¹, which can also be listed, must apply at the same time

were costed. The subsequent 2.3.2. according to the wording of the subsection, from the point of view of the Regulations, it is

purpose of data management: communication.

IV of the Regulations. contains the provisions on data protection incidents.

4.2 of this according to subparagraph d), it can be assessed as a particularly high risk level

the nature of a data protection incident if "on the institutional website or social Internet sharing

personal data (e.g. images, audio, audiovisual files) is disclosed on the

from which the data subject becomes identifiable; [...]"

Point V of the Regulations sets out the specific actions taken by the Applicant as a public education institution

the obligation of prior information related to data management, its fulfillment

way.

VI of the Regulations. point contains the Data Protection Officer of the Requested

rules. In the case of the applicant, data protection

director-

his deputy was appointed. 6.6 of the Regulations. subsection lists it in detail - from a) to m).

the data protection officer's strengthening of data security, the enforcement of the rights of the affected parties

its activities aimed at promoting According to the list, it is the responsibility of the data protection officer

among other things, practical and administrative tasks related to data protection incidents

provision, the preparation and continuous updating of the text of the preliminary information, that is

participation in the exercise of data subject rights, keeping the data protection register, a

cooperation with the supervisory authority, as well as in matters related to data management

maintains contact and consults with the supervisory authority.

Annex No. 4 of the Regulations is informative on the scope of the data registered in the institution

is entitled "parent/student", which contains photographs taken at school events

findings regarding its treatment: "On the school events organized in the institution

in order to provide information about the events on the institution's website and publications

post photographs that may include students or groups of students.

If the student of the institution or his guardian declares that he does not wish

to appear in photographs taken by the school, signed by the guardian and the student

must be indicated in a statement to the head of the institution."

Regulation No. 8 annex contains the "statement appearing on the institution's website

as an official Applicant

1 Regulation 2.3.1 In the entire process of handling personal data, the following data protection must apply at the same time principles:

a) processing of data only in accordance with legal regulations, within the framework of a fair procedure for the data subject

can be carried out transparently, during which the data subject can gain insight into the management of their data at any time,

by exercising his rights, and he also has the opportunity to exercise the

your right to a legal remedy;

b) the processing of personal data is limited to the purpose, to the extent and for the time absolutely necessary to achieve the purpose

c)

can be handled or stored;

during the use of the data, in order to ensure the effectiveness of the data management, its accuracy and completeness data controller must pay special attention;

d) data management must be carried out in such a way that appropriate technical-IT or organizational measures adequate security of personal data should be ensured with its application, the data is unauthorized or illegal including protection against handling, accidental loss, destruction or damage;

e) the data user must always be able to verify the criteria of legal data management during data processing.

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for the consent-based management of personal data" document, which

according to the data subject's signature, the person concerned agrees that the XXX Foundation Kindergarten, Primary School and

The name of the child may appear on the website of the Elementary School of Arts (www.xxx.hu).

in the class list, in the competition results, or the child's photo may appear in an identifiable manner.

After reviewing the Regulations, the Authority found that the Respondent a

Declaration according to Annex No. 8 of the Regulations by the legal representative of the Applicant

the recording and sharing of the infringing video recording, as well as on the website, was considered his signature the legal basis for disclosure.

However, according to the Authority's point of view, the consent given by the Applicants at the beginning of the academic year only creates the legal basis for the following data management:

the child's name may appear on the school website

- in the class list and
- at the competition results, respectively
- the child's photo may appear in an unidentifiable manner.

According to the Authority's point of view, the recording of the children's festive performance and its narrowness distribution, and the publication of the YouTube link on the website are considered separate data management actions (recording the recording, uploading the recording a to a YouTube channel, publishing the YouTube link on the institution's website, a Sharing a YouTube link by e-mail), which are legal if with regard to all data management, the data controller has clear, with appropriate informed consent.

The Authority states that "unlisted" on the YouTube video sharing interface is not public - despite the data protection setting, data security may be compromised if the video URL is shared in an uncontrollable way. On the YouTube help interface according to the information found, the non-public videos and playlists with the link anyone can see and share. To watch the video, it is not necessary that those with whom the video will be shared, have a Google account. Anyone with the link again you can share the video. Non-public videos will not appear on your own channel on the "Videos" tab of your home page. They don't even appear in YouTube search results, unless someone adds the non-public video to a public playlist.

The Authority further states that the Respondent's Regulation is the exercise of the rights of the data subject contains inadequate provisions regarding insurance.

