

Registration number: NAIH/3944-[...]/2021.

Subject: decision rejecting the application

DECISION

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

(seat: [...]) represented by [...] applicant (place and time of birth: [...], hereinafter:

Applicant) 04.06.2021. The National Center for Public Health received your request on

(headquarters: 1097 Budapest, Albert Flórián út 2-6., hereinafter: Applicant) data management

makes the following decision in the official data protection procedure initiated in respect of:

The Authority shall provide the Applicant with a copy of the specified documents against the Application

request for the issuance of

elutasítja.

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

within 30 days from the date of issue, with a letter of claim addressed to the Capital Tribunal

can be challenged in a lawsuit. The statement of claim must be submitted electronically to the Authority, which

forwards it to the court together with the case documents. A request to hold a hearing

it can be requested in a statement of claim. For those who do not receive full personal tax exemption

the fee for the judicial review procedure is HUF 30,000, the lawsuit is subject to the right to record the fee. THE

Legal representation is mandatory in proceedings before the Metropolitan Court.

JUSTIFICATION

I. The course of the procedure, clarification of the facts

I.1. The Applicant to the Authority on 04.06.2021. in his application received on

his mother, the late [...] (hereinafter: Deceased) between [...] in [...] (hereinafter:

Hospital) received health care.

The Applicant explained that regarding the professional adequacy of the care, the State

He requested an investigation by the Public Health and Medical Officer Service (hereinafter: ÁNTSZ),

which, based on this request, CLXV of 2013. according to the Act (hereinafter: Complaint).

conducted a procedure. Based on the application submitted to the Authority and its annexes, this is it
procedure, - in the framework of which [...] (hereinafter: Expert I.) is involved as an expert
also took place - took place between [...] Based on the result of the procedure, the ÁNTSZ with the Hospital
on the other hand, decided to initiate official proceedings ex officio, which was between [...]
in progress. The application and its attachments also refer to the Hospital and the Applicant
also for the trial that took place between

Submitted to the Authority

based on documents, within the framework of the court proceedings, the ÁNTSZ
was requested as follows: with a document dated [...], the court requested that
sending document number [...] from ÁNTSZ. In response, the ÁNTSZ sent [...] and [...]
case documents found under the main file number. This document arrived at the court on [...].

.....
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Based on the documents submitted to the Authority, the Applicant contacted him with his letter dated [...]
the Ministry of Human Resources (hereinafter: EMMI) to repeat your complaint
request an investigation. In its reply dated [...], EMMI informed the Applicant that
that the Complaint. based on its relevant provisions, it is not possible to conduct a repeated examination
to be conducted, and the court received the requested documents, so further steps are taken based on the request
EMMI does not.

On the basis of what was recorded in the minutes of EMMI dated [...], the Applicant on the one hand
he asked for information on the questions listed there, and on the other hand, he asked that he ask the Hospital

a copy of the medical documentation will be made available to you.

Based on the protocol, the Applicant was informed on the spot that Complainant. according to document inspection is not possible in the procedure. Related to what is recorded in the minutes EMMI announced its response in a letter dated [...]. In terms of content, this is information on request responded, in the part concerning the issue of the copy documentation, the answer is the Requester's request didn't touch it.

It can be read from the documents submitted to the Authority that the Applicant in the month of 2020[...] addressed a request to the Respondent, which request was submitted by the Respondent to [...], hereinafter: he answered in his document no.

On [...] 2021, the Applicant again submitted an application to the Respondent, to which a

The respondent replied in a letter dated [...]. The Applicant to the Authority is only the latter document, the Respondent's response was attached. In his answer, the Respondent indicated that a maintains what was written in document No.

that as part of the detailed information contained therein, he stated that the Complaint.

it does not allow for inspection of documents, while in the official procedure it is available for inspection of documents option, the Applicant is not considered a customer in that procedure. The Applicant also submitted that his objective response is the Complaint. according to the procedure and the documents of the official procedure should be interpreted regarding and does not affect the rights of the Applicant with the Hospital against CLIV of 1997 on health. Act (hereinafter: Eütv.).

does not exist, nor does it have the right to inspect the documents of the court proceedings the Applicant is also entitled to

Based on this response of the applicant, both the one submitted to him in the month of [...] 2020 and the

The applicant's request, dated [...], 2021, was aimed at requesting that the applicant be a copy hand over a copy of the file of the procedure with file number [...], reference number [...], in particular documents issued to Expert I. In this context, the Respondent also wanted to show in his objective response that the [...] reference number cannot be identified,

but the [...] registration number does. According to the Respondent, the latter is the Complainant. according to procedure and the subsequent official procedure documents together.

