

Case number: NAIH-1743- /2021

Subject: approving the request

decision

H A T A R O Z A T

Before the National Data Protection and Freedom of Information Authority (hereinafter: Authority) [...]

in view of the applicant's (hereinafter: Applicant's) minor, represented by: [...] (residential address:

[...], hereinafter: Representative) by [...] (residential address: [...]) (hereinafter: Applicant).

submitted - received by the Authority on January 28, 2021 - subject to unauthorized data processing

In the official data protection procedure initiated following your request, the Authority makes the following decisions:

I.

The Authority grants the Applicant's request and

1) condemns the Applicant, considering that the Applicant's personal data and

special personal data of natural persons personal data management

regarding its protection and the free flow of such data, as well as a

95/46/EC

Regulation (EU) 2016/679 on the repeal of the Directive (a

hereinafter: GDPR) fair data management according to Article 5 (1) point a), a

GDPR Article 5 (1) point b) principle of purpose limitation and Article 5 (1)

the principle of data saving according to point c) of the GDPR, as well as Article 6 and Article 9 of the GDPR

breached and handled it unlawfully when the data to third parties

made available;

2) prohibits the Applicant from recording with third parties - either online or

communicating in another way;

3).

to transfer, and thus the personal and special personal data of the Applicant

have been communicated, notify of the need to delete the recording. It is for the Applicant

must credibly prove the taking of the measure to the Authority, this decision

within 30 days after it becomes final.

II.

The Authority ex officio dismissed the Petitioner due to the violations established in point I

in warning

favours

There is no place for administrative appeal against this decision, but from the announcement

within 30 days with a claim addressed to the Metropolitan Court in a public administrative case

can be attacked. The letter of claim must be submitted electronically to the Authority in charge of the case

forwards it to the court together with its documents. Those who do not benefit from the full personal tax exemption

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for him, the fee for the administrative lawsuit is HUF 30,000, the lawsuit is subject to the right to record the fee. The capital city

Legal representation is mandatory in court proceedings.

I N D O C O L A S

I. Procedure of the procedure

(1)

On behalf of the Applicant, the Representative sent a letter to the Authority on January 28

submitted a request for a data protection official procedure against the Application,

in which he alleged that the Respondent secretly made and then a Facebook

group posted a recording of a conversation in which the Applicant was personal and

information classified as his special data was disclosed.

(2)

(3)

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The Applicant to investigate the case, to reveal the violation, to protect the Respondent from the violation

to prohibit, as well as against the Application a

legal consequences

requested the Authority to apply.

legal

The Authority dated March 5, 2021, NAIH-1743-2/2021. the Applicant in order no

invited him to fill in the gaps in his application, to which the Applicant submitted on March 17, 2021

In the letter sent to the authority and the annexes attached to it, it is partially sufficient

deed.

The Authority found that the detail of the screenshot is not suitable for the objected to

to prove data management, therefore NAIH-1743-4/2021 dated April 14, 2021. no

called the Representative in his order that within 8 days of receiving the order

send the Authority a screenshot confirming the sharing of the recording.

The Applicant, after receiving the above order on April 16, 2021, on April 26

with the data medium attached to the letter sent to the post office and received by the Authority on April 27

complied with the provisions of the Authority's order.

Authority dated May 13, 2021, NAIH-1743-6/2021. in order no

You are requested to give it within fifteen days of receiving the order

information about the purpose and legal basis of sharing the recording in the Facebook group,

and about who in the process got to know the Applicant personally and specifically

your personal data, and whether the recording was also sent by e-mail,

to whom, for what purpose and with what legal basis.

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(7)

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(9)

NAIH-1743-6/2021 was sent by the Applicant on June 2, 2021. contained in order no

his answers to questions, in connection with which the Authority issued NAIH-1743-9/2021.

to the clarification requested in order no. on June 14, 2021 via e-paper service

he complied in his letter.

