

Case number: NAIH / 2020/200/5.

(NAIH / 2019/3910.)

Subject: Partially successful application

tax decision

The National Data Protection and Freedom of Information Authority (hereinafter referred to as the Authority)

hereinafter referred to as "the Applicant") on 22 October 2019, hereinafter referred to as the "Applicant").

initiated in connection with the violation of the rights of the Applicant as a data subject and the Applicant

extended ex officio to general data management practices for public surveillance cameras

take the following decisions in the data protection authority procedure:

I. The Authority

IN ITS DECISION

grant the applicant 's application in part, and

1) finds that the Applicant has not provided adequate information to the Applicant

To exercise its right to restrict data processing dated November 7, 2018

measures taken at his request and blocked under that right

on December 10, 2018, in connection with the restriction of data processing in connection with camera recordings

and the deletion of the recordings and did not provide adequate information to the

the right to publish copies of recordings;

2) finds that the Applicant has not provided adequate information to the Applicant

Related to your application for blocking dated November 7, 2018, dated March 1, 2019

measures;

3) finds that the Applicant has not complied with the Applicant on 1 March 2019

request to exercise the right of access;

4) finds that the Applicant has not provided adequate information to the Applicant

By application dated 12 April 2019 for the release of camera recordings

measures relating to

5) instructs the Applicant to exercise the Applicant's right of access

application.

II. In its decision, the Authority states that it concerns the cameras examined ex officio

with regard to data processing, the Applicant violated the principle of accountability.

III. In its decision, the Authority will reject the part of the application concerning the imposition of a data protection fine,

however, the Applicant ex officio

HUF 2,000,000, ie HUF 2 million

data protection fine

obliges to pay.

2

ARC. The Authority

IN THE PERFORMANCE OF

terminate the data protection authority procedure in the part of the Application that the Authority considers

find Budapest VII. district Police Headquarters on the report of the Applicant

which expressly contained his request for proof

that the police station request the requested camera footage from the Applicant.

The taking of the measure provided for in point I. 5) shall be performed by the Applicant from the taking of the measure

You must certify in writing within 30 days, together with the supporting evidence, that:

Towards an authority.

The Authority shall impose a data protection fine within 30 days of the final adoption of this Decision

centralized revenue collection target settlement forint account (10032000-01040425-00000000

Centralized direct debit IBAN: HU83 1003 2000 0104 0425 0000 0000)

to pay. When transferring the amount, NAIH / 2020/200. JUDGE. number should be referred to.

If the Applicant fails to meet the obligation to pay the fine within the time limit, the above

is required to pay a late payment surcharge on the account number. The amount of the late payment allowance is the statutory

interest,

which corresponds to the central bank base rate in force on the first day of the calendar half-year affected by the delay
me.

The obligation provided for in point I. 5) and the data protection fine and the late payment allowance are not fulfilled
the Authority shall order the enforcement of the decision.

I., II. and III. and Annex IV to this Decision. by order pursuant to

There is no administrative remedy against them, but they are within 30 days of notification

with the application addressed to the Metropolitan Court independently, in a separate administrative lawsuit

can be challenged. The application must be submitted to the Authority, electronically, which is the case

forward it to the court together with his documents. Indicate the request for a hearing in the application

must. For non-personal tax exemptions, judicial review

the fee for the proceedings is HUF 30,000, the lawsuit is subject to the right to record fees. Before the Metropolitan Court

legal representation is mandatory in these proceedings.

EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

I. 1. The Applicant has applied to the Authority, according to which it is operated by the Applicant

In a bar called [...], the bar's security guards attacked him and inflicted light bodily harm on him.

The Applicant, in his view, this case was recorded in the bar building and the

Operated by the Applicant - otherwise, in the Applicant's opinion, illegally,

cameras that also monitor public areas, made a report in which Budapest VII. district

He instructed his police station to request the recordings made by these cameras and at the same time

he also asked for the cameras to be blocked pending further action by the police. The Applicant in this case

3

in the context of public space operated by the Applicant and in the opinion of the Applicant

complained about the lack of information about cameras that illegally monitor them.

The Applicant further complained that the dated 7 November 2018 recorded by these cameras

related to his application for blocking dated 1 March 2019

request for information and access to your personal data, and

No request for access, data restriction and release dated April 12, 2019

received a substantive reply from the Applicant only on 23 April 2019 informing him that

as no request was received from either the Applicant or the police,

Applicant deleted previously locked recordings.

In his request, the Applicant requested the Authority to initiate an official data protection procedure,

in which in its decision establish the failure of the Applicant with regard to the rights of the data subject,

in addition to imposing a fine, and that the Authority contact Budapest VII. district

Police Headquarters in connection with the record of the Applicant 's report, which

expressly included his motion for proof that the police request the

He was asked to take camera shots, but the police did not comply with his request.

I. 2. In its order to initiate the data protection authority procedure, the Authority notified a

He invited the applicant to make a statement and provide information in order to clarify the facts.

According to the Statement of the Applicant, it does not operate and has not operated a public space monitor

cameras, but on the basis of a legitimate interest in terms of security - the office building or the Applicant

protection of property and the physical integrity of persons in the monitored area

and in order to protect his property, he placed cameras to monitor the entrances, which

parts of the public areas were obscured from the field of vision, while the parts of the non-obscured ornamental stones were

obscured

private areas belonging to the Applicant's registered office. In support of these, the Candidate

attached a photo of the cameras monitoring the entrances and the snapshots they took, the right one

the interest balance test carried out to prove the interest and the site plan of the property and the

copy of title deed.

