

Case number: NAIH / 2020/1892/9.

Subject: Partial decision granting the application

and a termination order

and

The National Authority for Data Protection and Freedom of Information (hereinafter referred to as the Authority) [...] (residence:

[...]) By the applicant (hereinafter referred to as the "Applicant") to the [...] Joint Municipal Office ([...])

hereinafter referred to as the "Applicant") for infringement of the Applicant's right of access

initiated the following decisions in the data protection authority proceedings initiated on 21 February 2020

brings:

I. In the decision of the Authority, at the request of the Applicant

partly gives space and

the)

Notes that the Applicant has not properly complied with the Applicant's request to exercise the right of access dated 3

February 2020, thereby violating the Applicant's GDPR

The right of access provided for in Article 15 (1), and the right of natural persons to a

protection of personal data and the protection of such data

and repealing Directive 95/46 / EC

transparent data management in accordance with Article 5 (1) (a) of the GDPR

principle;

b)

obliges the Applicant to do so within 15 days of receipt of this decision

comply with the Applicant's request to exercise the right of access. The measure required

must be made in writing by the Applicant within 8 days of the action being taken - the

together with the submission of supporting evidence, to the Authority, so that the

Information provided to the applicant (in full) and proof of dispatch

by sending a copy to the Authority.

II. In the Authority's decision, the part of the Applicant's application seeking a determination from the Authority that the Applicant did not provide sufficient information in accordance with Article 32 of the GDPR regarding he rejects.

III. In the order of the Authority, the data protection authority procedure is set out in Annexes I and II of the Applicant's application. points parts not mentioned above terminates.

Annexes I and II to this Decision and Annex III to this Decision. against an order under

There is no legal remedy, but they must be appealed to the Capital City within 30 days of the notification.

An application to the General Court may be challenged in an administrative action. The application is lodged with the

It must be submitted to the authority, electronically, which will forward it to the court together with the case file. THE

the request for a hearing must be indicated in the application. Regarding the order, the court

act out of court in a simplified case. Those who do not benefit from full personal exemption

The fee for the administrative lawsuit is HUF 30,000, and the lawsuit is subject to the right to record material fees. The Capital

Legal proceedings are mandatory in proceedings before the General Court.

2

## EXPLANATORY STATEMENT

### I. Procedure and clarification of the facts

I.1. In its application received by the Applicant on 20 February 2020, the Applicant is a data protection authority initiated proceedings against the Applicant.

According to the application, the Applicant did not comply with the [...] e-mail address of the Applicant on 3 February 2020.

the request for access to the data requested

access.

In the access request, the Applicant requested information from the Applicant as to which is personal

your data is processed for what purpose (requesting the personal data to be provided separately for each purpose),

the legal basis on which your personal data were transmitted (if so, the exact time and recipient of the transmission)

data security (physical, logical) guarantees for the storage of personal data

provides the Applicant, as well as exactly who (staff by position, data processors) handles the personal information.

On 18 February 2020, the Applicant sent a reply to the Applicant's request stating the following informed:

Based on the data report submitted by the Applicant, the tax group is the name, address, tax ID, tax number, mother's name, birth data, business data handles, public service agencies

335/2005 on the general requirements for the management of records (XII. 29.) and the

CL of 2017 on the taxation system. according to the law. Your personal information has not been transferred. THE provide proportionate protection to the storage of personal data based on risk analysis

Act L of 2013 on Electronic Information Security of State and Local Government Bodies,

and Act L of 2013 on Electronic Information Security of State and Local Government Bodies.

technological security and secure information devices as defined by law,

products and the security classification and security classification

41/2005 on the requirements for (VII. 15.) of the Ministry of the Interior, which ensures that

the confidentiality, integrity and availability of your data must be maintained throughout the data processing.

The Applicant attached to the reply letter his / her data protection regulations, the data protection information, and the GDPR Article 30 data record table managed by the Applicant

the scope of personal data, the purpose and legal basis of the data processing.

The Applicant submitted that in his opinion the Applicant had not responded to Article 15 of the GDPR

and did not provide any information on the data specifically handled. He described it only in general terms

the scope of the processed data, also incompletely, as the Applicant has both the Applicant's telephone number and and manages your email addresses that were not mentioned in the reply.

The GDPR was not specified in the reply as the legal basis for the processing of your personal data

Article 6, the reply mentions only two pieces of legislation which do not constitute a legal basis.