In his application to the Authority, the Applicant explained that the two experts (Expert I. and the expert involved in the court proceedings) according to his point of view, are different from each other gave an expert opinion, which makes it questionable whether the expert opinions are the same whether it was prepared based on documentation. The Applicant submitted that he wanted it for this reason to learn what kind of documentation the Hospital sent to the ÁNTSZ. With this in this context, the Applicant emphasized that in the context of the court proceedings participated in a document inspection, but it was not made clear to him which documentation it was part was examined by the ÁNTSZ.

The Applicant also explained that he would like to receive a copy of the [...] the file of the procedure with file number, reference number [...], especially for Expert I issued documents. According to his claim, the Respondent made the latter request three times

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rejected (file numbers: [...], [...], [...]), despite the fact that his position on this request according to the Eütv. § 24, paragraph (9) establishes it. To prove this, the Applicant a

He attached the following documents to the authorities:

-
-
-

[registration number...], dated [...];

[registration number...], dated [...];

[registration number...], dated [...].

his right

wishes

according to

Besides

referred

to validate.

The Applicant also attached to the Authority the number [...] issued by the Hospital

also a document which, according to his claim, was made known in the court proceedings

does not truly reflect the documentation available to the Hospital, since during the trial a

The applicant also encountered documents not indicated in this list.

I.2. The Authority, in view of the shortcomings of the application, on the general administrative procedure

solo 2016 CL. Act (hereinafter: Act) based on § 44 of the NAIH/[...] no

in its order, the Applicant with a deadline of 15 days from the date of receipt of the order

called him to make up for the gap.

The Applicant emphasized in his response to the gap filling that the Eütv. Section 24 (9)

paragraph

the

CXII of 2011 on freedom of information. Act (hereinafter: Infotv.) § 25 (2) and (3)

paragraphs, as the Applicant is the child of the Deceased (attached to prove the latter statement

copy of the death certificate of the Deceased).

In his answer, he explained that, in his opinion, the Respondent is the data controller, in his opinion

violates both the Eütv. Paragraph (9) of § 24, both Infotv. Paragraphs (2)-(3) of § 25

obligations when you refuse to issue the documents. The alleged infringement

for confirmation, the Applicant attached some sent

his letters and the one he received for them

reply letters (Letter dated [...] addressed to the Applicant, Applicant

Addressed to the Respondent's letter dated [...], Respondent Addressed to the Applicant [...]

letter with file number and additional letters also attached to the original application).

The Applicant emphasized that the processing of personal data of natural persons

regarding its protection and the free flow of such data, as well as 95/46/EC

2016/679 (EU) repealing the Directive (hereinafter:

"GDPR" or "general data protection regulation") requests the

release of complete documents.

II. Applicable legal provisions

Pursuant to Article 4, point 1 of the GDPR, "personal data": identified or identifiable natural

any information relating to a person ("data subject"); the natural person can be identified,

who directly or indirectly, in particular an identifier such as 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.

Based on Article 4, Clause 2 of the GDPR

"data management": you are on personal data

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

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

change, query, insight, use, communication, transmission, distribution or

by making it available in other ways, coordinating or connecting,

restriction, deletion or destruction.

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For data management under the scope of the GDPR, Infotv. According to paragraph (2) of § 2, the general

data protection decree with the additions specified in the provisions indicated there

apply.

