

Case number: NAIH-1580-4/2022.

History: NAIH-7997/2021.

Subject: decision

H A T A R O Z A T

The National Data Protection and Freedom of Information Authority (hereinafter: Authority) is [...]

against [...] (hereinafter: Client) represented by a lawyer (hereinafter: Lawyer).

when changing or re-changing the time of use of grave sites - to dispose of the burial place

from authorized persons - with the processing of requested personal data and concerning the requested personal data

in the official data protection procedure initiated ex officio in connection with prior information

makes the following decision.

I.1. The Authority finds that the Customer has violated the rights of natural persons

on the protection of personal data in terms of processing and that such data is free

(EU) 2016/679 on the flow and repeal of Directive 95/46/EC

regulation (hereinafter: general data protection regulation or GDPR)

- Paragraph 2 of Article 5,

- paragraph (1) of Article 12,

- Article 13, paragraph (1), point a), c), and also point a) of paragraph (2) of the same article.

I.2. The Authority obliges the Client to, 15 days after the decision becomes final

within:

proves that he has deleted the personal data processed without a legal basis,

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- modify the data management

information to comply with the GDPR

its provisions, ie

give appropriate

the information on data management should be clearly separated on the website

-

from all other information, where you clearly indicate the person of the data controller,

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about the legal basis and retention period in connection with data management,

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clear, non-contradictory information in connection with data management.

information for each personal data separately

page" personal data requested

the "Data requester

regarding

also give

I.2. fulfillment of the obligations of the Customer from taking the measure

must be submitted in writing within 15 days of the

certify to the Authority. In case of non-fulfillment of the obligation, the Authority shall issue a decision
implementation.

There is no place for an administrative appeal against the decision, but it is subject to notification

Within 30 days with a letter of claim addressed to the Capital Court in a public administrative case

can be attacked. The claim must be submitted to the Authority, electronically¹, which is the case

forwards it to the court together with its documents. The request to hold the hearing must be indicated in the statement of claim

¹ The NAIH_KO1 form is used to initiate the administrative lawsuit: NAIH KO1 form (16.09.2019) The
form can be filled out using the general form filling program (ÁNYK program).

must For those who do not benefit from the full personal tax exemption, the administrative court fee

HUF 30,000, the lawsuit is subject to the right to record the levy. In the proceedings before the Metropolitan Court, the legal
representation is mandatory.

note that the decision is open to appeal

The Authority is called by the Customer

until the expiry of the deadline for filing an action or, in the case of an administrative lawsuit, until the final decision of the court
the data affected by the disputed data management cannot be deleted or destroyed.

I N D O C O L A S

I.

The course of the procedure

I.1. Based on notification NAIH/2020/2836. Article 57 (1) of the General Data Protection Regulation

paragraph f) and on the right to self-determination of information and freedom of information

CXII of 2011 Act (hereinafter: Infotv.) based on point a) of § 38, paragraph (3) May 2020

On the 25th, an investigation procedure was initiated against the Client before the Authority.

I.2. The Authority is Infotv. Based on § 58, paragraph (2) point a) NAIH/2020/2836. started at

closed investigation procedure no. and Infotv. Ex officio data protection based on Section 60 (1).

initiated official proceedings against the Customer.

I.3. The Authority is the Client under NAIH-7997-1/2021. notified in order no

about initiating a data protection procedure, and called him for the first time in order to clarify the facts.

Considering that the Client did not respond to the above order of the Authority, therefore NAIH-7997-

2/2021. in order no. the Authority obliged him to pay a HUF 100,000 procedural fine, and

again invited him to make a statement. In response to this [...]lawyer (hereinafter: Lawyer) 01.2022. 25.

forwarded his statement on (document No. NAIH-1580-1/2022). However, the Lawyer is

he did not prove his right of representation regarding the data protection authority procedure, therefore the Authority

NAIH-1580-2/2022. called for this in order no. The lawyer complied with the Authority

17.02.2022. on the day of

II. Clarification of facts

II.1. History, NAIH/2020/2836. investigation case no

On the basis of notification, against the Customer, Article 57 (1) of the General Data Protection Regulation

point f), as well as Infotv. On the basis of point a) of paragraph (3) of § 38, an investigation procedure was initiated

when changing or re-changing the time of use of grave sites - to dispose of the burial place

from authorized persons - with its data management related to the management of requested personal data in context.

II.1.1. Revealed facts in the investigation case

The facts revealed in the investigation case - based on the Customer's statement - were as follows:

When changing and re-changing the time of use of grave sites, it is done in different ways

Customer:

- When renewing: records incomplete data on the data sheet related to the deceased, if necessary clarifies the existing data. It only requests your personal data from the re-exchanger

Customer, which are necessary to prepare the invoice (name, address, possibly phone number).