In connection with the data security issues, the Applicant referred in the reply letter to legislation, however, in the Applicant's view, his question should not have been answered which legislation determines what to comply with, but also what the legislation is notes how specifically the Office has done / will comply with it?

In the reply letter, the Applicant described that the legal basis and purpose of the data processing was in accordance with Article 30 of the GDPR.

However, according to the Applicant, a sending the table is not considered transparent, not even because the Applicant is specific, the Applicant He was interested in the personal data processed by the. and the related legal basis and purpose, to which the Table 1 does not give, and by mentioning many pieces of legislation, it is far from the concept of clarity.

3

The Applicant requested the Authority to establish that the Applicant had the content of the information has failed to fulfill its obligations under Article 15 of the GDPR in order to

Requested the applicant to provide the requested information with content that complies with the law.

The Applicant also requested the Authority to establish during the official proceedings that a

Requested

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failed to comply with its obligation under Article 37 (1) (a) of the GDPR in May 2018

Between 25 and 14 December 2018;

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failed to comply with its obligations under Articles 13 and 14 of the GDPR on 25 May 2018 and 2018.

between 14 September;

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misinterprets the 2011 Act on the Right to Information Self-Determination and Freedom of Information;

year CXII. (hereinafter: the Information Act) concerning mandatory data processing by

that it classifies all personal data processing by it in the category of mandatory data processing,

in serious breach of the principles enshrined in Article 5 of the GDPR;

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did not provide sufficient information in the light of Article 32 of the GDPR, the relevant

in the opinion of the Applicant, the indication of the legislation is not considered appropriate information;

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by infringing Article 30 of the GDPR, seriously infringes and disregards the GDPR, and thus

in particular Articles 5, 6, III Chapter I and Article 30 of this Regulation are incorrect,

gives unambiguous, poor information; and

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has committed several serious violations against the Applicant for the violation of the rights of the data subject, in particular the lack of information and its incorrect, misunderstood, incomprehensible nature,

and therefore imposes the highest possible data protection fine on the Applicant.

At the request of the Applicant received on 20 February 2020, Infotv. Pursuant to Section 60 (1) a

NAIH / 2020/1892. The case was initiated on 21 February 2020 by a data protection authority proceeding.

I.2. In its order of 16 March 2020, the Authority issued the Data Protection Authority procedure

He requested that the application be remedied, as the application did not contain the alleged

evidence supporting the allegations of infringement, ie for the Applicant by 2020.

a copy of the request for access sent on 3 February. The text in the application is not

replaces the copy of the correspondence and does not prove the exercise of the right of access, the request

the fact, date, addressee and content of the request for access.

The Applicant shall submit to the Authority a letter of formal notice dated 23 March 2020, to the Authority 2020.

In its reply of 26 March 2006, the Commission complied with the

a copy of all correspondence relating to the exercise of this right.

I.3. In order to clarify the facts, the Authority invited the Applicant to make a statement which:

The Applicant complied with this request by replying on 14 May 2020.

The Applicant informed the Authority that the Applicant had sent three data requests to the Applicant on 3 February 2020. The three requests were answered in an email and forwarded to

Applicant shall provide the documents requested by him.

- Among the documents was the Requested Data Management Register, which contains the individual personal data processed in connection with personal data, their purpose, legal basis, place of storage and the deadline for cancellation.

- It is included in the transmitted Data Management Register as a secretariat for applications the management of the name and address and, in general, the e-mail address, which also have a legal basis adva [335/2005. (XII. 29.) Government Order].

4

- The legal basis for the processing of personal data in the case of the Applicant is the legal one applicable to the Applicant fulfillment of the obligation expressed by the fact that in the Data Management Register the legal basis is a legislation specifying the obligation.

The Authority's question as to why was not answered in full, on the merits, by all means covering and answering specific questions and tailoring them to the specific stakeholder a

Applicant's request for access dated 3 February 2020 was submitted by the Applicant as a matter of urgency was formulated in general terms, for all the Applicant 's systems, its fulfillment a

would have resulted in a disproportionately large commitment of resources, taking into account the daily workload.

As the Applicant's three data requests apply to the Applicant's entire data protection system

requested data and did not request the interpretation of the specific personal data content in their request,

but wanted to check the data protection adequacy of the Applicant, therefore the Applicant decided to

to transmit the Data Register to him. This is for all data managed by the Applicant

determine the legal basis for the processing.