Infotv. The right to the protection of personal data based on paragraphs (1)-(2) of § 60

in order to enforce it, the Authority is a data protection authority at the request of the data subject

initiates a procedure and may initiate a data protection official procedure ex officio. The data protection authority

initiation of proceedings

request for Article 77 (1) of the General Data Protection Regulation

can be submitted in the case specified in paragraph b) of § 22.

Other administrative or judicial remedies based on Article 77 (1) of the GDPR

without prejudice, all data subjects are entitled to lodge a complaint with a supervisory authority

- in particular your usual place of residence, place of work or the place of the alleged infringement

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

handling violates this regulation.

In the absence of a different provision of the General Data Protection Regulation, the application was initiated

for official data protection procedure, Art. provisions shall be applied in Infotv

with certain deviations.

The Akr. According to Section 35 (1), the request is made in writing or in person by the customer

submitted statement, with which the official procedure and the decision of the authority

in order to assert your right or legitimate interest.

The Akr. Based on paragraph (1) of § 36, if no additional requirement is established by law, a

application contains the data necessary to identify the client and his representative and

availability.

The Akr. Based on § 38, the application must be judged according to its content, even if it does not match

with the name used by the customer.

Infotv. Pursuant to § 60, paragraph (5), for the initiation of official data protection proceedings

application contains more than what is specified in the Acr

- indication of the alleged infringement,

- a description of the specific behavior or state that caused the alleged infringement,

- the

implementing a violation of law

assumed

data manager,

respectively

data processor

data available to the applicant necessary for identification

- the facts supporting the allegations related to the presumed violation of law and those

his evidence

- a definite request for a decision to remedy the indicated infringement.

The Akr. Based on § 44, if the application does not meet the requirements of the law

the acting authority, indicating the deadline, on the consequences of failure

by

with a warning - unless otherwise provided by law or government decree - one

invites the applicant to make up the gap.

Pursuant to Article 55 (1) of the GDPR, the supervisory authority is in the territory of its own Member State

is competent to carry out tasks and exercise powers assigned to him based on the GDPR.

Pursuant to Article 57 (1) point a) of the GDPR, it is the duty of the data protection authorities of the Member States,

to monitor and enforce the application of the GDPR.

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Infotv. Based on paragraphs (2)-(2a) of § 38, the Authority is responsible for personal data

for its protection, as well as for getting to know data of public interest and public interest

monitoring and facilitating the enforcement of the right, as well as personal data in the European Union

facilitating its free flow within. In the general data protection regulation, the supervisory

tasks and powers established for the authority under the jurisdiction of Hungary

with regard to legal entities belonging to the General Data Protection Regulation and Infotv

is exercised by the Authority as specified.

The Authority's jurisdiction covers the entire territory of the country.

According to recital (27) of the GDPR, this regulation does not apply to the deceased

to personal data related to persons. Member States should be able to

to regulate the handling of personal data of deceased persons.

Infotv. According to paragraphs (2)-(3) of § 25, if the data subject did not comply with paragraph (1).

corresponding legal declaration, its close relative according to the Civil Code

even in its absence, it is entitled under point c) of § 14, under the scope of the general data protection regulation

in the case of data management operations under Articles 16 and 21 of the General Data Protection Regulation,

and - if the data processing was already illegal during the life of the data subject or the data processing

its purpose ceased with the death of the data subject - in points d) and e) of § 14, general data protection

in the case of data management operations under the scope of the regulation, the general data protection regulation

It is to assert the rights of the deceased during his life as defined in Articles 17 and 18

within five years of the death of the person concerned. To enforce the data subject's rights according to this paragraph

the close relative who exercises this right first is entitled. The affected

rights of Infotv. These rights apply to a person asserting pursuant to § 25 (1) or (2).

enforcement - thus especially against the data controller, as well as the Authority, respectively

during court proceedings - the rights established by this law belong to the person concerned

and burdened with obligations.

The Eütv. Based on paragraph (2) of § 24, with the patient's personal data

rights of natural persons regarding the management of personal data

on the protection and free flow of such data, as well as Regulation 95/46/EC

of April 27, 2016 (EU) on its repeal (general data protection regulation)

2016/679 of the European Parliament and of the Council, and the health and to them

provisions of the Act on the Management and Protection of Related Personal Data

are guidelines.