- When changing a grave site (new grave site): the Customer fills in the details of the deceased on the data sheet or if someone changes the grave site in advance, the Customer can only record minimal data

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on the data sheet (grave site data, date of redemption). The redeemer's details are required to

can be precisely identified, since in this case a contract is concluded with him. (With this

contract sample related to the Customer, the "Data Requester

tab for personal data

for treatment based on consent" document and the information on data management

forwarded to the Authority as an attachment.)

The Customer must provide the name, address, place and time of birth of the owner of the grave, his mother

manages your name. The place and time of birth, as well as the name of the mother, will only process personal data

Customer, if it is provided voluntarily by the person entitled to use it. The purpose of handling this data is

identification, because a person with the same name is very common at the same address, so later

it cannot be decided who is actually entitled to use the grave.

The Customer referred to Act XLIII of 1999 on cemeteries and burials. law (a

hereinafter: Cemetery Act) to § 18 and § 22. According to § 18 of the Cemetery Act, the funeral

The Customer records the name and address of the person entitled to dispose of the place. The time of data management a

It is adjusted to the duration of the right of disposition established in paragraph (2) of § 18 of the Cemetery Act, which, based on this, cannot be less than 10 years or 25 years.

In addition to the above, the Customer submitted that its data processing complies with GDPR Article 5 (1) c) point ("data saving"), since the personal data requested from those entitled to access are only and they only serve the purpose of the person entitled to have access to the burial place can be identified, preventing the fact that they have the same name and the same address among persons, or before the data controller, who is actually available is entitled, as burials cannot be carried out at the burial place without his authorization. The birth place and time, as well as his mother's name as "extra" personal data fulfill this purpose.

II.1.2. The Authority established the following in the notice:

"[...] Based on paragraphs (1) - (2) of Section 18 of the Cemetery Act, a so-called cemetery operator records, among other things, the personal data of the person entitled to access, in a register book, which is also his name and address.

Section 22 of the Cemetery Act regulates the authority to dispose of the burial place.

The GDPR defines the concept of personal data. Based on this, the name of the natural person, his place and time of birth, as well as his mother's name, phone number and e-mail address are also personal data. In general, it can be said that personal data, its recording, storage, use, its communication is considered data management according to the GDPR, which activities are concerned with his consent, or based on other legal bases listed in Article 6 (1) of the GDPR can be carried out, which may be, among other things, the legitimate interest of the data controller or a provision of law too.

On the basis of the above, Kft., as the legal operator, provides the name and address of the person entitled to use provision, so it is handled on the basis of point c) of Article 6, paragraph (1) of the GDPR.

During data management, the data controller must also comply with the basic principles of the GDPR for data management to hold Among the basic principles, in this case, the principle of "being bound by a goal" and "saving data".

must be highlighted separately.

In the event of re-changing the grave site, the person intending to re-change the grave site must be identified for several purposes

person. One of the purposes of identification is to use a user agreement in connection with the use must be bound, for which identification data is required, and also because based on the Cemetery Act during the re-exchange, certain persons have priority, so the Kft. must identify them for this reason the person intending to change the grave site is required, and for this the Szasz tv. according to identification you can use methods that require the relevant Szaz tv. according to natural identification data. When handling the natural person identifiers of the data subjects for the "purpose

The Kft. must also pay attention to the principles of "constraint" and "data economy".

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the

sign

furthermore

personal identification

("data saving"),

Based on Article 5 (1) point c) of the GDPR, personal data are the purposes of data management

they must be appropriate and relevant and must be necessary

be limited

instead

XX of 1996 on step-by-step identification methods and the use of identification codes. Act § 4

According to paragraph (1), the personal identification of customers is the natural personal identification data

or selected from natural personal identification data, according to the purpose of data management

can be done with the necessary and appropriate amount of data. In this regard, the Authority highlights

that according to his point of view more than two are necessary for identification only in exceptional cases

provision of natural personal identification data, in most cases the name is sufficient

and one of the other three personal identification data, if it is the customer is actually necessary for identification. In this case, therefore, the name, address and place of birth, time request and management is sufficient for the clear identification of the problem indicated by the Kft. This is also supported by the fact that Kft. does not treat this personal with reference to a legitimate interest data, but based on the voluntary consent of the data subjects, which means that if the data subject decides not to make it available to the Kft., in that case it will carry it out as well identification by Kft.

Taking into account the above, according to the Authority's point of view, the data controller is related to data management in case of legitimate interest, data management not based on legal provisions (GDPR Article 6 (1) paragraph c) point), but Article 6 paragraph (1) point f) of the GDPR can be cited as a legal basis, however, in this case, the primacy of the interests of the data controller must be verified by weighing the interests for the purpose of proper identification of those concerned.[...]"