On June 25, 2021, the Authority notified the Requested and the Applicant that the

in the official data protection procedure, the proof procedure has been completed and brought to their attention

the right to inspect documents, as well as the right to present motions for further evidence

for the possibility of its exercise.

On July 2, 2021, the Representative indicated that he wished to exercise his right to inspect documents.

The Authority is NAIH-1743-14/2021. submitted by the Representative in order no

limited to a document inspection request, personal data that cannot be identified by him

agreed to covering it up and sent the gender to the given postal address from the Applicant

copies of documents originating from and not sent to the Applicant.

(10) The Authority has not received any further document inspection requests or evidence motions.

II. Fact

(11) In the application received by the Authority on January 28, 2021, the Applicant objected that.

discussion of the problem related to the Applicant - indicated by the kindergarten manager

for this purpose, a meeting was organized in which he participated alongside the Representative and the kindergarten

manager

also bought by the Applicant, who is the mother of one of the classmates in the kindergarten. Included in the application

in secret

according to He requested the first 46 minutes of the meeting with his mobile phone

made a video recording which

can be considered since a

admission

when it was made, the device was in his pocket, so it only recorded sound. The applicant presented

that the Applicant "the audio recording was uploaded to the Facebook social page by one of the kindergartens for parents

to the page of the created group, i.e. to the public

made directly accessible,". According to the application, the applicant is on the recording

information that is classified as personal and special personal data is disclosed, to this

despite the fact that the Respondent did not ask the Representative about the person of the Applicant - i.e.

The applicant's legal representative - his consent to the recording of the audio, and

nor the making of it

about its use, i.e. to the public

did not inform the Representative of its decision.

more like a sound recording

of the fact, nor of it

(12) According to the Applicant's point of view, the Respondent has violated informational self-determination

CXII of 2011 on law and freedom of information. Act (hereinafter: Infotv.)

§ 4, paragraph (1), § 5, paragraph (1) point b), paragraph (2), point a) and also § 14

point a), therefore its data processing is illegal. The Applicant asked the Authority to investigate

open the case, reveal the violation and prohibit the offending data controller from further violations,

and apply the legal consequences against him.

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(13) The Applicant attached to his application a piece of data carrier on which it can be found

one, containing visual representation only in its first seconds, but natural  
a video recording that does not depict persons, on which the conversation described in the application  
can be heard. There are also two Word documents on the flash drive, one of which  
it is assumed that there was an online conversation between the Applicant and the Respondent, while a  
on the other hand, probably between the parents of the children attending the kindergarten group concerned  
online conversation was recorded in typed form.

(14) In response to the Authority's request to fill in the gaps, the Representative clarified his request, according to which  
violates the handling of your child's personal and special personal data, as well as  
provided the personal data requested by the Authority and the Facebook referenced in the request  
group information. The objectionable recording was attached to the letter  
detail of the screen save aimed at verifying its publication, as well as the [...] Screenshot of a Facebook group.

(15) By sending the Applicant another flash drive - with the screenshots on it  
- confirmed that the recording in question is from a Facebook group used by several people  
its publication, its date and the person who published it, as well as the fact that a  
group, the discourse related to the conversation heard on the recording can be read.

(16) At the request of the Authority, the Respondent submitted that the audio material on January 21, 2021  
was made, the reason for which was that such a conversation also had professional reasons  
are said, which it is difficult for him to recall later. The Respondent explained that it was not  
bad intentions, and it was during this conversation that it became clear to him that the children  
are in danger, and neither the head of the kindergarten nor the representative want anything worthwhile  
take steps. The Respondent also submitted that, as far as he knows, there is one other than him  
neither parent was aware that "he has a serious neurological problem  
a small child attends the group", and scared the children. According to him, this is why he published the  
audio material on January 22, 2021 at 5:12 p.m. by the parents of kindergarten students - a total of 23 people -  
in the messenger group used by He emphasized that his goal was to inform, and

that he realized that it shouldn't have happened that way when the kindergarten manager a wrote him at 10:07 a.m. on the day of publication to remove the recording because he did not respond to it. The Respondent therefore removed the recording from the group at 10:15 a.m. THE According to the respondent, since many parents are working at the time of publication and the recording was available for a very short time, "almost no one could listen to it." THE Based on his statement, the applicant immediately deleted the recording from the conversation. THE The applicant also quoted the conversations that took place in the group, as well as his statement he also attached the screenshots to prove this.