According to the Applicant's statement about the cameras and the data processing related to the surveillance a

pictograms at the entrances and data management available to visitors at the reception

information - the version of which in force during the examined period was sent by the Applicant to the Authority
inform those concerned by means of a

According to the Applicant's statement, by maintaining the cameras and operating the cameras
contracted professional companies to conclude data processing contracts, which
contracts were also attached to the Authority.

According to the Applicant's statement, he received a request from the Applicant on 7 November 2018,
in which he requested that the camera recordings concerning him be blocked and then, at the request of the police
to the investigating authority. The Applicant's letter quoted the then applicable
on the protection of persons and property and on the rules governing the activities of private investigators
2005 CXXXIII. (hereinafter: the Act), according to which - the then
the law of the person whose rights or legitimate interests are affected by the camera recording
or by proving a legitimate interest, the data may not be requested by its operator
destroy or delete it. At the request or request of an authority, the recorded
image must be sent to the authority without delay, but an official request
in the absence of thirty days, the recordings shall be deleted. The Applicant is still on the same day
replied to the Applicant that he would consult his data protection expert and apply,
however, he also suggested to the Applicant that he make a police complaint because
may only issue camera recordings to the authorities at the official request of the police. The Applicant e

4

However, unlike the reply letter, it was sent to the Authority at the request of the Applicant
according to the minutes, although without informing the Applicant - still 7 November 2018.
locked the recordings on the day of and awaited the police request indicated by the Applicant. With respect
however, that neither the Applicant nor the police for months thereafter
applied for the blocked recordings, the Applicant deleted them. On this fact the Applicant
however, he also did not provide any separate information to the Applicant or to his March 1, 2019.
access to information and personal data relating to your request for blocking dated

and access, data processing restrictions and

application for admission - late acknowledged by the applicant - only April 2019

On the 23rd day he provided information that, as neither the Applicant nor the police

no request was received, therefore the Applicant canceled the blocked on 7 November 2018

recordings in the Svv. in accordance with its rules.

The Applicant further requested the Authority to provide the data protection authority in the proceedings

it is established that the Applicant has committed an infringement and in the opinion of the Authority

the imposition of a data protection fine is justified, the Authority should note that, in addition to not

operates and has not operated public surveillance cameras - as requested by the Applicant

the camera recordings were blocked by the Applicant, but the recordings were made in accordance with the Act in force at that time.

after thirty days, and therefore the Applicant three and a half months

the Applicant could not respond to the subsequent request for data processing restriction and release

other than that the recordings have been deleted. In addition, during the data processing, the Applicant a

to the best of his knowledge, he sought to comply with the law, and despite the fact that the Applicant

information was indeed not adequate in all respects, the Applicant - to be prevented

future recurrence of similar cases - related to the exercise of the rights of the data subject

reviewed work instructions, supplemented them, and retrained staff

done. He requested to be taken into account in the possible imposition of a data protection fine

it is also against him neither in connection with the exercise of the rights of the data subject nor in any other way

no formal proceedings have been instituted in a data protection case before, and that so far, and this

continue to cooperate fully with the Authority to clarify the facts.

II. Applicable legal provisions

On the protection of individuals with regard to the processing of personal data and

on the free movement of such data and repealing Directive 95/46 / EC

Article 2 (1) of Regulation (EU) 2016/679 (hereinafter referred to as the General Data Protection Regulation)

the general data protection regulation applies to the processing of data under the present case.

Act CXII of 2011 on the right to information self-determination and freedom of information. Act (a

hereinafter: Infotv.) pursuant to Section 2 (2) of the General Data Protection Decree therein

shall apply with the additions set out in the provisions set out in

Infotv. Pursuant to Section 60 (1), the enforcement of the right to the protection of personal data

the Authority shall, upon request, initiate an official data protection procedure and of its own motion

initiate proceedings against the data protection authority. The data protection authority procedure is the general administrative

CL of 2016 on Public Order. (hereinafter: Ákr.) shall apply with the additions specified in the Infotv. and with the exceptions

according to the general data protection decree.

Infotv. Pursuant to Section 60 (2): "Application to initiate official data protection proceedings

Article 77 (1) and Article 22 (b) of the General Data Protection Regulation

may be submitted in certain cases. "

5

Under Article 77 (1) of the General Data Protection Regulation: 'Other administrative or

without prejudice to judicial remedies, any person concerned shall have the right to lodge a complaint with a

supervisory authority, in particular where he has his habitual residence, place of employment or presumption

in the Member State of the offense, if the person concerned considers that his or her personal

processing of personal data infringes this Regulation. "

Article 5 (1) of the General Data Protection Regulation states: "Personal data shall:

(a) be processed lawfully and fairly and in a manner which is transparent to the data subject

("legality, fairness and transparency");

(b) collected for specified, explicit and legitimate purposes and not processed

in a way incompatible with those objectives; not in accordance with Article 89 (1)

considered incompatible with the original purpose for the purpose of archiving in the public interest, scientific

and further processing for historical research or statistical purposes ("purpose limitation");

(c) be appropriate and relevant to the purposes for which the data are processed; and

they should be limited to what is necessary ("data saving");

(d) be accurate and, where necessary, kept up to date; all reasonable measures must be taken

in order to ensure that personal data are inaccurate for the purposes of data processing

deleted or corrected immediately ("accuracy");

(e) stored in a form which permits identification of data subjects for personal purposes only

allows the time necessary to achieve the purposes of data processing; personal information than this

longer storage can only take place if personal data

in accordance with Article 89 (1) for archiving in the public interest, scientific and

will be carried out for historical research or statistical purposes, those covered by this Regulation

appropriate technical and organizational arrangements to protect their rights and freedoms

subject to the implementation of measures ("limited storage");

(f) be handled in such a way that appropriate technical or organizational measures are taken

ensure the adequate security of personal data, the data is unauthorized

or unlawful handling, accidental loss, destruction, or damage

protection against privacy ("integrity and confidentiality"). "

Under Article 5 (2) of the General Data Protection Regulation: "The controller shall be responsible for

shall be able to demonstrate such compliance

("Accountability"). "

Under Article 12 (1) to (6) of the General Data Protection Regulation: '1. The controller

take appropriate measures to provide the data subject with personal data

all the information referred to in Articles 13 and 14 and 34.