The Eütv. Paragraphs (9)-(12) of § 24 contain the following:

(9) During the patient's life or after his death, his spouse, consanguineous relative, sibling,

and his partner - based on his written request - is still entitled to the health data

to get to know, if

a) for health data

aa) the spouse, consanguineous relative, brother or partner, as well as their descendants

uncovering a cause affecting your life and health, or

ab) it is necessary for the purpose of health care for the persons referred to in point aa); and

b) getting to know the health data in another way, or the conclusion thereof

not possible.

(10) In the case according to paragraph (9), only those health data a

it is possible to get to know them, which are directly due to the reason according to point a) of paragraph (9).

can be related. Information about health data is provided by the patient

provided by your treating physician or the medical professional manager of the healthcare provider, the medical

in accordance with the regulations regarding information, - if necessary - the applicant

based on a professional consultation with your doctor.

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(11) In the event of the patient's death, the legal representative, close relative and heir -

on the basis of his written request - is entitled to be related to the cause of death or can be related to it,

and medical related to medical treatment before death

to get to know data, to look into the health documentation, as well as about them

extract, make a copy, and - for the first time free of charge, and - everything

with regard to additional copies - health and related personal data

at your own expense in the manner specified in accordance with the law on its management and protection

get a copy.

(12) The detailed rules for the management and protection of health data are

on the management and protection of health and related personal data

established by law.

On the management and protection of health and related personal data

XLVII of 1997 Act (hereinafter: Eüak.) based on § 3/A., the deceased person

regarding the circumstances of his death and the cause of death, as well as the deceased person
in relevant health documentation
for the processing of personal data
for the treatment of health data and personal data included in the health documentation
the rules set out in the relevant mandatory European Union legal act or legislation
apply.

The Eüak. Paragraphs (5)-(7) of § 7 contain the following:

(5) During the patient's lifetime, or after his death, the spouse or consanguineous relative of the affected person,
his brother and his partner - based on his written request - are still entitled to paragraph (3).

to exercise the right under, if

a) for health data

aa) the spouse, consanguineous relative, brother or partner, as well as their descendants

uncovering a cause affecting your life and health, or

ab) for the purpose of health care for the persons referred to in point aa).

there is a need and

b) getting to know the health data in another way, or the conclusion thereof

not possible.

(6) In the case according to paragraph (5), only those health data a

it is possible to get to know them, which are directly due to the reason according to point a) of paragraph (5).

can be related.

(7) In the event of the death of the person concerned, his legal representative, close relative and heir -

on the basis of his written request - is entitled to be related to the cause of death or can be related to it,

and medical related to medical treatment before death

to get to know data, to look into the health documentation, and about them - first

times - free of charge, as well as for all further copies - the (3)

according to paragraph - to receive a copy.

The Eütv. Paragraphs e) and f) of § 3 contain the following:

For the purposes of this Act

e) health service: operational issued by the state health administration body

you have a permit -

in the case specified by law - health

can be performed on the basis of registration by a state administrative body

a set of activities that preserve the health of the individual,

also a

prevention, early detection, diagnosis, medical treatment of diseases, life-threatening

prevention, improvement of the condition resulting from the disease or the further

for the examination and treatment, care of the patient in order to prevent deterioration,

care, health rehabilitation, reduction of pain and suffering, and

for the sake of the above, it is directed to the processing of the patient's test materials, including the

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related to medicines, medical aids, and medical care

activities according to separate legislation, as well as rescue and patient transport, obstetrics

care, special procedures for human reproduction, artificial infertility protection, that

conducted medical research on humans, as well as postmortems and the dead

related medical procedures, including related to the transport of the dead

related activities under separate legislation;

f) health service provider: regardless of the form of ownership and provider, all

for the provision of health services and issued by the state health administration body

individual healthcare entrepreneur, legal person or legal entity entitled on the basis of an operating license

an organization without personality.