"[...] "Data request page for consent-based management of personal data" attached by Kft.

named document contains a statement that the person concerned consents to to manage your personal data, however, this is misleading, as it is included in the data request form data subject's name, place of birth, time, mother's name, telephone number and e-mail address, however it does not inform which of these is handled by the Kft. based on consent or legislation. THE

II.1. on the basis of the provisions established in point Kft., based on GDPR Article 6 (1) c) manages a the name and address of the authorized person. However, this is not clear either from the Data Requester page or nor from the Data Management Information, as well as his mother's name, phone number and e-mail address data these documents do not contain information regarding [...]"

The Authority NAIH-3543-2/2021. informed the Customer about the matter in his notice no about the facts revealed in connection with it, as well as its findings, and Infotv. Section 56 (1) and on the basis of Article 58 (2) point d) of the GDPR, requested the Customer to stop data processing align with GDPR provisions as follows:

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delete the place of burial are entitled to dispose of personal treated without legal basis

data, i.e. the name, telephone number and e-mail address of the mother of the persons concerned, or subsequently obtain their appropriate prior informed voluntary consent,

- modify your data management information sheet and data request form so that in them

clear information should include the name, address, and date of birth of those entitled to access

the purpose and legal basis of processing your data, your mother's name, phone number and e-mail address regarding.

The deadline for making a statement regarding the Authority's notice expired on April 22, 2021, since according to the receipt, the [...] Lawyer acting as the Client's representative issued the notice

He received it on March 22, 2021.

The Authority found that, despite the above, the Customer did not send what was done

its declaration on its measures to the Authority, therefore the Authority informs Infotv. Section 56 (1)

paragraph and on the basis of Article 58 (2) point d) of the GDPR again called on the Customer to

to comply with the notice and the measures taken to comply with it - NAIH-3543-3/2021. no

for confirmation to the Authority within 30 days of receiving a repeated request.

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According to the receipt, the Customer accepted the repeated notice on July 30, 2021,

nevertheless, the Client did not send his statement to the Authority.

II.1.3. Closing the investigation case, starting a data protection official procedure

Based on the above, it could therefore be established that the Client did not comply with the Authority

notice, and since the Customer did not comply with Article 5 (2) of the General Data Protection Regulation

paragraph and of his obligation under Article 31, therefore the Customer's data management is general

violation of the data protection regulation was suspected, therefore the Authority notified Infotv. Section 58 (2)

based on point a) of paragraph NAIH/2020/2836. closed the investigation procedure started at no

Infotv. On the basis of § 60, paragraph (1), he initiated a data protection official procedure with the complaint ex officio concerning data management.

Infotv. Pursuant to § 71 paragraph (2), the Authority NAIH/2020/2836. investigation started data obtained during the procedure, facts brought to the attention of the official data protection procedure used during the process as recorded in the memo, i.e. the official data protection procedure the following documents of the investigation procedure concerning the case of antecedents:

- NAIH-3543-3/2021.

- NAIH-3543-2/2021.

II.2. Upon the request of the Authority, the Customer provided the following information to the Data Protection Authority in official proceedings:

Those entitled to access the burial place, as data subjects, have the mother's name, phone number and e-mail address.

deletes his email address, he forwarded the related forms according to the Customer's statement.

Despite the Authority's request, however, the cancellation was not confirmed.

The data management information was modified in accordance with the call: clear information

it is stated that the names, addresses and birth data of the persons entitled to the provision are managed by it

Customer, the purpose of this is to exercise a statutory obligation, the legal basis is Article 6 (1) of the GDPR paragraph c) (Section 18 (1)-(2) of the Cemetery Act).

The storage period of personal data was modified by the Customer in such a way that Article 7 (3) of the GDPR

on the basis of paragraph 1, the consent can be withdrawn by the data subject at any time, so the processed is personal the duration of data storage only extends until the withdrawal of consent.

Furthermore, the data management policy has been amended so that personal data

treatment until the consent of the person concerned is withdrawn or until the closed burial place is emptied

(the scope of cases contained in Section 10 (3) of Act XLIII of 1999) covers a period of

The Customer attached the following to his statement:

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"Grave site designation and redemption contract" and "Declaration" sample

"Data request form for consent-based processing of personal data funeral place

in case of redemption/redemption"

- Data management policy (dated: Hajdúböszörmény, January 15, 2022)
- Customer's company statement.

On the first page of the data management information sent in the attachment, the Customer is listed as a company name, therefore, it does not mention the Customer as the data controller. Chapter V § 17 of the data management information deals with the "Funeral service", however, about the reclamation of the grave site in this section, but a there is no mention of later. This section also does not mention the Customer as a data controller, nor exclusively contains provisions related to data management, but actually by legislation fixed contract conditions, procedural rules, and other information via pages.