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(17) To the Authority's question regarding the legal basis for sending the recording by e-mail in response, the Respondent admitted that he had no right to send the recording to the person who he asked and emphasized again that he did not do it with harmful intentions, but for the sake of the children. He also submitted that he only sent the recording to the parents who requested it.

(18) In his clarified statement, the Respondent named the three persons to whom a recording was sent by e-mail.

(19) Based on the available information, the Authority established that the application can be heard on the recording that is the subject of the interview between the Representative, the Applicant and the kindergarten manager talk.

(20) During the conversation, among other things, the following concerning the Applicant will be said information: your name ([...]), your place of residence, the fact that you do not belong to the given kindergarten district, as well as the finding concerning the particularly sensitive area of the private sector, according to which a there have been three recent deaths in his family. It can also be heard on the recording a lot of information that describes the Applicant's behavior and behavioral problems is meant to be presented, be it the mention of a specific conflict or the problem duration of its existence.

(21) In addition, on the audio recording, the following regarding the Applicant's state of health information can also be heard: they go to [...] with him; takes "[...] active" medication; [...] will have an examination (due to a [...] problem); goes to development twice a week, as well as the related, statements indicating the fact of illness (e.g. addressed by the Applicant to the Representative statement: "I don't see in you that you would admit that [...]").

(22) The recording was published in a chat group of which the Applicant is a member parents of children attending the kindergarten group also visited. To post a link to the recording the conversation heard on the recording took place the day after, i.e. January 22, 2021, and the was also deleted from the messenger group on the same day.

### III. Applicable legislation

Article 2 (1) of the GDPR: This regulation shall be applied in the personal data section or for handling it in an automated manner as a whole, as well as those personal data a for processing in a non-automated manner, which are part of a registration system form or which are intended to be part of a registration system.

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GDPR Article 2 (2) point c: "This regulation does not apply to personal data for processing, if it is used by natural persons exclusively for their personal or home activities carried out in the framework of;"

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

"data management": personal data or data files

Article 4 point 2 GDPR:



any operation or set of operations performed in an automated or non-automated manner,  
such as the collection, recording, organization, segmentation, storage, transformation or change, query,  
access, use, communication, transmission, distribution or other means  
by item, coordination or connection, restriction, deletion or destruction.

GDPR Article 4, Clause 15: ""health data": physical or psychological data of a natural person  
personal data regarding your health status, including for the natural person  
also data relating to provided health services that provide information  
carries about the state of health of the natural person;"

Article 5 (1) point a) of the GDPR: "the processing of personal data lawfully and  
must be carried out fairly and in a transparent manner for the data subject ("legality,  
fair procedure and transparency");"

GDPR Article 5 (1) point b): "the collection of personal data is only for specific,  
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 with the purpose of archiving in the public interest, scientific and historical research  
further data processing for a purpose or for statistical purposes ("target binding");"

Article 5 (1) point c) of the GDPR: personal data is defined as "the purposes of data management  
they must be appropriate and relevant and must be necessary  
be limited ("data saving");"

Article 6 (1) of the GDPR: Processing of personal data only when and to the extent that  
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;

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d) the data processing is for the vital interests of the data subject or another natural person

necessary for its protection;

e) the data management is in the public interest or for the exercise of public authority delegated to the data controller

necessary for the execution of the task carried out in the context of;

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.