3.1 of the Regulations. according to the paragraph of point "[...] Enforcement of these rights - stakeholder rights - in order to enforce the data protection officer of the institution concerned find the one you want to validate in person or in writing (electronically). by submitting a request for entitlement, but the institution responsible can contact you with your request manager, or the employee performing data management/processing, who according to the regulations

the person concerned is informed. If this is not possible, your request will be forwarded to data protection to an official. [...]"

6.6 of the Regulations. point i) designates the data protection officer in the exercise of the data subject's rights as a contributor. At the same time, based on the Regulations, the data protection officer only he is informed of the request to exercise the data subject's rights if it was submitted directly to him in, or if informing the head of the institution or the employee performing data management "impassable road".

According to Legitimation Clause X of the Regulations, the Regulations are open to all interested parties

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a copy can be viewed by the school director or the institution

on his website. At the same time, the Authority reviewed the website of the Applicant (www.xxxxx.hu) and makes the following findings in this regard:

- The website contains data management information related to the website

(<http://www.xxxxxxx.pdf>), the Regulations sent by the Applicant to the Authority not available.

- The publication list available on the Applicant's website does not include the Regulations

(<http://www.xxxxxxx.pdf>), only the data protection officer

(who

in person is the same as the data protection officer specified in the Regulations).

are found.

officer

in addition to its activities in their educational program,

III.2.1. The position of the Authority in this case

The Authority considers the protection of personal data to be extremely important in this official procedure as well as the consideration and emphasis of basic children's rights.

According to the Authority's point of view, for the healthy physical, mental and spiritual development of children, a

education is essential for their socialization into the community

institutions everyday

respectively

participation in institutional events specified in the curriculum. For these holidays,

in events related to celebrations, the child has his own right and interest

to participate actively as a member of their micro-community, their ability to express themselves, intellectually,

promote his emotional and moral development.

There is no doubt that public education and public education institutions (hereafter collectively:

institution) the results of the work carried out by the children are unique and communal

through his performances, he can present which events are often made into pictures and

video recordings. Especially during the pandemic, it is difficult to maintain direct contact

strengthened the use of alternative communication tools and opportunities. Present

in this case, the video recording was made of the Christmas performance, and it is for sharing the recording

the aim was that, in line with the previous (pre-pandemic) practice, the institution

let the children's production, the Christmas greeting, also reach his family community.

With regard to institutional data management that captures the participation of children, the Authority

emphasizes: it is extremely important that the public education institution that manages the data consciously

think about the plan he has planned for the given educational year - which includes data management -

the range of activities and events, so not only the individual, but also the community, together with this

can keep the interests of all children in mind.

About the program that specifically requires the participation of one or more or all children

in the case of a video recording to be made, with a preliminary assessment of the parents' intentions right from the beginning

the upcoming performance can be shaped in such a way that a

for recording and its possible

the participation of the children of parents who consent to its sharing can be legally immortalized

be. The careful one

to make a recording

the children of parents who do not give their consent can also be properly included in the

in the program, since it does not serve the interests of children at all if it is for data protection reasons

because of this, they miss out on social appearances.

In the case of unlimited public sharing of recordings of children on the Internet

is no longer sufficient for parents and legal representatives anyway

the right to protest, in which case parents must be guaranteed an active decision-making position

for them, the data of their minor child is unrestricted, due to the fact that it can be read by anyone, therefore

it is necessary to obtain informed, written, prior consent for such data management.

it can also be ensured that the

it is by design

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[See NAIH/2018/6083/V.2]

In the present case, the Authority made public the performance of children by the Applicant

the legality of data processing related to the recording of the recording video, as well as the data subject

examined the provision of legal practice.

Article 5 of the General Data Protection Regulation contains the main principles that a

when handling personal data, data controllers must take into account and which

must be continuously enforced during data management. Such a principle includes, among others, a

legality, fair procedure and transparency, purposefulness, data saving,

the principle of accuracy and limited storage. [General Data Protection Regulation Article 5 (1)

paragraph point a)-e)] From the principle of accountability [General Data Protection Regulation Article 5 (2)

paragraph], the data controller is therefore responsible for compliance with the basic principles of data protection,

in addition, it must be able to verify this compliance, and the controller must also be able to

there must also be proof of this compliance. Based on this, the data controller is obliged to document and

record data processing so that its legality can be proven afterwards. Such

basic principles include data saving³, limited storage capacity⁴ and purpose-bound principle of data management⁵.