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Among the sections relating to data management, point (4) refers to Section 10 (1) of the Cemetery Act paragraph, contains a crossed-out section and refers to it without indicating personal data, that "the personal data until the consent is withdrawn or the closed burial place is emptied covers a period of VI of the data management information. chapter has the "Legal on data management based on obligations", and in this context the subheadings below included:

- § 22: Data management for the purpose of fulfilling tax and accounting obligations,
- § 23: Payer data management
- § 24: Data management of documents of permanent value according to the Archives Act.

III. Applicable legal regulations

Based on recital (47) of the GDPR, if the legal basis for data management is the legitimate interest, then a preliminary assessment of interests must be carried out, in the framework of which, among other things, it must be determined

the legitimate interest, the impact on the data subject, and the fact that data processing is necessary, and whether it is proportionate, as well as whether the legitimate interest or the right of the affected party must be considered superior.

Based on Article 2 (1) of the GDPR, the GDPR is required for data management in this case apply.

Infotv. Pursuant to Article 55, paragraph (1), the Authority shall initiate the investigation ex officio or within two months from the date of receipt of the notification

ab) closes the investigation and initiates a data protection official procedure according to § 60.

Infotv. Enforcement of the right to the protection of personal data based on Section 60 (1).

in order to do so, the Authority initiates an official data protection procedure at the request of the data subject and may initiate official data protection proceedings ex officio.

For data management under the scope of the GDPR, Infotv. According to Section 2 (2) of the GDPR, there shall be applied with the additions contained in the specified provisions.

According to GDPR Article 4, point 1, "personal data": identified or identifiable natural any information relating to a person ("data subject"); the natural person who directly or indirectly, in particular an identifier such as name, number, location data, online identifier or physical, physiological, genetic, one or more factors related to your intellectual, economic, cultural or social identity can be identified based on;

According to Article 4, point 2 of the GDPR, "data management": on personal data or data files any action or actions performed by automated or non-automated means total, storage, transformation or change, query, insight, use, communication, transmission, distribution or otherwise by way of making available, coordination or connection, limitation, deletion or destruction;

According to GDPR Article 4, point 7, "data controller": the natural or legal person, public authority body, agency or any other body that determines the purposes of personal data management and determines its assets independently or together with others; if the purposes and means of data management

determined by EU or Member State law, to designate the data controller or the data controller

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

Based on GDPR Article 4, point 11, "data subject's consent": voluntary of the data subject's will,

specific and clear declaration based on adequate information by the data subject

so the collection,

organization,

recording,

segmentation,

6

indicates that

through an unmistakably expressive act

statement or confirmation

gives his consent to the processing of his personal data;

Based on recital (47) of the GDPR, the data controller - including the data controller

to whom the personal data may be disclosed - or the legitimate interest of a third party is a legal basis

can create for data management, provided that the interests, fundamental rights and freedoms of the data subject are not

have priority, taking into account the data subject based on his relationship with the data controller

reasonable expectations. Such a legitimate interest can be discussed, for example, when it is relevant and

there is an appropriate relationship between the data subject and the data controller, for example in cases where

the data subject is a client of the data controller or is employed by it. The existence of a legitimate interest

in order to establish that, it is necessary to carefully examine, among other things, that it is

concerned at the time of collection of personal data and whether it can count in connection with it

reasonable that data management may take place for the given purpose. The interests of the person concerned and

fundamental

rights may take precedence over the interest of the data controller if the personal data is such

it is handled in circumstances where the people involved do not matter

further

for data management. Since it is the task of the legislator to define in legislation that the public authority

bodies, on what legal basis can I process personal data, the legitimate interest of the data controller

a supporting legal basis cannot be used by public authorities in the performance of their duties

for data management. Personal data absolutely for the purpose of fraud prevention

its necessary processing is also considered the legitimate interest of the data controller concerned. Personal data

its handling for the purpose of obtaining direct business can also be considered based on a legitimate interest.

Pursuant to Article 5 (1) point b) of the GDPR, the collection of personal data is only defined,

be done for a clear and legitimate purpose, and they should not be treated in conflict with these purposes

in a negotiable manner; in accordance with Article 89 (1) does not qualify as the original purpose

incompatible for the purpose of archiving in the public interest, scientific and historical research

further data processing for purposes or for statistical purposes ("target binding");

Based on Article 5 (2) of the GDPR, the data controller is responsible for paragraph (1).

for compliance and must be able to demonstrate this compliance ("accountability").