Point f) of the first subparagraph cannot be applied by public authorities in the performance of their duties

for data management.

(3) The legal basis for data management according to points c) and e) of paragraph (1) shall be the following

to determine:

a) EU law, or

b) the law of the Member State to which the data controller falls.

The purpose of data management must be determined with reference to this legal basis, and paragraph (1) e)

with regard to the data management referred to in point, it must be necessary for some public interest

or a task performed in the context of the exercise of a public authority delegated to the data controller

for its execution. This legal basis may include the application of the rules contained in this regulation

adjusting provisions, including those governing the legality of data management by the data controller

general conditions, the type of data subject to data management, the data subjects, those a

legal entities with which personal data can be disclosed, as well as the purposes of such data disclosure, that is

restrictions on the purpose of data management, the duration of data storage and the data management

operations, as well as other data management procedures, such as legal and fair data management

measures necessary to ensure it, including IX. other specified in chapter

regarding specific data management situations. EU or Member State law must have a public interest purpose serve and must be proportionate to the legitimate aim to be achieved.

GDPR Article 9:

Management of special categories of personal data

(1) On racial or ethnic origin, political opinion, religious or worldview conviction

or personal data referring to trade union membership, as well as genetic data, natural

biometric data aimed at unique identification of persons, health data and

personal regarding the sexual life or sexual orientation of natural persons

processing of data is prohibited. \*

(2) Subsection (1) does not apply in the event that:

a) the data subject has given his express consent to one or more specific personal data

purposes, unless EU or Member State law provides that (1)

the prohibition referred to in paragraph cannot be lifted with the consent of the data subject;

b) data management for the data controller or the data subject, employment and social

fulfillment of obligations arising from legal regulations governing safety and social protection

and in order to exercise your specific rights, it is necessary if it protects the basic rights and interests of the data subject

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you are physical

legal incapacity

EU or Member State law that also has adequate guarantees, or according to Member State law

a collective agreement makes this possible;

c) data management to protect the vital interests of the data subject or other natural person

necessary if it is concerned

due to not being able to a

give your consent;

d) the data management is a foundation with political, ideological, religious or trade union purposes,

association or any other non-profit organization is legal under appropriate guarantees

takes place within the framework of its activities, on the condition that data management is carried out exclusively by such an organization

applies to current or former members, or to persons who are regular with the organization

are related to the goals of the organization and that the personal data is

they are not made accessible to persons outside the organization without the consent of the persons concerned for;

e) the data management refers to personal data that the data subject expressly requests made public;

f) data processing is necessary for the establishment, enforcement and protection of legal claims, or when the courts are acting in their judicial capacity; \*

g) data management is necessary due to significant public interest, based on EU law or Member State law, which proportionate to the goal to be achieved, respects the right to the protection of personal data adequate and prescribes specific measures;

h) data processing for preventive health or occupational health purposes, a assessment of the employee's ability to work, establishing a medical diagnosis, health or provision of social care or treatment or health or social care systems and services

you are by law

pursuant to a contract concluded with a healthcare professional, and also referred to in paragraph (3). subject to terms and guarantees;

i) data management is necessary for reasons of public interest in the field of public health, such as a protection against serious health threats that spread across borders or health care, the high quality and safety of medicines and medical devices provision and is made on the basis of EU or Member State law that is appropriate and specific

provides for measures for guarantees protecting the rights and freedoms of the data subject, and in particular the regarding professional confidentiality;

j) data management in accordance with Article 89 (1) for the purpose of archiving in the public interest, an EU country that is necessary for scientific and historical research purposes or for statistical purposes based on member state law, which is proportionate to the goal to be achieved, respects personal data the essential content of the right to protection, and the basic rights and interests of the data subject prescribes appropriate and specific measures to ensure it;

(3) The personal data referred to in paragraph (1) may be used in the case of paragraph (2) h) to handle for the purposes mentioned in point, if this data is handled by a specialist or such is carried out under the responsibility of a professional who is authorized to do so under EU or member state law professional confidentiality defined in the rules established by the competent Member State bodies is under an obligation, or by another person who is also a member of the EU or a member state law, and in the rules established by the competent Member State bodies is subject to a specified confidentiality obligation.

necessary for the purpose of management, you are EU member state

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including data management

(4) Member States may keep additional conditions, including restrictions, in force, or may lead to the handling of genetic data, biometric data and health data regarding.