Each information pursuant to Article 1 shall be concise, transparent, comprehensible and easily accessible

in a clear and comprehensible manner, in particular for children

for any information. The information shall be provided in writing or otherwise, including as appropriate

including the electronic path. Oral information may be provided at the request of the data subject, provided that:

that the identity of the data subject has been otherwise established.

2. The controller shall facilitate the processing of the data subject in accordance with Articles 15 to 22. exercise of their rights under this Article. Article 11 (2)

In the cases referred to in paragraph 15, the controller shall to exercise their rights under this Article may not refuse to comply with his request unless he proves that he has not able to identify.

3. The controller shall, without undue delay, but in any case upon receipt of the request, shall inform the data subject within one month of the following an application under Article measures. If necessary, taking into account the complexity of the application and the number of applications, this period may be extended by a further two months. The extension of the time limit is controller within one month of receipt of the request, stating the reasons for the delay inform the data subject within If the application has been submitted by electronic means, the information shall be provided if possible, by electronic means, unless otherwise requested by the data subject.

6

If the controller does not act on the data subject 's request without delay, but shall inform the data subject no later than one month after receipt of the request the reasons for not taking action and the fact that the person concerned may lodge a complaint with one of the supervisory authority and may exercise its right of judicial review

5. The information referred to in Articles 13 and 14 and Articles 15 to 22 and 34 the measure shall be provided free of charge. If the data subject's request is clearly unfounded - due in particular to its repetitive nature - excessive, the data controller, depending on the information requested or administrative costs of providing information or taking the requested action:

- (a) charge a reasonable fee, or
- (b) refuse to act on the application.

The burden of proving that the request is manifestly unfounded or excessive is on the controller.

6. Without prejudice to Article 11, where the controller has reasonable doubts as to the application of Articles 15 to 21, article the identity of the natural person submitting the application under

may request the information necessary to confirm his identity. "

According to Article 13 (1) to (2) of the General Data Protection Regulation: '(1) If the data subject is personal data is collected from the data subject, the data controller shall obtain the personal data provide the data subject with all of the following information at the time:

- (a) the identity and contact details of the controller and, if any, of the controller 's representative;
- (b) the contact details of the Data Protection Officer, if any;
- (c) the purpose of the intended processing of the personal data and the legal basis for the processing;
- (d) in the case of processing based on Article 6 (1) (f), the controller or a third party legitimate interests of a party;
- (e) where applicable, the recipients or categories of recipients of the personal data, if any;
- (f) where applicable, the fact that the controller is a third country or international organization personal data and to the Commission's compliance decision existence or absence thereof, or in Article 46, Article 47 or the second subparagraph of Article 49 (1) in the case of the transfer referred to in the first subparagraph, an indication of the appropriate and suitable guarantees, and the means by which copies may be obtained or made available reference.

2. In addition to the information referred to in paragraph 1, the controller shall process personal data at the time of acquisition, in order to ensure fair and transparent data management provide the data subject with the following additional information:

- (a) the period for which the personal data will be stored or, if that is not possible, that period aspects of its definition;
 - (b) the data subject's right to request personal data concerning him or her from the controller access, rectification, erasure or restriction of their processing and may object to such against the processing of personal data and the right of the data subject to data portability;
 - (c) information based on Article 6 (1) (a) or Article 9 (2) (a);
- in the case of data processing, the right to withdraw the consent at any time, which

does not affect the lawfulness of the processing carried out on the basis of the consent prior to the withdrawal;

(d) the right to lodge a complaint with the supervisory authority;

(e) that the provision of personal data is required by law or by a contractual obligation

based on or a precondition for concluding a contract and whether the person concerned is obliged to be personal

data and the possible consequences of providing the data

failure;

(f) the fact of automated decision-making referred to in Article 22 (1) and (4), including:

profiling and, at least in these cases, the logic used

understandable information on the significance of such processing and on the data subject

its expected consequences. "

Under Article 15 of the General Data Protection Regulation: '1. The data subject shall have the right to:

receive feedback from the data controller on the processing of your personal data

7

is in progress and if such data processing is in progress, you are entitled to personal

access to data and the following information:

(a) the purposes of the processing;

(b) the categories of personal data concerned;

(c) the recipients or categories of recipients with whom the personal data are held

have been or will be communicated, including in particular to third country consignees, and

international organizations;

(d) where applicable, the intended period for which the personal data will be stored or, if that is not possible,

criteria for determining this period;

(e) the data subject's right to request personal data concerning him or her from the controller

rectification, erasure or restriction on the processing of such personal data

against its treatment;

(f) the right to lodge a complaint with a supervisory authority;

(g) if the data were not collected from the data subject, all available information on their source;

(h) the fact of automated decision-making referred to in Article 22 (1) and (4), including:

profiling and, at least in these cases, the logic used

understandable information about the significance of such data processing and what it is for the data subject with expected consequences.

(2) If personal data are transferred to a third country or to an international organization

the data subject is entitled to be informed of the transfer

appropriate guarantees in accordance with Article 46.

(3) The data controller shall receive a copy of the personal data which are the subject of the data processing

make it available. For further copies requested by the data subject, the data controller shall be the administrative one may charge a reasonable fee based on costs. If provided by the data subject electronically

the information shall be made available in a widely used electronic format

unless the person concerned requests otherwise.