On the basis of Article 6 (1) of the GDPR, personal data is processed only when and to the extent that it is

legal if 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 in which the data subject is one of the parties, or to take steps at the request of the data subject prior to the conclusion of the contract required;

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

d) the data processing is for the vital interests of the data subject or another natural person necessary for its protection;

e) data processing is in the public interest or for the data controller

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 data subject take precedence over these interests or fundamental rights and freedoms that require the protection of personal data, especially if a child is involved.

Pursuant to Article 7 (1) of the GDPR, if data processing is based on consent, it data controller must be able to prove that the data subject's personal data contributed to its treatment.

Based on Article 12 (1) – (4) of the GDPR:

(1) The data controller shall take appropriate measures in order to ensure that the data subject a all the information referred to in Articles 13 and 14 regarding the management of personal data vested public authority driver's license

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and 15-22. and each information according to Article 34 is concise, transparent, comprehensible and easy provide it in an accessible form, clearly and comprehensibly worded, especially the for any information addressed to children. Information in writing or otherwise

- including, where applicable, the electronic route - must be provided. Oral at the request of the person concerned information can also be provided, provided that the identity of the person concerned has been verified in another way.

(2) The data controller facilitates the relevant 15-22. the exercise of his rights according to art. Article 11 (2) in the cases referred to in paragraph 15-22, the data controller is the person concerned. to exercise his rights according to art may not refuse to fulfill your request, unless you prove that the person concerned cannot be identified.

(3) The data controller without undue delay, but in any case from the receipt of the request informs the person concerned within one month of the 15-22. following a request according to art on measures taken. If necessary, taking into account the complexity of the request and the number of applications, this is the deadline

it can be extended by another two months. The deadline

request for an extension by the data controller indicating the reasons for the delay

informs the person concerned within one month of receipt. If the data subject is electronic

submitted the application via e-mail, the information must be provided electronically if possible,

unless the data subject requests otherwise.

(4) If the data controller does not take measures following the data subject's request, without delay, but

informs the person concerned no later than one month from the date of receipt of the request

about the reasons for the failure to take action, as well as about the fact that the person concerned can submit a complaint to a

with a supervisory authority, and can exercise his right to judicial redress.

Based on paragraphs (1)-(4) of Article 13 of the GDPR:

(1) If personal data concerning the data subject is collected from the data subject, the data controller a

obtaining personal data

at the time of making it available to the person concerned

all of the following information:

a) the identity and contact details of the data controller and - if any - the representative of the data controller;

b) contact details of the data protection officer, if any;

c) the purpose of the planned processing of personal data and the legal basis of data processing;

d) in the case of data management based on point f) of paragraph (1) of Article 6, the data controller or

legitimate interests of third parties;

e) where applicable, recipients of personal data, or categories of recipients, if any;

f) where appropriate, the fact that the data controller is a third country or an international organization

wishes for

and compliance of the Commission

the existence or absence of its decision, or in Article 46, Article 47 or Article 49 (1)

in the case of data transfer referred to in the second subparagraph of paragraph

indication of guarantees, as well as the methods for obtaining a copy of them or that

reference to their availability.

(2) In addition to the information mentioned in paragraph (1), the data controller is the personal data at the time of acquisition, in order to ensure fair and transparent data management ensure, informs the data subject of the following additional information:

a) on the period of storage of personal data, or if this is not possible, this period aspects of its definition;

b) the data subject's right to request from the data controller the personal data relating to him access to data, their correction, deletion or restriction of processing, and you can object to the processing of such personal data, as well as to the data portability concerned about his right;

c) based on point a) of Article 6 (1) or point a) of Article 9 (2) in the case of data management, the right to withdraw consent at any time, which it does not affect the legality of data processing carried out on the basis of consent before the withdrawal;

d) on the right to submit a complaint to the supervisory authority;

e) that the provision of personal data is a legal or contractual obligation is a basis or a prerequisite for concluding a contract, and whether the person concerned is obliged to the personal provide data, it can work

failure to provide data;

f) the fact of automated decision-making referred to in paragraphs (1) and (4) of Article 22, including transmit personal data, with their possible consequences and what it's like

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also profiling, and at least in these cases to the applied logic and that comprehensible information regarding the significance of such data management and the data subject

looking at the expected consequences.

(3) If the data controller uses the personal data for a purpose other than the purpose of their collection wishes to carry out data processing, you must inform the data subject before further data processing about this different purpose and about any relevant additional information mentioned in paragraph (2).

(4) Paragraphs (1), (2) and (3) do not apply if and to what extent the person concerned is already involved has the information.