Article 58 (2) of the GDPR: Acting within the corrective powers of the supervisory authority:

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

f) temporarily or permanently restricts data management, also its prohibition;

g) in accordance with the provisions of Articles 16, 17 and 18, orders personal data

rectification or deletion, or restriction of data processing, as well as Article 17 (2)

and in accordance with Article 19, orders the notification of those recipients,

with whom or to which the personal data was disclosed;

GDPR Article 77 Paragraph 1: Without prejudice to other administrative or judicial remedies,

all data subjects have the right to complain to a supervisory authority – in particular a

according to your usual place of residence, your place of work or the place of the alleged infringement

in a Member State - if, according to the judgment of the data subject, the processing of personal data relating to him

violates this regulation.

Infotv. Section 2 (2): Personal data according to (EU) 2016/679 of the European Parliament and

Council Regulation (hereinafter: general data protection regulation) for its treatment

general data protection decree III-V. and VI/A. In Chapter, as well as Section 3, 3., 4., 6., 11., 12.,

13., 16., 17., 21., 23-24. point, paragraph (5) of § 4, § 5 (3)-(5), (7) and (8)

paragraph, paragraph (2) of § 13, § 23, § 25, § 25/G. § (3), (4) and (6)

in paragraph 25/H. in paragraph (2) of § 25/M. in paragraph (2) of § 25/N. § 51/A.

in paragraph (1) of § 52-54. §, § 55 (1)-(2), § 56-60. § 60/A. §

(1)-(3) and (6), points a) and c) of § 61 § (1), § 61 (2) and (3)

paragraph, paragraph (4) point b) and paragraphs (6)-(10), paragraphs 62-71. in §, in § 72,

in paragraphs (1)-(5) of § 75, 75/A. § and with the additions specified in Annex 1

should be used.

Infotv. Validation of the right to the protection of personal data based on § 60, paragraph (1).

in order to do so, the Authority will initiate a data protection official procedure at the request of the data subject.

CL of 2016 on the general administrative procedure for the official data protection procedure.

law (a

Defined in Infotv

with additions and deviations according to the general data protection regulation.

hereinafter: Ákr.) rules shall be applied

Infotv. 75/A. §: The Authority is contained in Article 83, Paragraphs (2)-(6) of the General Data Protection Regulation exercises its powers taking into account the principle of proportionality, in particular by a relating to the processing of personal data - by law or by the European Union as a mandatory law in the case of the first violation of the regulations specified in the act, the violation

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for its remedy - in accordance with Article 58 of the General Data Protection Regulation - primarily the takes action with the warning of a data controller or data processor.

ARC. Decision

(23) Data management by recording consisted of two different data management operations. The first action was to record the recording, while the second action was to communicate the recording, and the latter was realized in two different forms when the Applicant was first in the group shared the recording and then emailed his claim - and the attached evidence - according to three persons. Both operations, i.e. recording and sharing the recording is considered data processing based on the definition according to Article 4, point 2 of the GDPR.

IV.1 Data management related to the communication of the recording

(24) The Authority established that personal data according to Article 4, point 1 of the GDPR the following information about the Applicant on the audio recording is considered: a his name ([...]), his place of residence, the fact that he does not belong to the given kindergarten district; in his family a three recent deaths happened; the Applicant's conduct, behavioral information about your problem.