4. The right to request a copy referred to in paragraph 3 shall not adversely affect others

rights and freedoms. "

Under Article 18 of the General Data Protection Regulation: '1. The data subject shall have the right to request

the controller restricts data processing if one of the following is met:

(a) the data subject disputes the accuracy of the personal data, in which case the limitation shall be limited to that period which allows the controller to verify the accuracy of personal data;

(b) the processing is unlawful and the data subject objects to the deletion and requests it instead restrictions on the use of

(c) the controller no longer needs the personal data for the purpose of processing the data, but is concerned requires them to bring, assert or defend legal claims; obsession

(d) the data subject has objected to the processing in accordance with Article 21 (1); in this case the restriction it shall apply for as long as it is established that the controller has a legitimate reason

take precedence over the legitimate reasons of the data subject.

(2) If the processing is subject to a restriction pursuant to paragraph 1, such personal data shall be:

except with the consent of the data subject or for the purpose of bringing legal actions,

or the protection of the rights of another natural or legal person

or in the important public interest of the Union or of a Member State.

3. The controller shall, at the request of the data subject to whom the data subject has been restricted pursuant to paragraph 1

prior notice of the lifting of the restriction on data processing. "

According to Article 23 (1) of the General Data Protection Regulation: "The data controller or

Union or Member State law applicable to the processor may restrict the

12–22. Articles 34 and 34 and Articles 12 to 22. with the rights set out in Article

the rights and obligations set out in Article 5 in

obligations if the restriction respects fundamental rights and freedoms

8

necessary and proportionate measure to protect the following

in a democratic society:

(a) national security;

b) national defense;

(c) public security;

(d) the prevention, investigation, detection or prosecution of criminal offenses; or

enforcement of criminal sanctions, including against threats to public security

protection and prevention of these dangers;

(e) other important general interest objectives of general interest of the Union or of a Member State, in particular:

Important economic or financial interests of the Union or of a Member State, including monetary,

budgetary and fiscal issues, public health and social security;

(f) protection of judicial independence and judicial proceedings;

g) in the case of regulated professions, the prevention, investigation and detection of ethical violations

and conducting related procedures;

- (h) in the cases referred to in points (a) to (e) and (g), even occasionally, control, inspection or regulatory activity related to the provision of
- (i) the protection of the data subject or the protection of the rights and freedoms of others;
- (j) enforcement of civil claims. "

The Svv. Pursuant to Section 31 (6): "A person whose right or legitimate interest is in the image, sound or recording of images and sound or other personal data, (2), (3) and (4) image, sound and image and sound recordings and other within three working days, thirty and sixty days after the recording of personal data request that the data not be destroyed by the controller, proving his right or legitimate interest or do not delete it. Court, public prosecutor, investigating authority, preparatory body or to record or request information from another authority on the recorded image, sound and image and sound recording and other personal data to the court or authority without delay to be sent. If a request or request for information is made within thirty days of non-destruction has not been requested, the recorded image, sound and image and sound recordings and other personal data shall be destroyed or deleted, unless

The time limit laid down in paragraph 3 or 4 shall not expire. '1

Under Article 58 (2) of the General Data Protection Regulation: 'The supervisory authority acting in its corrective capacity:

- (a) warn the controller or processor that certain data processing operations are planned its activities are likely to infringe the provisions of this Regulation;
- (b) condemn the controller or the processor if he or she has breached his or her data processing activities the provisions of this Regulation;
- (c) instruct the controller or processor to comply with the conditions laid down in this Regulation request for the exercise of his rights;
- (d) instruct the controller or processor to carry out its data processing operations, where applicable in a specified manner and within a specified period, in accordance with the provisions of this Regulation;

(e) instruct the controller to inform the data subject of the data protection incident;

(f) temporarily or permanently restrict the processing, including the prohibition of the processing;

(g) order personal data in accordance with Articles 16, 17 and 18 respectively

rectification or erasure of data and restrictions on data processing, as well as Article 17 (2)

shall notify the addressees with whom it is addressed in accordance with paragraph 1 and Article 19

or with whom personal data have been communicated;

1

The Svv. Based on the normative text in force from 1 July 2018 to 25 April 2019.

9

(h) withdraw a certificate or instruct a certification body in accordance with Articles 42 and 43

revoke a certificate issued by the. or instruct the certification body not to issue the

a certificate if the conditions for certification are not or are no longer met;

(i) impose an administrative fine in accordance with Article 83, depending on the circumstances of the case

in addition to or instead of the measures referred to in this paragraph; and

(j) order the flow of data to a recipient in a third country or to an international organization

suspension. "

Under Article 83 (2) and (5) of the General Data Protection Regulation:

2. Administrative fines shall be imposed in accordance with Article 58 (2), depending on the circumstances of the case

It shall be imposed in addition to or instead of the measures referred to in points (a) to (h) and (j). When deciding

whether it is necessary to impose an administrative fine or the amount of the administrative fine

In each case, due account shall be taken of the following:

(a) the nature, gravity and duration of the breach, taking into account the processing in question

the nature, scope or purpose of the infringement and the number of persons affected by and affected by the infringement

the extent of the damage suffered;

(b) the intentional or negligent nature of the infringement;

(c) the mitigation of damage caused to the data subject by the controller or the processor

any measures taken to

(d) the extent of the responsibility of the controller or processor, taking into account the

and the technical and organizational measures taken pursuant to Article 32;

(e) relevant infringements previously committed by the controller or processor;

(f) the supervisory authority to remedy the breach and the possible negative effects of the breach

the degree of cooperation to alleviate

(g) the categories of personal data concerned by the breach;

(h) the manner in which the supervisory authority became aware of the infringement, in particular that:

whether the breach was reported by the controller or processor and, if so, what

in detail;

(i) if previously against the controller or processor concerned, on the same subject matter

- has ordered one of the measures referred to in Article 58 (2), the person in question

compliance with measures;

(j) whether the controller or processor has kept itself approved in accordance with Article 40

codes of conduct or approved certification mechanisms in accordance with Article 42;

and

(k) other aggravating or mitigating factors relevant to the circumstances of the case, such as:

financial gain or avoidance as a direct or indirect consequence of the infringement

loss.