Article 58(2)(b), (d) and (i) of the GDPR: Within the corrective powers of the supervisory authority acting as:

b) condemns the data manager or the data processor if its data management activities violated the provisions of this regulation;

d) instructs the data manager or the data processor that its data management operations - where applicable in a specified manner and specified within a period of time - harmonized by this regulation with its provisions;

i) imposes an administrative fine in accordance with Article 83, depending on the circumstances of the given case in addition to or instead of the measures mentioned in this paragraph;

Infotv. According to § 38, paragraph (2), the Authority is responsible for the protection of personal data, as well as for learning data of public interest and public in the public interest law

control and promotion of its validity, as well as personal data within the European Union

facilitating its free flow. According to paragraph (2a) of the same § in the GDPR, the supervisory tasks and powers established for the authority under the jurisdiction of Hungary in terms of legal entities, as defined in the GDPR and this law, the Authority practice.

Infotv. According to Section 60 (1), enforcement of the right to the protection of personal data in order to do so, the Authority may initiate an official data protection procedure ex officio.

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, you can apply the legal consequences defined in the GDPR.

In the absence of a different provision of the GDPR, the data protection authority procedure initiated upon the request is

CL of 2016 on general administrative regulations. Act (hereinafter: Act)

provisions shall be applied with the deviations specified in Infotv.

The Akr. Based on Section 10 (1), the customer is a natural or legal person, other

organization whose right or legitimate interest is directly affected by the case, to whom

the official register contains data, or who (which) is subject to official control

pulled

The Akr. Based on § 80, subsection (1), the decision is a decision or an order. The authority - the (4)

with the exception specified in paragraph - makes a decision on the merits of the case, during the procedure

made other decisions orders.

Infotv. 75/A. pursuant to § 83 (2)-(6) of the General Data Protection Regulation, the Authority

paragraph

exercises its powers taking into account the principle of proportionality,

especially with the fact that you are in the law 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

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. On the basis of Article 71, paragraph (2), the Authority legally obtained a document during its procedures,

data or other means of proof can be used in other proceedings.

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exercise of right a

to the group of persons who can be placed in a burial place

Based on Section 18 (1) - (2) of the Cemetery Act:

(1) If this law does not provide otherwise, in the cemetery - the exercise of mercy rights

for the purpose of - from the burial places, based on a declaration of acceptance, the deceased to another cemetery,
about placing it in a burial memorial place, as well as in a cemetery or burial memorial place

in the case of outside urn placement, based on the content of the statement of the person obliged to perform the burial

the operator keeps records. The grave store book is used to keep records of grave stores,

the register book is used to register other burial places.

(2) The register book contains the following data: current number, burial (urn location

or the date of the scattering of the ashes), the natural identification data of the deceased, the latest

the address of his place of residence, the date of death, the number of the grave marker, row of graves, burial place,

as well as the name and address of the undertaker or the person authorized to dispose of the burial place,

and tombstone entries.

Based on § 22 of the Cemetery Act:

(1) Above the burial place - the burial place belonging to the national cemetery, the heroic burial place,

and 40/I. According to paragraph (5) of §, funerals subject to the provisions of the religious community

with the exception of space - the person who redeemed it has it. In case of several heirs with the same legal status -

in the absence of their agreement to the contrary - the right of disposal can only be exercised jointly.

(2) The provision

it covers defining, erecting a grave monument, grave marker and taking care of all of these.

(3) In the renewal of the burial place, the undertaker has priority, and in the event of his death, the

his next-of-kin in order of legal succession.

(4) The duration of the right of disposal over the burial place is determined by legislation, which

in the case of a cremation funeral, it cannot be less than 10 years, in other cases it cannot

less than 25 years.

About the identification methods replacing the personal identification mark and the use of identification codes

solo XX of 1996 Act (hereinafter: Szasz tv.) on the basis of Section 4, Paragraphs (1) and (4):

(1) the citizen

a) with natural personal identification data,

b) selected from natural personal identification data, according to the purpose of data management

you have the necessary and appropriate amount of data

c) in the case specified by law, with his family name and first name, as well as in this law

with a specific identification code

(hereinafter together: identification methods) must be identified.

(4) Natural personal identification data is the citizen

a) surname and surname, surname and surname at birth,

b) place of birth,

c) date of birth and

d) mother's family name and surname at birth.

ARC. Decision of the Authority

IV.1. The Customer's activity and quality of data management

According to the data of the company register, the Customer's main activity is "Funerals, supplementary to funerals service".

The Authority established that in the case concerned with the investigated data management, the above mentioned in connection with its activities, the Customer independently determines the purpose and means of data management determines, therefore, based on Article 4, point 7 of the GDPR, it is an independent data controller. Neither does the Customer disputed during the procedure.

IV.2. Scope of processed personal data

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According to the Customer's statement in the investigation procedure, the Customer is the owner of the cemetery (= ordering party's) name, address, place and time of birth, mother's name, and in some cases handles phone number data.

Based on the GDPR, the data subject's name, mother's name, birth details, permanent address and delivery address, your phone number and e-mail address are also personal data. You have been identified

identifiable natural person.