(25) It was also established that the health data according to Article 4, point 15 of the GDPR as data - and therefore special personal based on Article 9 (1) of the GDPR as data - the statements made about the Applicant according to [...] they accompany him, he takes "[...]" medicine, [...] he will have an examination [...] he has problems, twice a week

time to development, as well as that the indications that he is ill.

(26) The Respondent indicated different data management purposes for the two data management operations yes. Based on the Applicant's statement, the recording was made for the purpose of a

can later recall what was said in the conversation, and the communication will be shared with the other parents - i.e. it was made for the purpose of informing the recipients of the communication.

(27) Regarding the recording of the recording, the Authority found that as long as

serves a purely private purpose, i.e. as requested by the Respondent

also referred to, a

helps the Applicant to recall what was said during the conversation, until the recording

its preparation belongs to the so-called "household data management" category, and the GDPR - a

Pursuant to Article 2(2)(c) - does not apply to it. Besides, however, no

it can be ignored that the making of the recording in secret - subject to the

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discussion

acceptable.

to the sensitivity of its subject matter – ethically worrisome and not

(28) However, at the moment when the Respondent is between him and the Representative, as well as that

a recording containing a conversation between the kindergarten manager for additional people

made accessible - thereby making the Applicant personal and special

personal data - the private nature of the recording, i.e. also by the Respondent

emphasized, exclusively self-interest has ceased. Consequently, the position of the Authority

according to the sharing of the recording goes beyond the household, which is an exception to the application of the GDPR in terms of data management.

main

(29) The Authority is the Respondent regarding the sharing of the recording as a data management operation

purpose indicated by - that is, informing the other parents about the Applicant



about what was said in the conversation - he established the following in relation to it. THE

conversation a

with the participation of two people involved in the topic, the kindergarten manager

with the help of, so between three people, it took place in a closed circle, and although others were spoken

conflicts and general problems related to children

also, starting point a

There was a conflict between the Respondent's child and the Applicant. The Applicant himself is also a

stated as follows in the attached messenger conversation: "Monday afternoon, a

after another incident with my son, I filed another parental complaint with the head of the kindergarten."

[...]

we sat down together with the head of the kindergarten

to discuss things." According to the intention of the Representative, his child and the Applicant

in a conversation between the two of them for the purpose of settling the conflict between their children

informing all parents about what was said cannot be considered legal according to the GDPR

goal.

at the initiative of [...]

"It's yesterday

(30) In addition to the illegality of the stated purpose, the Authority established that if the other

a verbal conversation with parents about general, essential information that concerns them exclusively

within the framework of the GDPR, it does not fall within the scope of the GDPR due to its domestic nature

according to data management, so it cannot be objected from a data protection point of view.

(31) However, sharing the recording in this way was an unnecessary intervention

into the private sphere of the person concerned, i.e. the Applicant, with the fact that it is personal and special

your personal data has thus become accessible to several people.

(32) In addition to the above, the communication made on the online interface is not, according to the Authority's point of view

is an appropriate way of conveying information in this case, as it carries within itself

the possibility and danger that the link - or the file in the case of sending by e-mail -

in possession, the addressee may also forward the recording to other persons.

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(33) In view of the above, the Respondent violated Article 5 of the GDPR by sharing the recording.

(1) b) and the GDPR Article 5 (1)

the principle of data saving contained in point c) of paragraph

IV.2 Legal basis for data management

(34)

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THE

based on the above, a third of the Applicant's personal data to the Respondent

activities that result in its sharing with other persons fall under the scope of the GDPR

belongs, in which case the condition for the legality of data management is Article 6 of the GDPR

existence of a legal basis regulated in paragraph (1).

In addition, the handling of special personal data is generally prohibited. The special one

personal data can only be legally processed if in Article 6 (1) of the GDPR

in addition to a specific legal basis, also a circumstance according to Article 9 (2) of the GDPR

exists, which allows an exception to the prohibition of processing special data.