The Eütv. Based on § 4, the scope of the law extends to the territory of Hungary

a) for resident natural persons,

- b) for operating healthcare providers,
- c) for health and health promotion activities.

III. Decision

III.1. Completing the gap

III.1.1. Based on the contents of some documents attached to the Authority, it was not clear that to which documents, i.e. to which data in data management, was the original request directed (a For medical documentation managed by the hospital, for documents managed by the Applicant, a to documents handled by the court, etc.).

As a result, it was not clear which right the Applicant could exercise

wants to enforce (the right according to Section 25 of the Infotv, existing on the basis of sectoral legislation right of information, right of personal data subject, etc.) and against whom it must be enforced.

In relation to the former, it was not clear that the right the Applicant wanted to exercise, a

Does it fall under the scope of the GDPR and to enforce the GDPR the entry into force of the Applicant

after that, did you make a verifiable attempt against the data controller. Thus, it could not be judged

the question is whether the given right can be enforced by an official request before the Authority

in procedure. It is possible to imagine a right which, although the Applicant is entitled to it, cannot be applied to the

GDPR, therefore it does not fall under the authority of the Authority. The State Administration of the Applicant

for the evaluation of requests for inspection of documents created in the context of its activities

for example, its review does not fall under the authority of the Authority. It is also possible that a

A requester has a right to which the GDPR applies in the relevant terms

in the absence of its implementation, it cannot be exercised (such as, for example, if listed in § 25 of the Infotv requirements regarding a right defined there are not met).

The definition of the latter, i.e. the data controller, became uncertain especially through

that although the wording of the request was basically directed against the Respondent, the Applicant

different rights referred to by different data controllers in relation to different data management

oblige, so it was actually not clear whether the Applicant was actually a

data controller according to the right to be exercised.

The application did not properly contain Infotv. Mandatory according to paragraph (5) of § 60

content elements, because this information is related to the right to be asserted

should have been given, which was not in the first place in the absence of a proper definition of the right in question

could be fulfilled. Thus, the Applicant's request did not contain the alleged violation in this regard

designation, the designation of the behavior or state that implements it, the data controller

designation, evidence supporting the Applicant's claims and the Authority's decision

a definite request for

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III.1.2. In view of the above, the Authority established that the Applicant's original request

on the one hand, Infotv did not comply. to the requirements contained in § 60 (2), on the other hand

the application is under Art. Section 36 (1) and Infotv. Mandatory elements according to Section 60 (5).

it did not contain.

III.1.3. The Applicant responded to the request to fill in the gaps within the deadline. In his reply he expressed

that the Eütv. wishes to enforce his right according to paragraph (9) of § 24, and Infotv. Section 25 (2)

and (3) also referred to, emphasizing that it clearly considers the Request

data controller. According to his position, the Respondent provided a copy of the above-mentioned documents

would be obliged to release it to the Applicant based on legislation, so he sees it as a refusal to do so

the alleged violation, and the specific unlawful behavior in that the requested document

the Respondent refused to issue it. A firm request for the Authority's decision

regarding the Applicant explained that the issuance of a copy of the document is regulated by Article 58 of the GDPR

Requests with reference to point c) of paragraph (2).

To clarify the definition of data management in the order containing the request for filling in gaps

concerning question 2 (hospital, court, official data management), the Applicant

in his response to the invitation, he answered only indirectly when "the entire document

in connection with his request for the release of the

in the attached annexes to the file of the procedure with file number [...], reference number [...],

in particular, the addressee referred to the documents issued to Expert I

in your inquiries.

The Applicant, in addition to the registration number and reference number, the document material with other identifiers

he didn't write it down this time either. Based on the documents attached to the original application, the Applicant is the reference

number was previously unable to interpret, and under the registration number, the Complaint. according to and official procedure documents together.

III.2. Evaluation of the application

III.2.1. Infotv. According to Section 60 (2), the initiation of the official data protection procedure

request in Article 77 (1) of the General Data Protection Regulation, as well as Article 22 b)

can be submitted in the case specified in

Other administrative or judicial remedies based on Article 77 (1) of the GDPR

without prejudice, all data subjects are entitled to lodge a complaint with a supervisory authority

- in particular your usual place of residence, place of work or the place of the alleged infringement

in the Member State of origin - if, according to the judgment of the data subject, the personal data relating to him handling violates this regulation.