IV.2.1. Management of the name, telephone number and e-mail address of the mother of data subjects

In the official data protection procedure, the Customer stated as follows: "the mother of the persons concerned we will delete your name, phone number and e-mail address", however, he did not substantiate this with anything, furthermore, it cannot be read from his statement when he deletes it, despite the fact that the Authority in the investigation procedure prior to the data protection official procedure, he was asked to delete the the personal data of those entitled to dispose of a burial place, which is managed without a legal basis, i.e mother's name, phone number and e-mail address or obtain the appropriate one afterwards their voluntary consent based on prior information. By doing so, the Customer violated the GDPR

The principle of accountability according to Article 5 (2).

Due to the above, the Authority obliges the Client to provide documents - about deletion with protocol, screen save - proves that personal data was handled without a legal basis deleted it.

IV.3. Legal basis

In general, it can be said that personal data, its recording, storage, use, its communication is considered data management according to the GDPR, which activities are concerned with his consent, or based on other legal bases listed in Article 6 (1) of the GDPR can be done.

Based on the Authority's determination, the Customer shall provide the name and address of the person entitled to the disposal, such as

operating legal provision, so it is managed based on point c) of Article 6 (1) of the GDPR.

Additional personal data managed by the Customer - telephone number, e-mail address, identification data - point c) of Article 6 (1) of the GDPR cannot be invoked, in those cases - in case of adequate prior information - point a) of Article 6 (1) of the GDPR or -

After carrying out an interest assessment in accordance with paragraph (47) of the GDPR - Article 6 (1) of the GDPR

paragraph f) can be accepted as a legal basis.

IV.4. The name, address, place and time of birth of the persons concerned and the related transparency information

If the personal data concerning the data subject is collected from the data subject, the data controller has a fair and transparent data management at the time of obtaining personal data in order to provide the data subjects with detailed information in Article 13 of the GDPR about what you wrote.

Recital (39) of the GDPR and Article 5 (1) point a) of the GDPR stipulate that the information on data management must be transparent

be, which in an appropriate manner

must be made available to those concerned (e.g. on the website of the data controller, in customer premises, etc.), taking into account the possible additional conditions of the chosen legal bases.

Article 12 of the GDPR defines the formal requirements that must be observed

to be the data controllers when they enable and ensure the exercise of data subjects' rights, including prior information of those concerned. Based on this, the data controllers can manage personal data all relevant information in a concise, transparent, understandable and easily accessible form,

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with regard to the chosen one

(e.g. on the website of the data controller)

they must provide clearly and comprehensibly. This must be made available to those concerned in an appropriate manner for

possible legal bases

additional conditions.

Adopted by the Data Protection Working Group established on the basis of Article 29 of Directive 95/46/EC, a Guidelines on transparency facilitating the application and interpretation of GDPR (a hereinafter: Guidelines) to the data controllers as required by the GDPR

they must provide it in a "concise, transparent, comprehensible and easily accessible" manner.

According to the Guidelines, "[...] This information must be clearly separated from other, no from information related to data protection, for example from contractual provisions or from the general conditions of use.[...]", "[...] The "concise and transparent" provided to those concerned information and communication requirement means that the information in order to avoid overload, data controllers must proceed in an efficient and concise manner information/communication.[...]" (Point 8 of the Guidelines)

Point 9 of the Guidelines expressly states that "[...] For "comprehensible" information relevant requirement means that the information to an average member of the target audience must also be able to interpret. Comprehensibility is closely related to clear and understandable language with the relevant requirement. The responsible data controller has certain knowledge about the people about whom you collect data and you can use this knowledge to determine what a particular audience is likely to understand [...]"

According to the Authority's point of view, the Customer violated Article 12 (1) of the GDPR with his data management paragraph, as well as points a), c) of Article 13 (1) of the GDPR, and (2) of the same article paragraph a) as it does not provide adequate information regarding the management of the processed personal data in connection with the following:

-

conditions and procedural rules

V.-

VI. chapters do not provide any information at all, because chapter V, whose title is that "Individual activities affected by data management and the scope of the managed data", of this does not actually provide any information about data management, rather contractual contain. With "Funeral Service". related part mostly contains contractual conditions and procedural rules.

These provisions should be described in a separate document, as it is transparent

this does not meet the requirement for information. Not this part at all anyway

lists the processed personal data and does not provide information on the legal basis, a

personal data processed on the basis of Article 6(1)(b) and (c) of the GDPR regarding the retention period

neither in the case of data.

- The VI. and in chapter, which is specifically titled "Based on legal obligation

data management" is not referred to at all by the Cemetery Act, which stipulates mandatory data management

for "payer" data management, tax and accounting

to its provisions, since there only

with obligations

concluded by reference to the law

referred to data management.

for the purpose of fulfillment, the Archives

- The person of the data controller is not clearly indicated in relation to the Customer, such as

"company name" is referred to on the first page of the prospectus.