Among the basic principles, the General Data Protection Regulation also states that personal data management "must be carried out in such a way that appropriate technical or organizational adequate security of personal data should be ensured by applying measures, that is unauthorized or illegal processing, accidental loss or destruction of data or protection against its damage ("integrity and confidentiality")."⁶

An essential condition for the legality of data management is that it has an appropriate legal basis be.

Article 6 of the General Data Protection Regulation provides for the management of personal data about its possible legal grounds, i.e. the cases where data processing may be legal, as far as the other provisions of the general data protection regulation, in particular that also complies with the basic principles of data protection.

The legal basis for processing the personal data of a natural person can be based, for example

- on the consent of the person concerned,

-

-

in connection with the creation or performance of a contract,

you are fulfilling a legal obligation

2 The Authority classified recordings made by parents of their children at events as exceptions for household purposes, even if if they include other children (NAIH/2018/6083/V.). It should be emphasized that the Authority only these recordings assessed its creation as data processing for household purposes, if the creator had uploaded these images to the Internet, the data management would fall under the scope of the GDPR.

3 Article 5 (1) point c of the General Data Protection Regulation: "personal data from the point of view of the purposes of data management

they must be appropriate and relevant and limited to what is necessary ("data sparing").

4 Article 5 (1) point e) of the General Data Protection Regulation: "personal data must be stored in a form that which enables the identification of data subjects only for the time necessary to achieve the goals of personal data management; the personal data may only be stored for a longer period of time if the personal data is to be processed in accordance with Article 89 (1) for the purpose of archiving in the public interest, or for the purpose of scientific and historical research will be carried out for statistical purposes, as prescribed in this regulation in order to protect the rights and freedoms of the data subjects taking into account the implementation of technical and organizational measures ("limited storage capacity");"

5 Article 5 (1) point b) of the General Data Protection Regulation: "collected only for specific, clear and legitimate purposes take place and not be treated in a manner inconsistent with these purposes; in accordance with Article 89 (1). is not considered incompatible with the original purpose of archiving in the public interest, scientific and historical research further data processing for a purpose or for statistical purposes ("target binding")"

6 Article 5 (1) point f) of the General Data Protection Regulation

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- also in the legitimate interests of the data controller⁷, in which case, however, the start of data management before the data controller must prepare a so-called interest assessment test.

In the case of the institution, a suitable legal basis may be if the institution has so-called "consenting declaration" from students, the children's legal representatives (parents), teachers, that is, if the data subjects give their clear consent to one or more of their personal data for its treatment for a specific purpose.

Pursuant to the General Data Protection Regulation, the consent of the data subject is required by the data subject voluntary, specific and appropriate to his will informed and clear declaration, with which the relevant declaration or confirmation is unmistakable indicates through an expressive act that he gives his consent to the personal data concerning him

for its management.⁸

The concept of consent is based on four conjunctive conditions. On the one hand, the contribution it must be voluntary, which means that the person concerned has a real or free choice have the opportunity to give consent. On the other hand, the contribution it must be specific, which basically requires the exact identification of the goals from the data controller, and that if the data subject gives his consent for different purposes plans to handle personal data, the consent of the data subject is required for each purpose to get Thirdly, the consent must be based on adequate information, which not only as defined by the general data protection regulation, the content of the information is mandatory means the existence of its elements, but also that the information is concise, transparent and understandable should be formulated and easily accessible to the person concerned. Finally it is to the data controller must also ensure that the person concerned makes his will clear be able to declare, that is, the person concerned must be able to agree with an active act or statement to data management.

Adequate information plays a central role in the application of the legal basis for consent loads. The other conceptual elements included in the definition of contribution (voluntariness, a concreteness and clarity of consent) can be fully enforced if a the request for consent was preceded by adequate information. If the data controller does not provide accessible information for those concerned, then the disposition over the data will be apparent and consent will become an invalid legal basis for data processing.

Based on the above, in this case the consent of the Applicant is then valid and appropriate legal basis if it is voluntary, i.e. if the Applicant is any disadvantage or damage related to it you can decide not to be included in the photo and/or video recording. The validity an additional condition is that it is based on specific and appropriate information, which condition then applies if the Applicant is aware of the details of data management. This is in this particular case

means that the Respondent informs the Applicant about the fate of the image and/or video recording, so about where it is published and on what forum it is made available to others.

The Authority notices that public education and public education institutions (hereafter collectively: institutions) during its operation, institutional events indicated in the order of the educational and academic year - which necessarily goes hand in hand with the handling of personal data - is increasingly recorded is transferred to the arena of the Internet public.