[...]

5. Infringements of the following provisions in accordance with paragraph 2 shall not exceed 20 000 000

With an administrative fine of EUR 1 million or, in the case of undertakings, the previous financial year in full

up to 4% of its annual worldwide turnover,

the higher amount shall be charged:

(a) the principles of data processing, including the conditions for consent, in accordance with Articles 5, 6, 7 and 9;

(b) the rights of data subjects under Articles 12 to 22. in accordance with Article

(c) the transfer of personal data to a recipient in a third country or to an international organization

transmission in accordance with Articles 44 to 49. in accordance with Article

d) the IX. obligations under the law of the Member States adopted pursuant to this Chapter;

(e) the instructions of the supervisory authority pursuant to Article 58 (2) or the temporary processing of data

or a request to permanently restrict or suspend the flow of data

non-compliance or failure to provide access in breach of Article 58 (1). "

Infotv. 75 / A. §: "the Authority shall, in accordance with Article 83 (2) to (6) of the General Data Protection Regulation,

shall exercise the powers set out in paragraph 1, taking into account the principle of proportionality, in particular:

10

by the law on the processing of personal data or by the European Union

in the event of a first breach of the requirements laid down in a mandatory act of the

in accordance with Article 58 of the General Data Protection Regulation

take action by alerting the controller or processor. "

III. Decision

III. 1. The Applicant's right to restrict data processing

Pursuant to Article 18 (1) (c) of the General Data Protection Regulation, the data subject is entitled to

that, at his request, the controller restricts the processing if the controller no longer needs it

personal data for data processing purposes, but the data subject requires them for legal claims

to present, validate or defend.

For information on how to provide information on data protection restrictions, see

data controller obligations are detailed in Article 12 of the General Data Protection Regulation.

Article 23 (1) of the General Data Protection Regulation also sets out its specific provisions

cases in the existence of which the rights of the data subject may be restricted, such as data processing

the right to restrict.

Furthermore, pursuant to Article 18 (3) of the General Data Protection Regulation, the controller is

the data subject at whose request the data processing has been restricted, on the lifting of the data processing restriction

inform you in advance.

In the present case, on November 7, 2018, the Applicant § 31 (6)

with reference to the fact that it had initiated legal proceedings, requesting that the

that "pending further action by the investigating authority, the entrance to the bar and the street section

please keep all camera recordings and then unchanged on call

publish the recordings of the cameras shown in Figures 5 and 6, which record the point of entry. "

The Applicant complied with the Applicant's request and on 7 November 2018

restricted the processing of data by blocking the recordings specified by the Applicant

in order to hand them over to the competent authority. THE

However, the Applicant did not inform the Applicant about it, only during the clarification of the facts

supported by a protocol on the restriction with the Authority.

Subsequently, also a statement to the Authority and the destruction of the data sent

on the basis of the minutes it can be established that the Applicant annulled it on 10 December 2018

recordings locked on November 7, 2018. However, the Applicant does not agree on this either

informed the Applicant.

The Applicant has subsequently approached several times - requesting information on the blocking,

with a request for access and then for a copy of the recordings - by e-mail to the

Applicant, who, however, only informed the Applicant on 23 April 2019 that,

as no request was received from him or the investigating authority,

On 10 December 2018, the applicant deleted the recordings blocked on 7 November 2018.

As a reason for the cancellation of the recordings, the Applicant § 31 (6)

on the basis of which provision the legislature essentially provided for the possibility of

the data subject to request the blocking of the recordings by proving his right or legitimate interest. At

the controller had to block the recording and, if so, by a court or an authority

11

required a recording during the proceedings, it had to be sent. If the court or the

authority has not requested the recordings within thirty days, the controller shall request the recordings had to be annulled, so it was appropriate to initiate court or official proceedings to make express reference to this special circumstance and to bring it to the attention of the court or authority seised to request admission within that period. If the court or authority did not seek it data manager, the recordings had to be deleted.

The Svv. therefore, in view of this provision, the Applicant deleted the recordings after the lock-up after thirty days, as no request was received from the police or the Applicant.

However, in this period of November and December 2018, the general was already applicable Data Protection Regulation - from 25 May 2018. However, by 2019 there are many left legislation containing a (sectoral) data protection regulation, such as the Szvtv. general "alignment" with the Data Protection Regulation, the changes to which only entered into force on 26 April 2019 into force. Until this period, however, the Svv. the General Data Protection Regulation had to be interpreted in the light of. As a result, the Svv. Section 31 (6), however, provided that if the court or authority has not requested the recordings within thirty days, the data controller to destroy locked recordings, the general data protection regulation of data management provisions on the exercise of the right to restrict and it follows that for the purpose of bringing, enforcing or shall be kept locked up for the period necessary for the protection of the person concerned, for example until the end of the legal proceedings in question recordings, they cannot be deleted.