If the person concerned has died, his personal status as a person concerned has ceased with his death, thus

for the GDPR and Infotv. legal protection cannot be exercised, as he is deceased

person is not covered by the scope of these laws.

Infotv accepted under the GDPR. On the basis of paragraphs (1)-(2) of § 25. during the lifetime of the deceased

a person entitled to exercise certain rights of the affected person has specific rights of the affected person

can be enforced within the scope and conditions specified therein. The rights of the data subject are (1)

or the enforcement of these rights to a person asserting pursuant to paragraph (2) - thus, in particular

during the proceedings against the data controller, as well as before the Authority or the court, Infotv. by

the data subject is entitled to the established rights and is burdened with obligations. In this round

therefore, when enforcing data subject rights, the GDPR and Infotv. in accordance with its provisions are applicable.

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It happens that the legislator creates a right for a person that a person has died get to know your personal data in your own right. The sectoral legislation enforces these rights is done by using In such cases, it is an exercise of the rights of non-stakeholders, so GDPR and Infotv. its rules may be applied only then and to the extent line, if the legislator has specifically stipulated the GDPR and Infotv. the application of its rules in connection with the validation of the given authorization. There is such sectoral legislation for example in Eütv. or Eüak.

III.2.2. In light of this, the Applicant's response to filling in the gap was interpreted, which according to Infotv. Paragraphs (2)-(3) of § 25 and the Eütv. in paragraph (9) of § 24 are aimed at enforcing the rights, the Authority made the following findings: narrower than rights,

III.2.2.1. The main rules for data protection in Hungary until May 25, 2018 Infotv. included, as of this date, the GDPR, mandatorily and directly applicable. Infotv. its scope covers living (natural) persons, the GDPR and expressly states that its scope does not extend to deceased persons, at the same time allows Member States to manage the personal data of deceased persons are regulated. (GDPR (27) recital: This regulation shall not apply to to personal data related to deceased persons. It is possible for Member States must be done to regulate the handling of the personal data of deceased persons.)

Using this authorization contained in the GDPR, the Hungarian legislator registered it in Infotv the provisions according to § 25, which with certain restrictions during the life of the deceased ensures the enforcement of certain stakeholder rights. However, it should be emphasized that that these are Infotv. Subject rights that can be exercised on the basis of § 25 during the life of the person concerned

due

their scope and enforceability are limited

subject to conditions.

Infotv. § 25 cannot therefore be understood as a provision that a

The applicant's right to proceed on behalf of the Deceased in general

establish it, but as a provision that belongs to the Deceased during his lifetime

authorizes the Applicant to a certain extent to exercise some of his stakeholder rights.

Among the stakeholder rights listed here, the right of access is not specifically mentioned, so here it is

referring to the Applicant's personal data in any data processing interpreted in this way

is not entitled to access the data.

The Authority also wishes to point out that the rights that can be exercised in this context

the obligee would be the person who has the right of interest during the life of the Deceased

shall be considered a data controller. In other words, the Applicant would then be able to a

Against request Infotv. to exercise the right according to § 25, if it happened during the life of the Deceased

there would be a data management in which the personal data of the Deceased is used by the Respondent

treated as a data controller.

The application did not refer to the rights of stakeholders during the life of the Deceased,

in respect of which the Respondent (or its legal predecessor) would have been the data controller. Together

it can also be established that in connection with this legal provision a

The applicant is a different data controller than the Application and can be taken into account in this regard

did not specifically indicate data management, nor did it indicate any exercise of rights

intention, which is ensured in the referenced provision (for example, the right to cancel,

right of correction, etc.).

Finally, regarding this, it should also be stated that Infotv. Rights according to § 25

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the legislator linked its exercise to a deadline of 5 years from the death of the deceased, thus a

in this case - even if all relevant legal conditions are met - the Deceased

in view of the date of his unfortunate death [...], Infotv. § 25-

would not be applicable even then, so this provision is the Applicant

cannot be a basis for legal enforcement.