7 General Data Protection Regulation Article 4 7. "data controller": the natural or legal person, public authority, agency or any other body that determines the purposes and means of personal data management independently or together with others; if the purposes and means of data management are determined by EU or member state law, the data controller or to appoint the data controller

relevant special aspects may also be determined by EU or member state law;

8 Article 4, point 11 of the General Data Protection Regulation

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In the case of data management on non-Internet platforms, the Authority acknowledges that a data management related to each institutional event organized during the academic year in its case, it places an almost impossible administrative burden on institutions and teachers and for parents, the appropriate, detailed information based on written data management obtaining contributions.

At the same time, the Authority emphasizes the existence of general data management consent institution from the obligation that each planned does not exempt it about data management before the event separately, verifiably detailed

provide data management information to the parent/legal representative as follows with content:

- indication of the event at which the data processing takes place,

- in relation to which personal data of the child is processed

(image, sound, image and sound, other personal data);

- place of data management,

- duration of data management;

- informing the parent and drawing their attention to the general data protection regulation

to his right to protest.

In addition to the above, the Authority also expects the institutions to ensure that a

parent/legal representative for the objection provided in the general data protection regulation

know your right easily, without obstacles and in time, before the start of the planned data processing

practice.

With regard to internet data management, information alone is not enough

in these cases, obtaining the written consent of the parent/legal representative is mandatory,

which must be acquired by the institution prior to data processing,

bearing in mind that the parent/legal representative can object to data processing at any time

in connection with and may revoke your previously given consent to data management.

Despite the fact that it imposes an additional administrative burden on the Applicant, the position of the Authority

according to him, it is inevitable that it was made about children who have a legal relationship with the institution

video recordings on the Applicant's website or on the sharing portals he uses

to disclose or share it separately for each recording

have parental consent.

In addition, the Authority considers it necessary to have parental declarations with different content at the moment

unification, as well as the declaration, in addition to the information contained above

addition with date.

III.2.2. The enforcement of data protection principles in relation to the data management of the Respondent

Lawfulness of data management

Article 5 of the General Data Protection Regulation contains the main principles that a

must be taken into account when handling personal data, and which are constantly must apply during data management. Such a principle includes legality, fair procedure and transparency, purposefulness, data economy, accuracy and the principle of limited storability [5. Article (1) point a)-e)].

Paragraphs a)-f) of Article 6 (1) of the General Data Protection Regulation contain those a legal bases, at least one of which can be considered legitimate if the personal one is valid data management.

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The Authority with regard to the legality of data management - in the general data protection regulation in accordance with the provisions - represents the position according to which the data controllers have they must implement the personal data protection. Accordingly, the processing of personal data is defined in advance, for a clear and legitimate purpose, for the time necessary to achieve the stated purpose, is appropriate by applying technical and organizational measures, it must be done in such a way that the data management during the act, the adequate security of the handled personal data must be guaranteed.

Above all, the Authority emphasizes that the recording of the infringing video recording or its (in a limited range)

disclosure is different from each other, separately

is considered data management, in respect of which the Requested, as a data controller, separately with a legal basis, and if the legal basis for data management is the data subject or his legal representative your consent, then you must have a separate consent.

In the present case, it investigates whether the Respondent recorded the offending video recording and did you act legally in terms of making it accessible: i.e. on the consent referred to with regard to data management based on whether the Applicant had separate consent, as well as whether he provided complete information to the Applicant prior to the contributions about the relevant data management.

Based on the information obtained by the Authority during the clarification of the facts, the Applicant sufficiently substantiated that the recording of the video recorded by the Applicant the parents of all children affected by the admission (thus the Applicant) accordingly informed about the data management related to the preparation of the recording - by the way, this is done by the Applicant his parents didn't dispute it either - and after that, on December 17, 2020, the institution became a family institution community, the Requester sent the access to the offending video recording by e-mail path to "XXXXXXX." with title.

In view of the above, the Authority accepts the offending video recording in the investigated case made by the parents at the beginning of the educational year as the legal basis for the data management related to the recording general consent, as well as discussions with the parents before the children's performance informative correspondence.

At the same time, the Authority states that the video recording on the institutional website and to the Applicant regarding its publication on the institutional YouTube channel it should have had a separate consent from the Applicant, as it is general consent did not (and could not) apply to the video recording on institutional YouTube channel, or to publish the access path on the institution's website.

According to the Authority's point of view, the examined video recording was made in the ways detailed above with regard to the legal basis for its publication, the Respondent could not acceptably prove that that the parents were adequately and comprehensively informed by the person portraying their child about the place and duration of the publication of the video recording.

