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European Union Regulation on General Data Protection adopted

The unified regulation No. 2016/679 on general data protection of the European Parliament and Council was adopted and on 24 May 2016, which, after years of negotiations, will enter into effect on 25 May 2018 and will replace the data protection directive of 1995.

While the former directive-level regulation resulted in a coordination that more or less varied between member states, the new law shall be applicable throughout the EU – and as such, the member states shall be granted a two-year grace period for preparation.

The regulation effects not only those data controllers and processors operating within the Union, but also to any such data controllers and processors that carry out activities within the EU, but do not operate a business site within the Union, while in the process of providing their products and/or services, the personal data they handle are those of EU residents or those affected by the data being monitored are in connection with activities carried out within the territory of the European Union.

One of the key elements of the regulation is ensuring transparency in the processing of data; all information provided by data controllers shall be concise, transparent, and clear, and such information shall be published in an easy-to-access form, and in a readily comprehensible manner. Besides the above, data controllers shall keep a record of their data processing activities containing the information required by the EU regulation. The latter shall not be applicable to companies with less than 250 employees unless it is likely that the data processing bears a risk to the rights and freedoms of the affected individuals, or special data is processed, or the data processing is not of an occasional nature.

A novelty introduced by the regulation is the extension of the individual's right to the deletion of his/her data, the so called "right to be forgotten", according to which if the data controller made personal data public, it shall not only delete such data from its own database, but shall also take all reasonable steps to inform other data controllers if the deletion of links leading to the relevant personal data (and/or copies thereof) was requested by the affected person.

In connection with the conditions concerning the consent of children the regulation says that in the case of offering online services directly to children under 16, data processing shall only be lawful if and to such extent, the consent was given by the parent having custody or he/she approved it. The Member States may determine a lower age limit but it cannot be less than age 13.

In addition, the regulation standardizes the provisions on the fine to be imposed in the case of unlawful data processing, therefore, all state authorities shall impose the same amount of fine in similar cases. The maximum amount of the fine may reach EUR 20 million (compared to the HUF 20 million amount fine imposable by the Hungarian National Authority for Data Protection and Freedom of Information now), or – if that amount is higher – 4% of the yearly turnover of the data controller for the previous year.