The Respondent did not have the Applicant's consent to the data management. THE

The Authority called on the Applicant to indicate the data management carried out by it

legal basis, however, the Respondent did not comply with this during the procedure. To the Authority

he declared, "I had no right to send the recording to the person who asked for it, just like that

I know.". The Applicant,

with the consent statement of a legal representative

factually did not provide, nor did the Respondent prove the existence of any other legal grounds.

and the

Taking into account the specific circumstances of the case, the Authority found that both

The processing of the applicant's personal data and special personal data is a legal basis

it happened without, therefore the Respondent violated Article 6 (1) and Article 9 of the GDPR.

In view of the above, the Authority granted the Applicant's request, Article 58 (2) of the GDPR

on the basis of paragraph f), the Respondent was prohibited from recording audio by third parties

transmission to.

#### IV.3. The principle of fair data management

##### (39) Data management

fairness is the principle determining data management, the data subject

a requirement to respect your privacy and human dignity. THE

according to the principle of fair data management, the data subject cannot become vulnerable to it

against a data controller or other person.

(40) About the conversation about the Applicant with his legal representative, without the knowledge of the Representative

a recording was made when the Applicant secretly put it in his pocket without informing those present

used the recording device covertly. He did this to record a conversation

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during which the Representative, that is, the mother of the minor Applicant, said nothing about the recording

suspecting that there are many sensitive private and health issues about your child

shared information about his condition with the other two participants in the conversation.

Given that the Representative did not know about the recording, and that is a given

under the circumstances, he couldn't even count on it, so he couldn't even protest against it.

(41) The purpose of the meeting was initially that the child of the Applicant and the Respondent

talk about the situation that arose due to conflicts and other problems between them, and

try to find a solution to it together. The Respondent therefore took it knowingly up the conversation from the very beginning so that it is centered on the Applicant problems related to his behavior and their background.

(42) In addition, the Respondent emphasized several times during the conversation, as well as with his questions and comments, he tried to confirm that the Applicant was sick.

An example of the phenomenon is the dialogue heard on the recording, when the Applicant Regarding his statement to the representative that "I don't see that you would admit that [...]". the Representative begins his answer with "I acknowledge." Also, during the conversation the Applicant is repeatedly contrasted with other kindergartens as healthy with children. The Applicant also mentions his own child in this context, indirectly referring to the Applicant's illness: "I have the right to protect my healthy child."

(43) The Respondent was therefore not only aware of the topic of the conversation, but also a knowing the sensitivity of what was said in the conversation, - as an active participant and its creator - shared the footage with third parties.

(44) The recording contains sensitive and special data regarding the Applicant, as well as a there were references to his behavior. The data transfer was suitable for a

The assessment of the applicant's personality in his/her micro-environment, for the parents of his/her peers in kindergarten affects adversely.

(45) Based on the above, the Authority concludes that the Respondent violated Article 5 of the GDPR

(1) point a) of the principle of fair data management, because in such a situation

decided in a way that was unpleasant for the Applicant and disadvantageous to him in relation to his classmates indicating, highlighting his illness and distinguishing him from the others

in addition to transmitting a recording containing a conversation when there was none at all need to manage personal and special personal data.

#### IV.4. Other findings of the Authority

(46) According to the Applicant's point of view, the Respondent violated informational self-determination

CXII of 2011 on law and freedom of information. Act (hereinafter: Infotv.)

§ 4, paragraph (1), § 5, paragraph (1) point b), paragraph (2), point a) and also § 14 point a), therefore its data processing is illegal.

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(47) The Authority points out above all that the general data protection regulation is applicable

after his divorce, Infotv necessarily changed. with the protection of personal data

the scope of its related provisions. The "new Infotv.", i.e. Infotv. - is

CXII of 2011 on information self-determination and freedom of information.

on the amendment of the Act related to the data protection reform of the European Union, as well as

other related

by law (a

hereinafter: Amendment) promulgated - effective from July 26, 2018 § 2 (2)

states that personal data is subject to the general data protection regulation

to handle the general data protection regulation

Infotv. in the provisions of which

must be used with specific additions. The Applicant is not among them

provisions referred to in your application.