Article 5 of the General Data Protection Regulation contains the main principles that a must be taken into account when handling personal data, and which are constantly must apply during data management. Such a principle includes legality, fair procedure and transparency [5. Article (1) point a)], as well as accountability [5. Article (2)] principle.

By the fact that the Applicant's father signed the data management consent at the beginning of the year, as well as

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with the fact that the Applicant's parents to the kindergarten teachers' informational e-mails - in which it was marked as purpose of data management, and information was provided about the participation of children and the making of the video - they did not express their objection, they accepted the purpose of the data management and that the Applicant (a their child) will be part of the performance that is videotaped and which it will be sent as a Christmas greeting to the institution's family community.

At the same time, however, the Respondent did not inform a

The applicant's parents, and thus the applicant, did not provide for the applicant exercise the right to exercise their right to delete the video recording uploading it to the institutional YouTube channel or on the institutional website regarding its publication.

During the procedure, the Authority has all the information at its disposal establishes that the Respondent has violated the aggrieved data processing legality and transparency according to Article 5 (1) point a) of the General Data Protection Regulation principle.

In addition, a violation of Article 6 (1) point a) of the General Data Protection Regulation implemented by the fact that the applicant is clear about the video recording that is infringed by the applicant and was made public by him in the absence of his consent based on adequate information on the institutional YouTube channel, as well as the YouTube link on the institutional website by publication.

The principle of accountability

The Authority also consistently emphasizes in the investigated case that the data management ensuring the legality of the data management in all stages of the data management, i.e in this case, the obligation of the Respondent.

Article 5 (2) of the General Data Protection Regulation establishes the principle of accountability,

according to which the data controller is responsible for the legal management of personal data, and must be able to demonstrate this compliance. Based on these, data management is for the Requested from its planning to the start of data management, all the way to personal data until it is deleted, you must implement all data management operations in such a way that at any time can prove how the data management process complied with data protection regulations, data controller obligations.

By being uploaded as an "unlisted", i.e. non-public video, the institution's Youtube channel of the aggrieved video recording for the legality of data processing to the Requested Party must have the legal representative of the children affected by the admission, including the Applicant also with his consent.

Based on the applicant's statements made during the procedure and the attached documents a The Authority established that the Respondent had, in its view, violated the data management legislation it was not in relation to its data management practices based on erroneous conclusions is able to adequately verify the data protection of the data management complained about by the Applicant compliance with basic principles. This is how the video recording complained about by the Applicant was requested in relation to making it available in a narrow circle, the legal basis for consent is legal was unable to prove that the information prior to data processing was adequate, its occurrence with content covering all relevant information, as well as the Applicant the existence of his consent.

Taking all of this into account, the Authority found that the Respondent was not present in this case data protection general decree according to

respectively

the

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is able to demonstrate compliance with the data protection regulations of the affected data management, thereby violating the provisions of Article 5 (2) of the General Data Protection Regulation principle of accountability.

Purposefulness, data saving, and built-in and default data protection enforcement of the principle

The main principle of the data protection regulation is the principle of purpose-boundness, which is its essential content according to this principle, all data processing must have a legitimate purpose, the purpose in advance must be determined. Article 5(1)(b) of the General Data Protection Regulation includes the requirement of being tied to a goal. Accordingly, the collection of personal data only it can be done for a specific, clear and legitimate purpose, and the data only for these purposes be treated in a compatible manner.

Regarding the essential content of purpose-boundness, the purpose of data management is of fundamental importance determination, which is the responsibility of the data controller.

The purpose of data management must be clearly and unambiguously defined so that the data subjects understand it they can interpret. That is, the goal must be expressed and clearly communicated those concerned.

THE

data saving

(data minimization) principle [5. Article (1) point c)], as it is only the purpose of data management

personal data necessary to achieve this goal can be processed: always

the given data must be compared to the given goal, and a decision must be made based on this, actually

whether it is necessary to achieve the goal and whether it is really suitable for it. If the purpose of data management

changes, then the question of the legal basis, the necessity, must be judged in accordance with this goal

principle and the validity of other guarantees. If the data management purpose ceases, it is deleted

there is an obligation.

requirement

is related

close

constraint

for purpose

the

Personal data can be processed to the extent and for the time necessary to achieve the goal.

In addition, the data must be adequate and relevant. Only so and so

personal data can be processed, which is necessary and at the same time sufficient for the purpose of data management

to reach. This is the so-called necessity criterion, also known as the principle of data saving

means that before data processing begins, it must be checked whether it is necessary, if so,

to what extent, personal data to be processed to achieve the goal to be achieved.