The provisions of the General Data Protection Decree for Hungarian legal entities from 25 May 2018 directly applicable, except for those for its full application and implementation additional provisions are required under the national law of each Member State. In addition the general data protection regulation gives Member States some scope, to a limited extent to lay down additional or different rules

The exercise of the rights of those affected did not fall within this scope, nor did the Member States, including Hungary

authority to restrict the exercise of the rights of the data subject, therefore the Act Section 31 (6) could not be applied if the data subject had requested the data controller to take camera recordings not to delete or destroy it.

Consequently, the Authority concludes that the Applicant is a general data protection regulation contrary to the rules of the applicant, deleted by the Applicant and blocked by the Applicant thirty days after the Applicant's request for blocking.

The Authority therefore finds that the Applicant has breached the general data protection Article 18 (1) (c) of that Regulation.

Furthermore, given that the Applicant did not provide a timely and adequate and transparent information on the basis of a request from the Applicant to exercise his / her right as a data subject that it did not block the recordings requested by the Applicant in advance that it will lift the restriction on data management and will delete the recordings moreover, it has not been facilitated by Articles 15 to 22 of the relevant General Data Protection Regulation. rights under this Article but explicitly prevented it by deleting the recordings, the Authority notes that that the Applicant has infringed Article 12 (1) to (4) of the General Data Protection Regulation, and Article 18 (3).

III. 2. Applicant's right of access

III. 2. 1. Pursuant to the right of access under Article 15 (1) of the General Data Protection Regulation, the data subject has the right to receive feedback from the controller that he or she is personal

12 whether your data is being processed and, if such data is being processed, you have the right to have access to your personal data and data management information.

Regarding how to provide information about data management, your data controllers obligations, as well as the right to restrict data processing, are general Article 12 of the Data Protection Regulation.

Article 23 of the General Data Protection Regulation also sets out the specific cases that the rights of the data subject, such as the right of access, may be restricted.

In the present case, the Applicant on March 1, 2019 sent an e-mail to the General Privacy Officer requested information from the Applicant referring to Article 15 of the Regulation what personal data you handle and to whom and when you transferred this personal data to Requested. The Applicant also previously requested, on 8 November 2018, the general restriction under Article 18 of the Data Protection Regulation, ie the blocking of recordings requested information on his application and requested that the block be maintained, in view of that also that he did not receive it after his correspondence with the Applicant dated 7 November 2018 information.

However, the Applicant did not reply to this e - mail from the Applicant either, claiming that this letter was somehow mixed up, only in an email sent on 23 April 2019 he informed him that, since nothing had been received from him or the investigating authority request, therefore the Applicant deleted the recordings blocked on 7 November 2018. THE However, at the request of the Applicant to exercise the right of access, the Applicant shall do nothing did not inform the Applicant of the reasons for not taking action and that he may lodge a complaint with the Authority and exercise his right to a judicial remedy. It follows that The Authority finds that the Applicant has not complied with the Applicant's request for access, in breach of Article 15 of the General Data Protection Regulation and also in breach of the general Article 12 (4) of the Data Protection Regulation.

III. 2. 2. The right of access includes the right to issue a copy, in the case of camera recordings a the right to publish copies of the recordings. Article 15 (3) of the General Data Protection Regulation The controller shall provide the copy requested for the first time free of charge to the data controller and may charge for the issue of the copy only in further cases award.

Also from Article 15 (4) and recital 63 of the General Data Protection Regulation

however, the right of access must not be unrestricted and must not adversely affect the rights of others; and freedoms, as a result of which the data subject has access only to the parts of the recordings which depict him and the other participants must be covered by the data controller.

In addition, in the exercise of the right to issue a copy, the controller shall take action must also comply with the general rules when making or providing information requirements of Article 12 of the Data Protection Regulation.

By e-mail dated 12 April 2019, the Applicant requested that the requested and Recordings blocked by the Applicant will be issued to the Applicant. The Applicant to this letter a By letter dated 23 April 2019, he replied in due time, informing him that as no request was received from either the Applicant or the investigating authority, therefore the Applicant canceled the recordings blocked on 7 November 2018.

In connection with this reply from the Applicant, the Authority refers back to Annex III to this Decision. 2. in point 1 according to which the reply of the Applicant sent on 23 April 2019

13

infringed Article 12 (4) of the General Data Protection Regulation by failing to inform the

The applicant shall be informed of the reasons for not taking action and of the fact that he may lodge a complaint with the Authority and may exercise its right of judicial review.

Furthermore, in its letter of 7 November 2018, the Applicant did not provide adequate information a Applicant's exercise of his rights as a victim as he replied to him that he was being photographed it can only be issued to the authorities at the official request of the police. November and December 2018 Szvtv. Indeed, it was only possible to send the

however, from 25 May 2018, Article 15 (3) of the General Data Protection Regulation the controllers are already obliged to provide the data subject with the requested recordings, without prejudice to the rights of others. The Applicant 's data management information also states that "At the request of the Data subject or of the Court or of another Authority, the recorded shall be sent to the court or authority without delay. "

Consequently, the Authority finds that the Applicant did not issue any recordings either provided adequate and transparent information, as in November 2018 neither the police nor the authority, but also to the data subject. By the Applicant therefore, the information provided did not comply with the general data protection regulation, but did not was not in line with its own privacy statement. It follows that

The Authority finds that the Applicant also violated the general rule in this regard Article 12 (1) to (2) of the Data Protection Regulation.

III. 3. Release of Restricted Recordings

By e-mail dated 12 April 2019, the Applicant requested that the requested and Recordings blocked by the Applicant will be issued to the Applicant. However, the Applicant - as nor did it reply to the Applicant's requests for further exercise of the rights of the data subject, only by a letter sent on 23 April 2019 stating that, since neither the Applicant nor the no request was received from the investigating authority, therefore the Applicant canceled the 2018. recordings locked on November 7th.