III.2.2.2. The Applicant's stakeholder rights to which he is entitled in his own right are his own

may exist in connection with data management related to your personal data.

The application did not refer to a demand for the exercise of a stakeholder right which

regarding the Applicant himself being the affected person, he did not indicate a complaint that a

It is related to the management of the applicant's own personal data.

III.2.2.3. Some legislation contains sectoral legislation relating to the data of deceased persons

provisions (e.g. § 143 of Act LXXXVIII of 2014 on insurance activities

Paragraph (3), on the management of health and related personal data

and protection of XLVII of 1997. Act § 3/A, etc.) and if given

available, the legislator has made the GDPR applicable underlying, the given right can be

the subject of official proceedings initiated upon request. In this context, the Applicant referred to Eütv. § 24

(9) as the right he wishes to exercise.

The Eütv. Based on paragraph (2) of § 24, with the patient's personal data

the rights of natural persons regarding the management of personal data

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

on the repeal of Regulation 95/46/EC (general data protection regulation),

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, and

on the management and protection of health and related personal data

the provisions of the Act (Eüak.) shall govern.

The Eütv. Section 24 relates to the right to access health documentation

contains provisions. Within this, it has certain data of the deceased

also on the rights relating to his knowledge (sections 24.(9)-(12) Eütv.), also § 24.

Paragraph (12) states that the management and protection of health data

detailed rules of the Eüak. establishes.

The Eüak. Based on § 37, paragraph (3), the Eüak. regulations shall apply to the deceased

also in the case of personal health data.

The Eüak. Based on § 37, paragraph (1), the provisions contained in the Eüak. with the Infotv.

together, must be interpreted and applied in accordance with it.

The Eüak. 3/A.§ on the circumstances of the deceased person's death and the death

regarding the cause, as well as the health related to the deceased person

for the treatment of personal data included in the documentation, the health data and the

mandatory for the treatment of personal data contained in health documentation

the rules contained in a European Union legal act or legislation must be applied.

The Eütv. and the Eüak. creates several mutually consistent provisions

the right to information to know the data of the deceased. These are relevant

on the basis of its provisions, a request for information on certain data concerning the deceased

it can basically arise from two directions:

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On the one hand – the Eüak. In accordance with paragraph (5) of § 7 - it is possible to imagine a situation where

that the Eütv. the life of the person according to point aa) of the person entitled according to paragraph (9) of § 24,

you need it for the purpose of discovering a cause affecting your health or providing health care

to some medical data of the deceased, taking into account that the medical data

cannot be obtained in any other way.

On the other hand – the Eüak. In accordance with Section 7 (7) - the Eütv. Paragraph (11) of § 24

the person entitled is entitled in relation to the deceased or related to the cause of death

can also be associated with medical treatment before death occurs

information on related health data and health documentation

to get. Based on this, you have the right without justification, even in the absence of health involvement

to get to know this data and to look into the related documents,

get a copy of them.

It is important that the two cases cover two different data ranges:

In the case of the former, in addition to referring to the involvement, the holder may request any

health data relevant to the purpose. So here is the healthcare

in terms of involvement, the range of data that can be released narrows.

In the latter case, the scope of data is provided by law, it is related to the cause of death

can also be associated with medical treatment before death occurs

narrows down to related health data. In this case, however, to the data controller

even in the absence of health involvement, information and insight were given

in this case, you must provide a copy to the beneficiary in the health documentation

relevant data and documents included.

Based on all this, when the Applicant is the Eütv. His right according to paragraph (9) of § 24

submits an application in order to exercise it, then with that - the Eütv. Paragraph (2) of § 24, that is

They are. 3/A.§ and the Eüak. Subject to § 7 (5) - refers to a right,

to which GDPR applies implicitly.

Accordingly, the Applicant can apply for the enforcement of this right

submit a request for an official procedure.

At the same time, the Eütv. (and the Eüak.) clearly states what conditions

this right can be exercised and the request does not fulfill these conditions

confirmed, he did not even make any allegations about them.