In the framework of the present procedure, the Authority examined several interrelated data management

their purposefulness, data saving, and built-in and default

enforcement of data protection.

Defining the scope of necessary, appropriate and relevant data for data management on a case-by-case basis

to be considered in case, for the decision of which the purpose of data management is precise and specific

its name is essential, because it can be withdrawn in relation to the data management

limit of personal data concerned.

A "built-in and

default data protection" [Article 25 of the General Data Protection Regulation]. In that sense, it is

the data controller must ensure that it is only as personal through the measures it takes

data should be processed that are relevant to the specific data management purpose

are necessary. This aspect of necessity must prevail in the data

also in terms of quantity, degree of treatment, storage period and accessibility.

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Record the video recording

The video recording complained about by the Applicant was presented by a group of preschool children included a nativity performance, in which the Applicant also appeared. This recording has been uploaded the Applicant to the institutional YouTube channel and forwarded its access path as a Christmas greeting to the institution's family community by e-mail, as well as by publishing the access path, he made it public on the institutional website.

According to the Authority's point of view, the institutions should operate either state or otherwise maintenance, their basic purpose is to show parents and grandparents that a what kind of development the children in their care go through, either in groups or what new goals are achieved individually, how the child's personality and individuality develop, how your knowledge expands.

The joint production of the kindergarten group forms the unit. If the institution leave out even one child

also, negative discrimination is disadvantageous to the child may result in discrimination. This is especially true in the present case, since the Applicant according to his father's deletion request to the YouTube team, his child can be seen in full in the video, he also sings a solo song and participates in the group songs, so it is for the Applicant had a prominent role in the performance. After watching the video recording, that is the conclusion it can be deduced that the Applicant only pays for the performance itself, for the children's productions focused during its recording.

It can therefore be concluded that for the recording of personal data in a video recording

During related data processing, the Respondent did not violate the general data protection rules purpose limitation according to Article 5 (1) point b) of the Regulation, nor Article 5 (1) c) the principle of data saving.

Publish the recorded video

The Authority is the complained video recording on the institutional YouTube channel, as well as the institution in the case of disclosure made on its website, it also examined the purpose-bound data management and the principle of data saving, related to the built-in and enforcement of default data protection.

In this regard, he established that the Applicant was also on the two institutional platforms with the data management related to the published publication as determined by him in advance in relation to the purpose of data management, it became known to a circle exceeding the target group damaged video recording, and thus the personal data processed in it. Purposefulness at the same time as its damage, the principle of data saving is also damaged, since it is the original data management purpose exceeding the extent and data management time necessary for its implementation was unlimited a video recording containing the Applicant's personal data can be viewed.

The Authority is the principle of built-in and default data protection, the complained public highlights in relation to its examination of insurance data management, despite the fact that that the Respondent took technical measures on the affected video recording on the YouTube channel to limit its visibility resulting from its publication ("unlisted" video), by that the availability of the YouTube channel of the video recording is made public on the institutional website brought, provided anyone with unlimited access to the personal information handled in the video recording for data.

Based on the above, the Authority established that the Complainant is the video recording complained of on the institutional YouTube channel, as well as its access path on the institutional website 5 of the General Data Protection Regulation during its data management related to its publication. necessity and data saving according to Article (1) and according to Article 25

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built-in and default data protection principle.

Ensuring the exercise of stakeholder rights

In order to ensure transparent data management, the data controller is, as a general rule, obliged to - in a proactive manner - to provide appropriate information to those concerned about data management before starting. This right is primarily intended to make data subjects aware that it is data controller wishes to process personal data in relation to them. Accordingly, the content of information is differentiated according to the personal data to be handled directly whether they are collected from the data subject (Article 13 of the General Data Protection Regulation), or whether they are collected by others obtained from a source by the data controller (Article 14 of the General Data Protection Regulation).

The general limitation of the right to information is the case when the data subject already has the relevant with information. In this case, the data controller is with regard to the principle of accountability - he is obliged to prove this fact.

In the present investigation, in relation to the creation of the offending video recording, the Respondent a He duly proved to the authorities that the people involved, including the Applicant's parents they had the necessary information.

However, with regard to the disclosure of the completed video recording, the Respondent did not was able to substantiate with documents that the persons concerned are suitable with knowledge provided for all details of data management.

Because the Respondent in relation to the disclosure of the completed video recording did not provide prior information to the data subjects regarding its data management, so a Neither for the applicant, as a result, the Authority concludes that in this respect a

The respondent violated Article 13 of the General Data Protection Regulation.