In this respect, the Authority notes that according to the General Data Protection Regulation, the the data subject shall have the right to issue a copy, as provided for in 2. Point 2 explains this - not that to receive the original recordings. In this respect, the Applicant's request is not clear, however, given that the Applicant is at the request of the Applicant did not reply and did not provide any information on the request measures, the Authority finds that the Applicant has breached the general data protection Article 12 (1) to (4) of this Regulation

III. 4. Rejection of the request to contact the police

In its request, the Applicant requested the Authority to contact Budapest VII. district Police Headquarters in connection with the record of the Applicant 's report, which specifically included a request for proof that the police request the Applicant requested camera footage from the Applicant, which is a motion of the police, however

did not do enough.

Infotv. Pursuant to Section 38 (2), the Authority is responsible for the protection of personal data, and the exercise of the right of access to data in the public interest and in the public interest free movement of personal data within the European Union promoting.

14

Infotv. Section 38 (3) also lists the tasks that the Authority may perform acting within its competence. However, these do not include a task based on which the Authority to another authority, in this case Budapest VII. district Police Department in order for the police to intervene in their own instructing the police on the basis of what evidence to use to determine the facts.

The Authority Under Section 25, another body or person may then be approached by its own proceedings if a procedural act is required in a given case outside the competence of the Authority or other information or documents required in the course of the proceedings.

On this basis, the Authority may make a request to another body or authority if it is its own necessary to clarify the facts in the course of its proceedings outside its area of competence to perform a procedural act in the area of competence of the competent authority, or with other necessary data or documents authority.

Given, therefore, that it is not within the competence of the Authority to seek the investigating authority to request from the Applicant a period specified by the Applicant camera recordings, this part of the Applicant's request did not comply with the general data protection Article 77 (1) of the Infotv. Contained in Section 60 (2) requirements, including the Authority's data protection authority procedure in this regard can be initiated, therefore the Ákr. Pursuant to Section 47 (1) (a), the Authority shall in respect of the application.

The Authority further notes that the Applicant's statement and its attached annulment under the protocol, the recordings had already been deleted, so the investigating authority consequently it is not even able to request the recordings requested by the Applicant.

III. 5. Public area surveillance cameras

In addition to the Applicant 's objections to the rights of the data subject, the

According to the petitioner, cameras that illegally monitor public spaces and their objected to the lack of information.

Examination of the fulfillment of the Authority's requests for the exercise of the rights of the Applicant as a data subject

In addition, the Authority will apply the Applicant's general data management practices regarding these cameras ex officio extended the data protection authority procedure for public space surveillance and information with regard to.

Based on the statements of the Applicant and the documents submitted by the Applicant, the Applicant does not operate public surveillance cameras, but in the legitimate interest of the office building,

or the protection of the Applicant's property and the person in the monitored area

to protect the physical integrity and property of persons - entrances and in front of them

He placed cameras monitoring the private area in the

parts affecting public areas, while parts not covered with ornamental stones to the Applicant's registered office

private areas. In support of these, the Applicant attached the entrances to the observer

photographs of the cameras and the snapshots taken by them, in order to prove a legitimate interest

a balance of interest test, as well as a site plan of the property and a copy of the title deed.

According to the statement, the Applicant is related to the cameras and surveillance

data management with pictograms at the entrances and for visitors at the reception

inform data subjects through an available data management information. The data management information can be found in

Applicant also sent it to the Authority, during which review the Authority

found that it was covered by Article 13 (1) to (2) of the General Data Protection Regulation

information in accordance with

In this regard, however, the Authority emphasizes that in view of the submission

with the exception of the balancing test and data processing contracts

date, so it is not proven when the camera surveillance presented by the Applicant is valid

and information about it.

Pursuant to Article 5 (2) of the General Data Protection Regulation, the controller is essentially objective

accountability, which sets out its responsibilities and due diligence

Due to the requirement of the data controller, the data subject has the obligation to prove that

that the conditions for the lawfulness of data processing - from the beginning of data processing - continuously

they exist. The data controller can only rely on the foundation to ensure that it complies in all respects

the legal requirements for data processing, if it is able to comply with this certification obligation, and

Authority, the court seised or the person concerned in a detailed manner, providing reasonable assurance

can demonstrate the existence of these conditions.

In clarifying the facts, the Authority stated to the Applicant what it was like

informed the Applicant and the data subject about the surveillance of the cameras and its

details.

However, the Applicant provided information on the situation as of the date of his declaration

not how the Applicant was informed during the period under investigation, ie when the

The bar named [...], operated by the applicant, was attacked by the security guards of the bar and is light

they were physically assaulted.

For this reason, the Applicant did not certify the data management information without a date

the date on which it was drawn up, and thus did not prove when it would provide adequate information, so

it has not been demonstrated that the data management or information in the period under review complied with the

requirements for lawful data management. Failing this, proof of legality shall be given at the earliest by

Authority NAIH / 2019/3910/5. at the time of receipt of the order clarifying the facts,

It will be accepted on 16 December 2019.

The date of the interest balance test sent to the Authority is 21 May 2018, while the data processor the date of the contracts is 29 April 2019. However, in the Authority's view, none of these it follows that the data processing as a whole and the information provided about it would have complied with the the requirements of lawful data processing at the time of the data processing objected to by the Applicant, or before the start of the Authority's data protection authority proceedings.

On the basis of the above, the Authority concludes that since the Applicant has not been able to prove that the Data management related to the camera surveillance complained of by the applicant during the period under investigation would have complied with the data protection requirements and, consequently, did not comply with it principle of accountability, in breach of the General Data Protection Regulation Article 5 (2).

