

The latest guideline of the National Data Protection and Freedom of Information Authority of Hungary: how to record conversations legally?

It happens many times that customer services record telephone conversations, but it may also happen that one wishes to record the discussions at a meeting of condominium owners or at a general meeting of a company. We can learn from the recent information notice of the National Data Protection and Freedom of Information Authority (NAIH) published in May 2016 how to do it legally.

The sound and sound recording are qualified as personal data therefore it can only be processed in compliance with the data protection regulations. In addition, it is necessary to take into account the regulations applicable to personal rights since the right of photographing or sound recording is also considered as personal right.

Consent or legislative authorization is necessary

The recording or use of sound is allowed if the data subject gives his prior voluntary consent or the law grants authorization for data management. Certain laws prescribe that some call centres should record conversations, as well as banks or insurance companies should do so in order to manage complaints. In such a case, the data subject's consent is not required for the recording of his sound. Whether the sound recording is based on either consent or law, the recording cannot be confidential, namely the data subject shall be informed in advance.

Obtaining appropriate consent

In case of sound recording on legal basis, the law defines the details of data management. In such case, it suffices that the data controller refers to the authorization of law when informing the data subject of the recording of his sound.

If the data management is based on consent then the data subject shall be fully informed of how the sound is recorded, for instance, for what purpose the sound is recorded, how long it is stored, what it is used for and who has access to it. Following the disclosure, the data subject should be allowed to decide freely whether he gives his consent for the recording of the conversation.



It is important to note that sound recording based on consent can also be illegal if it does not have verifiable and legitimate objective. Recording of a contract concluded by telephone can also constitute a legitimate objective in order to facilitate proof at a later date.

Recording of a general meeting

Not only call centres make sound recording but conversation is also recorded typically at the meetings of condominium owners, if they wish to do so. In accordance with the information notice issued by NAIH, subsequent recording of a protocol can be such verifiable and legitimate objective. If not everyone attending a meeting gives his consent to make sound recording, then the sounds of those can only be recorded who have given their consents for sound recording; and the comments of the rest of the attendees can only be recorded in a written protocol. It is important that following the completion of written records and the expiry of the time limit for seeking related legal remedy, the sound recording must be destroyed because by completing the protocol, the objective of such sound recording ceases to exist.

Right to rehear and copy

If a conversation or event has been recorded, the data subject has the right to ask the rehearing of the sound recording. Although the applicable laws do not always stipulate the obligation to issue a copy, the Authority pointed out that the obligation to issue a copy at the request of the data subject arises from the guiding principle of fair data management.

The data subject can also make a sound recording

The Authority recorded in its information notice that a data subject has all the rights that a controller has. Thus, if the controller records the conversation, the data subject is also entitled to - record the conversation in a spirit of solidarity and reciprocity on the understanding that he may only use it for the purpose due to which the conversation is recorded. For example, it can be a verifiable aim if sound is recorded for subsequent legal disputes, which however does not allow data subjects to disclose sound recordings for other reasons.