Ensuring the data subject's right to delete personal data

Pursuant to Article 17 (1) of the General Data Protection Regulation, the data subject is entitled to that, upon request, the data controller deletes the personal data relating to him without undue delay

data, and the data controller is obliged to provide the personal data concerning the data subject

delete it without undue delay if specified in the general data protection regulation

one of the reasons exists.

After the general data protection regulation, the data controller is responsible for data management

for its legality, therefore the data controller has the burden of proof, so he is obliged to prove that he knows

that the data management complies with the legal conditions.

In response to the Requester's cancellation request made on January 29, 2021, the Requested on February 12, 2021

informed the Applicant about the manner and form in terms of visibility

limited disclosure is made. Repeated cancellation of the Applicant on February 17, 2021

at his request, the Respondent removed the offending video recording from the institutional website

pointing Youtube link.

On the basis of the above, the applicant graduated on the institutional website, with unlimited publicity

in relation to data management, asserted within the scope of the Applicant's exercise of data subject rights

following his request for deletion, the Respondent deleted the video from the page in compliance with it. With this

the Respondent prevented anyone who, after the data deletion, the institution

website, you can freely watch the offending video recording.

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Consequently, in terms of this data management, the Respondent did not violate the

The applicant's right to erasure according to Article 17 of the General Data Protection Regulation, neither

15 of the General Data Protection Regulation.

According to the data available to the Authority, the Applicant is the aggrieved admission

he deleted his contact information only from his institutional website, from the institutional YouTube channel

no. Therefore, on March 11, 2021, the Applicant's father contacted the

Youtube and announced that it can be published, accessed and shared without permission

video recording and requested its deletion. The investigation of the case and the Applicant on Youtube

after correspondence with his team Youtube staff on March 15, 2021

the recording was deleted.

The Applicant indicated the following as reasons for deleting the video recording:

"[...] our son performs a solo part (1:11-1:37; 3:20-3:45)

-

- our son is not part of the school/user (XXXX) as one of the reasons why

sets him apart from the others in the video.

- we do not have a contract with the user (XXXX)

- we did not give permission to the user (XXXX) to use our son in his digital content

or use it in your ads. [...]"

In the case of the recording published as an "unlisted" video on the institutional YouTube channel, the

Consent has been requested (Article 6 (1) point a. of the General Data Protection Regulation)

identified as the legal basis for data management. In this case, if the data subject withdraws the

the consent that forms the basis of data management, and there is no other legal basis for data management, that is

the data controller is obliged to delete the relevant data at the request of the data subject without undue delay

personal data. Since the Applicant has no legal basis other than parental consent

identified with regard to the aggrieved data management, therefore the Applicant is directed to delete it

after your request based on Article 17 (1) point b) of the General Data Protection Regulation

should have immediately deleted the offending video recording from the institutional YouTube

channel too.

The Respondent, by ignoring the Applicant's institutional YouTube

video recording available on the channel

deletion, and thus the consent of the Applicant

request to withdraw, the Applicant violated the general data protection regulation

For cancellation enforceable under Article 17 (1) point b), as well as the general

his right to exercise his rights as a data subject according to Article 15 of the Data Protection Regulation.

In addition, the Authority considers it worrisome from a data security point of view for the future

"unlisted" (non-public) YouTube channel application. Instead, recommend it to the Applicant

the sharing of institutional videos in a "private" manner, only with the stakeholders.

The Authority is experiencing the mainstreaming of public education in Hungary

practice, according to which the data management institutions are minor children (hereinafter:

children) from their legal representatives at the beginning of each year (usually at the first parents' meeting)

general data management consent is requested. However, this does not exempt the data controller

institutions from their obligation to ensure that the children who take turns during the school year

in connection with the events necessarily associated with the processing of personal data, in advance a

legal representatives (parents) should be informed in detail, with a special mention of consent

for the possibility of withdrawal, which they are obliged to exercise in an easy, unhindered way

to assure.

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The Authority draws the attention of data controllers to the fact that if children's data is unlimited

in the context of data management aimed at online publicity, they may receive extensive publicity, that is

based on the general data protection decree, the Authority expects public education and public education

preliminary, detailed and written data management information from data controllers and the information based on it

existence of parental consent.

ARC. Legal consequences

Based on Article 58 (1) point b) of the General Data Protection Regulation, the Authority a

He convicted the applicant of the violation of data protection law.

In the procedure conducted on the basis of the application, the Authority examined whether the

Imposition of a data protection fine against a request.

The Authority took into account the following factors in not imposing a fine:

1. No personal data was previously established against the Application

violation related to the handling by the Authority.