There is no statement in either the application or the deficiency statement to suggest that

the Applicant's life and health of one of the relatives listed in the legislation

would like to reveal an influencing factor or for a reason related to your health care

to get to know some data, or to do so during any legal enforcement attempt

would have referred.

The Eütv. An additional obstacle to the application of Section 24 (9) is that the Respondent not the obligee (cf. Section 24 (10) of the Eütv., points e) and f) of § 3. Eütv., Eütv. § 4). THE The Eütv does not qualify as an applicant. health according to points e) and f) of § 3 service provider, such as Eütv. Pursuant to § 4, it does not fall under the scope of the law, so it is Hit Section 24 (9) does not create any obligation. The Eütv. Section 24 (9) the obligee of the obligation according to paragraph Eütv. According to paragraph (10) of § 24 can be established:

Based on this, the patient's doctor,
or given by the medical professional manager of the healthcare provider, the medical
in accordance with the regulations regarding information, - if necessary - the applicant
based on a professional consultation with your doctor.

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Although, based on the available information, the Applicant did not attempt the Eütv. § 24 (11) and the Eüak. In order to exercise its right under paragraph (7) of § 7, the Authority wishes to inform the Applicant that he has this right against the Hospital you can clearly exercise, which means that you can thereby access the Hospital managed, health care incurred in connection with the Deceased's health care to all relevant data and documents in the documentation.

Infotv. Contrary to the provisions of § 25, the Applicant does not have this right subject to a time limit, it can still be used based on a written request.

III.2.2.4. Without repeating the reasons detailed above, the question is the referenced document approach, it can also be established that the Applicant's right of access does not the Infotv. Paragraphs (2)-(3) of § 25, nor the Eütv. Section 24 (9) they do not know to substantiate the right to access the information in question case, they cannot establish it in the first place.

It belongs to documents created in the context of the Respondent's state administration activities

furthermore, the Authority is not responsible for reviewing the evaluation of a request for access

within its jurisdiction. Among the personal data contained in such documents, the Applicant is subject to Article 15 of the GDPR.

based on Article 2, you can only access your own data, not the Deceased's data.

ARC. Other questions

IV.1. During the procedure, the Authority exceeded Infotv. One hundred and fifty according to paragraph (1) of § 60/A day administrative deadline, therefore the Ákr. ten thousand forints based on § 51, paragraph (1) point b).

pays the Applicant - at his choice - by bank transfer or postal order.

IV.2. This decision of the Authority is based on Art. §§ 80-81 and Infotv. It is based on paragraph (1) of § 61.

The decision of the Ákr. Based on § 82, paragraph (1), it becomes final upon its publication. The Ákr. § 112.

a, and on the basis of § 116, subsection (1) and (4), point d), and § 114, subsection (1)

a decision can be appealed through an 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. Section 13 (3)

based on subparagraph a) point aa) of paragraph a), the Metropolitan Court is exclusively competent. THE

Cp. Pursuant to § 27 (1) point b) in a lawsuit within the jurisdiction of the court, the legal

representation is mandatory. Cp. According to § 39, paragraph (6) - if the law does not provide otherwise

- postponing the submission of the claim until the administrative act takes effect

has no scope.

The Kp. Paragraph (1) of Section 29 and, in view of this, CXXX of 2016 on the Code of Civil Procedure.

Act (hereinafter: Law) is applicable according to § 604, the electronic administration and the

CCXXII of 2015 on the general rules of trust services.

law (a

hereinafter: E-administration act) according to § 9, paragraph (1), point b) of the customer's legal representative

obliged to maintain electronic contact.

The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1).

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. Payment of the fee in advance

from under the Itv. Section 59 (1) and Section 62 (1) point h) exempt the procedure

initiating party.

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

and the right to access data of public interest and public interest

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

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

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

general data protection for legal entities under the jurisdiction of Hungary

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

The Authority's jurisdiction covers the entire territory of the country.

Budapest, 22.12.2021.

Dr. Attila Péterfalvi

president

c. professor

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