In addition to the above, the Authority also established that the "Data Request Form" attached by the Customer

For the processing of personal data based on consent in the event of burial place renewal/redemption"

is also contradictory, so it contains inadequate information, since the name of the person concerned is his birth name

with regard to place, time and address, it indicates the consent of the data subject as the legal basis, its

despite the fact that the legal basis for data management in relation to these personal data is Article 6 of the GDPR

Paragraph (1) c) In fact, it is not even clear that the Customer consents

does it process personal data on the basis of, since it referred to the Authority that it is deleting them, and it is

no clear information on this can be found in its data management information, namely the

In the case of personal data to be processed on the basis of Article 6 (1) point a) of the GDPR, it is appropriate

"[...] Failure to provide data

prior informed consent is required under Article 4, Clause 11 of the GDPR. This

and the prior, appropriate information is clearly from the attached data management information sheet

missing In addition, on the data request page, the Customer in the "Information about the rights of the data subject" section

consequence:

refers to that

came.", which is absolutely incorrect, since

employment contract

funeral service

it is about using it, so in this case there is no employment contract.

Due to the above, a violation of Article 12 (1) of the GDPR can also be established.

IV.5. Legal consequences

IV.5.1. The Authority condemns the Customer based on Article 58 (2) point b) of the GDPR,

because it violated the GDPR

possible

- Paragraph 2 of Article 5,

- paragraph (1) of Article 12,

- Article 13, paragraph (1), point a), c), and also point a) of paragraph (2) of the same article.

IV.5.2. Based on Article 58 (2) point c) of the GDPR, the Authority instructs the Client to

to confirm the deletion of personal data stored without, and with the provisions of the GDPR

to publish a corresponding data management information as follows:

- on the website, the information should be clearly separated from all other information,

where clearly indicate the person of the data controller,

- provide appropriate information for each personal data separately with your data management

in connection with the legal basis and the retention period,

- also provide clear information regarding the personal data requested on the "Data request page",

non-contradictory information in connection with data management.

IV.5.3. The Authority ex officio examined whether data protection against the Customer is justified

imposition of a fine. In this context, the Authority has Article 83 (2) of the GDPR and Infotv.75/A. §-the

on the basis of ex officio considered all the circumstances of the case and the violation discovered during the present procedure

does not consider it necessary to impose a fine, given that the Customer GDPR

the violation of the law was established for the first time.

A. Other questions

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

The Akr. § 112, § 116, paragraph (1) and § 114, paragraph (1)

there is room for legal remedy against the decision and the order through a public administrative lawsuit.

* * *

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. § 13, subsection (3) a)

Based on point aa), the Metropolitan Court is exclusively competent. The Kp. Section 27 (1)

legal representation is mandatory in a lawsuit falling under the jurisdiction of the court based on paragraph b).

The Kp. According to paragraph (6) of § 39, the submission of a claim is an administrative act

does not have the effect of postponing its entry into force.

The Kp. Paragraph (1) of § 29 and, in view of this, Pp. According to § 604, it is applicable

of 2015 on the general rules of electronic administration and trust services

CCXXII. Act (hereinafter: E-Administration Act) according to Section 9 (1) point b) the customer

legal representative is obliged to maintain electronic contact.

The place and time of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). THE information on the possibility of a request to hold a hearing in Kp. Paragraphs (1) - (2) of § 77 is based on. The amount of the fee for the administrative lawsuit is determined by Act XCIII of 1990 on fees. law (hereinafter: Itv.) 45/A. Section (1) defines. It is from the advance payment of the fee Itv. Paragraph (1) of § 59 and point h) of § 62 (1) exempt the party initiating the procedure.

If the Customer does not adequately certify the fulfillment of the prescribed obligation, the Authority shall considers that the obligation has not been fulfilled within the deadline. The Akr. According to § 132, if a the obligee has not complied with the obligation contained in the final decision of the authority, it can be enforced. The Authority's decision in Art. According to § 82, paragraph (1), it becomes final with the communication. The Akr. Pursuant to § 133, enforcement - unless otherwise provided by law or government decree - ordered by the decision-making authority. The Akr. Pursuant to § 134, the execution - if it is a law, government decree or, in the case of municipal authority, a local government decree otherwise does not have - the state tax authority undertakes. Infotv. Based on § 60, paragraph (7) a

In the authority's decision reserved, to perform a specific act, defined the decision regarding the obligation to conduct, tolerate or stop its implementation is undertaken by the Authority.

dated: Budapest, according to the electronic signature

Dr. Attila Péterfalvi

president

c. professor