2. The video recording complained of by the Applicant is from the Internet as indicated by the Applicant

has been deleted from surfaces.

3. In the opinion of the Authority, the recording that is the subject of this procedure is made public with regard to its production, sharing, and the data management practices of the Respondent intentional, bad faith motivation cannot be established, it is rather the Respondent can be traced back to the lack of data management awareness.

4. The Authority - not accepting as legal the video recording on the institutional website and its publication on the YouTube channel - is aware of the fact that it is also followed by the Applicant, about the data management practice common among public education and public education institutions, deep not with guidelines has

with regard to the field of appropriate data management

The Authority was also aware that the Respondent during the procedure cooperated with the Authority.

In this regard, the Authority is in accordance with Article 83 (2) of the General Data Protection Regulation and Infotv. 75/A. based on §, he considered all the circumstances of the case and, in his opinion, it is general the Authority considers it sufficient and proportionate to fulfill the objectives of the data protection regulation the condemnation contained in the general data protection decree, and the Data Management of the Requested regulations and future data management practices in the general data protection regulation transformation according to the contents.

Without disputing the violation committed by the Respondent, as well as its gravity, the Authority evaluates as a positive the effort of the Applicant that during the pandemic - even if not in the usual form either - present it to parents through their children's production the development of their abilities and skills, from which the good faith and good intentions of the Applicant can be clearly established.

In addition to all of this, with regard to the data management practices of the Respondent, the Authority calls on the

attention to increased consideration of the rules of the general data protection regulation, a
to involve a commissioned data protection officer in matters concerning personal data.

The requested obligation is also the General Data Protection Regulations currently in force
transformation in accordance with the decree and its publication on the institutional website, as well as a
detailed information necessary for the legality of future data processing and for objection
to prepare a parental consent providing the right.

The purpose of the Authority's procedure in this case is to effectively contribute to

Created with regard to the management of personal data of requested public education institution(s).

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approach, as well as its practice in accordance with the General Data Protection Regulation
in working out.

Based on the above, the Authority decided in accordance with the provisions of the statutory part.

V. Rules of procedure

The competence of the Authority is set by Infotv. Paragraphs (2) and (2a) of § 38 define it, and its competence is
covers the entire territory of the country.

The Authority issues this decision in addition to the Applicant to the Respondent as the complained data controller
also sends it to

* * *

This decision is based on Art. 80-81. § and Infotv. It is based on paragraph (1) of § 61. The decision is
Acr. Based on § 82, paragraph (1), it becomes final upon its publication.

The rules of the administrative trial are set out in Act I of 2017 on the Administrative Procedure
hereinafter: Kp.) is defined. The Kp. Based on § 12, paragraph (1), by decision of the Authority
the administrative lawsuit against falls within the jurisdiction of the court, the lawsuit is referred to in the Kp. Section 13,
paragraph (3).

Based on point a) subpoint aa), the Metropolitan Court is exclusively competent. The Kp. Section 27 (1)
legal representation in a lawsuit within the jurisdiction of the court based on paragraph b).

obligatory. The Kp. According to paragraph (6) of § 39, the submission of the claim is administrative does not have the effect of postponing the entry into force of the act.

The Kp. According to § 124, paragraph (6), if in the case of a collection of claims permitted by law a some of the claim requests are processed according to the simplified procedure, and the other part according to the general rules should be judged, the court acts according to the general rules.

The Kp. Paragraph (1) of § 29 and, in view of this, Pp. According to § 604, the electronic one is applicable CCXXII of 2015 on the general rules of administration and trust services. law (hereinafter: E-administration tax) According to § 9, paragraph (1), point b), the client's legal representative obliged to maintain electronic contact.

The time and place for filing a claim against the Authority's decision is set by Kp. Section 39 (1) paragraph Information on the possibility of a request to hold a hearing the Kp. It is based on paragraphs (1)-(2) of § 77. The amount of the levy of the administrative lawsuit on the levies solo XCIII of 1990 Act (hereinafter: Itv.) 45/A. Section (1) defines. The from the advance payment of the fee to the Itv. Section 59 (1) and Section 62 (1) h) exempts the party initiating the procedure.

During the procedure, the Authority exceeded Infotv. 60/A. One hundred and fifty days according to paragraph (1) of § administrative deadline, therefore the Ákr. Based on point b) of § 51, he pays ten thousand forints a For applicants - according to the applicants' choice to be indicated in writing - to a bank account by money order or postal order.

Budapest, November 17, 2021.

Dr. Attila Péterfalvi

president

c. professor