XXXVIII of 2018 on amending laws

(48) Based on the above, subject to the provisions contained in Article 2 of the GDPR, the present case

GDPR shall be applied to data management according to

#### IV.5. Legal consequences

(49) The Authority granted the Applicant's request, Article 58 (2) point b) of the GDPR

condemns the Applicant for violating GDPR Article 5 (1) a),

b) and c), Article 6, and Article 9.

(50) Upon the Authority granting the Applicant's request, the termination of the infringement and the personal

in order to restore data protection in point f) of Article 58 (2) of the GDPR

on the basis of its powers, it prohibits recording - either online or in another way

- and instructs the Applicant to refrain from such behavior in the future.

(51) The Authority also orders the

You are requested to notify the recipients of the need to delete the recording

to whom the recording was forwarded by e-mail.

(52) The Authority ex officio examined whether data protection was justified against the Application

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

considered all the circumstances of the case based on §. Given the circumstances of the case a

Authority found that the

in the case of a violation of the law

a warning is a proportionate and dissuasive sanction, therefore the imposition of a fine is not

required.

during this procedure

revealed

(53) In its decision, the Authority took into account that the Respondent is a private individual and the case

on the basis of all its circumstances, it is assumed that it is available without the imposition of a fine that

fully comply with the Authority's decision and ensure that the Applicant's personal

protection of your data. The Authority will specifically monitor the implementation of this decision,

and in case of non-fulfilment, it may impose a procedural fine or another data protection official

can initiate proceedings. The legal consequences in the event of another data protection violation

when determining, the present infringement will be taken into account as antecedent with increased weight.

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A. Other questions

(54) The competence of the Authority is defined by Infotv. Paragraphs (2) and (2a) of § 38 define its jurisdiction

covers the entire territory of the country.

(55) The decision in 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.

(56) The Art. Based on § 112 and § 116, paragraph (1), and § 114, paragraph (1), the  
against the decision and the termination order, there is an administrative lawsuit  
as a remedy.

(57) The rules of the administrative procedure are laid down in Act I of 2017 on the Administrative Procedure  
hereinafter: Kp.) is defined. The Kp. Based on Section 12 (1), the Authority  
the administrative lawsuit against his decision falls under the jurisdiction of the court, the lawsuit is referred to the Kp. 13.  
On the basis of § (3) point a) point aa) the Metropolitan Court has exclusive jurisdiction.

The Kp. Pursuant to § 27, paragraph (1) point b) in a lawsuit within the jurisdiction of the court, the legal  
representation is mandatory. The Kp. According to paragraph (6) of § 39, the submission of the statement of claim a  
does not have the effect of postponing the entry into force of an administrative act.

(58) 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) of the  
the client's legal representative is obliged to maintain electronic contact.

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

(60) If the Obligor does not adequately certify the fulfillment of the prescribed obligation, a  
The authority considers that the obligation was not fulfilled within the deadline. The Akr. § 132  
according to, if the obligee did not comply with the obligation contained in the final decision of the authority  
enough, it is enforceable. The Authority's decision in Art. According to paragraph (1) of § 82 a  
becomes final with notification. The Akr. Pursuant to § 133, enforcement - if you are a law

government decree does not provide otherwise - it is ordered by the decision-making authority. The Akr.

Pursuant to § 134, enforcement - if it is a law, government decree or municipal regulation

in official matters, the decree of the local government does not provide otherwise - the state

undertaken by the tax authority. Infotv. Based on Section 60 (7) in the Authority's decision

to carry out a specified act, conduct, or tolerate

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regarding the obligation to stop, the Authority will implement the decision

undertakes.

Budapest, September 23, 2021.

Dr. Attila Péterfalvi

president

c. professor

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