III. 6. Sanctioning

The Authority rejected the Applicant's application for a fine, as e the application of a legal sanction does not directly affect the right or legitimate interest of the Applicant, such a decision of the Authority shall not create any right or obligation for it As regards the application of a sanction falling within the scope of the public interest, with regard to the imposition of fines, the Applicant shall not be considered a customer in accordance with Ákr. Section 10 (1)

16

or, as the Acre. Does not comply with Section 35 (1), application in this regard this part of the application shall not be construed as an application.

However, the Authority examined of its own motion whether it was justified in respect of the applicant imposition of a data protection fine. In this context, the Authority shall, in accordance with Article 83 (2) of the General Data Protection Regulation,

and Infotv. 75 / A. § considered all the circumstances of the case and found that

that in the case of infringements detected in the present proceedings, the warning is neither proportionate nor disproportionate a dissuasive sanction, it is therefore necessary to impose a fine.

In setting the amount of the fine, the Authority took into account, in particular, that:

Infringements by the applicant under Article 83 (5) (b) of the General Data Protection Regulation

shall be deemed to constitute an infringement falling within the higher category of fines.

The Authority took into account as an aggravating circumstance when setting the amount of the fine:

that

-

the Applicant has not provided transparent information to the Applicant on several occasions

measures taken in response to requests from data subjects to exercise their rights. [general

Article 83 (2) (a) and (k) of the Data Protection Regulation].

-

in line with the objective responsibility of the Applicant as data controller for the data processing

the principle of accountability in the absence of its obligations arising from sound data management

in connection with the electronic surveillance complained of by the Applicant

data management. [Article 83 (2) (a) of the General Data Protection Regulation]

The Authority took into account as an attenuating circumstance that

-

to convict the Applicant for violating the General Data Protection Regulation

has not taken place [Article 83 (2) (e) of the General Data Protection Regulation];

-

in the period under review, the Svv. the relevant rules were still in force, but not

were in accordance with the general data protection regulation as set out by the Authority in Annex III. 1.

and therefore the Authority does not impose a breach of the right to a restriction

issued a fine [Article 83 (2) (k) of the General Data Protection Regulation].

The Authority took into account as a mitigating circumstance that the Act relevant rules yet

were in force but not in line with the General Data Protection Regulation, and this

the Applicant was misled by the fulfillment of the Applicant's request to restrict data processing

[Article 83 (2) (k) of the General Data Protection Regulation].

The Authority did not consider the general data protection to be relevant when setting the fine circumstances under Article 83 (2) (b) (c), (d), (f), (g), (i) and (j) of cannot be interpreted in relation to a specific case.

The net sales revenue of the Applicant in 2018 was more than HUF 700 million, so the imposed data protection fine is distant from the maximum fine that may be imposed.

ARC. Other issues:

The powers of the Authority shall be exercised in accordance with Infotv. Section 38 (2) and (2a) determine the jurisdiction of the country covers the whole territory.

The present decision of the Authority is based on Art. 80-81. § and Infotv. It is based on Section 61 (1). The decision is Ákr. Pursuant to Section 82 (1), it becomes final upon its communication. The Ákr. Section 112 and Section 116 (1) 17

and (3) (d) and § 114 (1)

there is a right of appeal through an administrative lawsuit.

The Ákr. Pursuant to Section 135, the debtor is entitled to a late payment supplement equal to the statutory interest is obliged to pay if it fails to meet its obligation to pay money on time.

The Civil Code. 6:48. § (1), in the case of a debt owed, the debtor is in arrears valid on the first day of the calendar half-year affected by the delay shall pay default interest at the same rate as the basic interest.

The rules of administrative litigation are laid down in Act I of 2017 on the Procedure of Administrative Litigation (a hereinafter: Kp.). A Kp. Pursuant to Section 12 (2) (a) by decision of the Authority

The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (11)

the Metropolitan Court has exclusive jurisdiction. A Kp. Pursuant to Section 27 (1) a

legal representation is mandatory in litigation falling within the jurisdiction of the tribunal. A Kp. Pursuant to Section 39 (6) the filing of an application does not have suspensory effect on the entry into force of the administrative act.

A Kp. Section 29 (1) and with this regard Pp. Applicable in accordance with § 604, electronic

CCXXII of 2015 on the general rules of administration and trust services. Section 9 of the Act

Under paragraph 1 (b), the client's legal representative is required to communicate electronically.

The time and place of the submission of the application is Section 39 (1). The trial

Information on the possibility of requesting the maintenance of the Kp. It is based on § 77 (1) - (2). THE

the amount of the fee for an administrative lawsuit in accordance with Act XCIII of 1990 on Fees. Act (hereinafter:

Itv.) 45 / A. § (1). From the advance payment of the fee, the Itv. Section 59 (1)

and Section 62 (1) (h) shall release the party initiating the proceedings.

If the Applicant does not duly prove the fulfillment of the required obligation, the Authority shall

considers that it has failed to fulfill its obligations within the prescribed period. The Ákr. According to § 132, if the Applicant

has not complied with an obligation contained in the final decision of the authority, it shall be enforceable. The Authority

decision of the Ákr. Pursuant to Section 82 (1), the communication becomes final. The Ákr. Section 133

implementation, unless otherwise provided by law or government decree

ordering authority. The Ákr. Section 134 of the Enforcement - if law, government decree

or in the case of a municipal authority, the decree of the local government does not provide otherwise - the

carried out by a state tax authority. Infotv. Pursuant to Section 61 (7) in the decision of the Authority

to perform a specific act, conduct or tolerate a specific act

the Authority shall enforce the decision in respect of the standstill obligation

implements.

Budapest, March 19, 2020

Dr. Attila Péterfalvi

President

c. professor