As the Applicant himself claims to be a data protection lawyer, he assumed in good faith that the

It is requested that the transfer of the Data Registry be the right solution.

The Applicant further submitted that if the Applicant had indicated that more specifically

what data you need would of course have been passed on as well. Where specific data content is required, it will be sent to the e-mail address or postal address provided by the it has not and will not withhold disclosure. The Applicant did not request the data processing a copy of the personal data to which the data subject is subject, but if necessary to the data subject are released.

The Applicant shall, at the request of the Authority, list the specific cases it has handled about the Applicant personal data, communicate the purpose of the data processing and the legal basis and statement documents, the Applicant has generally provided information to the personal data handled by him the scope of the data, the purpose of the processing of each data and the legal basis.

I.4. The Authority - having regard to the fact that the Applicant is a NAIH / 2020/1892/4. in order no The reply to the request was not complete, covering all the Authority's questions and in order to clarify the facts, he repeatedly called on the Applicant to give specific information information on which personal data the Applicant handles and keeps records of a copy of the details of the records relating to the Applicant from each of its databases, and the Applicant provide information on all specific personal data processed by the Applicant the legal basis and purpose for which each data is processed.

The Authority also repeatedly drew the Applicant's attention to the decision to close the case it is possible to indicate, together with the supporting evidence, all the facts and considerations a circumstance which it considers necessary to take into account in the imposition of any fine.

In its reply to the Authority's request dated 2 June 2020, the Applicant the individual personal data of the Applicant, the purpose and legal basis of the data processing for each data personal data registered by him about the Applicant and by the Authority a copy of the requested record details.

## II. Applicable legal provisions

Pursuant to Article 2 (1) of the GDPR, the GDPR applies to the processing of data in the present case.

Infotv. Pursuant to Section 2 (2), the general data protection decree is indicated therein

shall apply with the additions provided for in

Infotv. Pursuant to Section 60 (1), the enforcement of the right to the protection of personal data the Authority shall, at the request of the data subject, initiate a data protection authority procedure.

5

Infotv. Pursuant to Section 60 (2), an application for the initiation of official data protection proceedings a It may be submitted in the case specified in Article 77 (1) and Section 22 (b) GDPR.

Article 77 (1) GDPR: Without prejudice to other administrative or judicial remedies, all concerned have the right to lodge a complaint with a supervisory authority, in particular the normal one in the Member State of residence, employment or the place of the alleged infringement, if any considers that the processing of personal data concerning him or her infringes this Regulation.

Under Article 15 (1) of the GDPR: '1. The data subject shall have the right to obtain from the controller: receive feedback on whether your personal information is being processed and if so such data processing is in progress, entitled to personal data and the following get access to information:

- (a) the purposes of the processing;
- (b) the categories of personal data concerned;
- (c) the recipients or categories of recipients to whom the personal data have been disclosed or will be communicated, including in particular to third country recipients or 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 information on the significance of such data processing and what is expected of the data subject consequences. [...]

Article 58 (2) (b) and (c) GDPR: Acting in the corrective capacity of the supervisory authority:

(b) reprimand the controller or the processor if his or her data processing activities have infringed this 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;

Infotv. 75 / A. §: The Authority is set out in Article 83 (2) to (6) of the General Data Protection Regulation exercise its powers in accordance with the principle of proportionality, in particular by legislation or a binding act of the European Union

for the first time in the event of a breach of the rules laid down in

in accordance with Article 58 of the General Data Protection Regulation, in particular the controller or by alerting the data controller.

The data protection authority procedure is governed by the CL of 2016 on General Administrative Procedure. law (hereinafter: Ákr.) shall be applied with the additions specified in the Information Act and the with derogations under the General Data Protection Regulation.

The Ákr. Section 46 (1) (a) states that the authority shall reject the application if the proceedings there is no statutory condition for initiating proceedings, and this law is different has no legal effect.

6

The Ákr. Pursuant to Section 47 (1) (a), the authority shall terminate the proceedings if the application should have been rejected, but the reason for that was after the initiation of the procedure authority.

III. Decision

### III.1. Violation of the Applicant's right of access

The Applicant's request for access dated 3 February 2020 was not of a general nature, -... Article 15 of the GDPR.

I hereby request information on all personal data processed about me... ”

formulated specific, well-distinguished questions regarding the handling of your personal data connection.

The right of access in Article 15 of the GDPR consists of three parts. The data subject is entitled to receive information whether your personal data is handled by the data controller, exactly what data you handle and what the conditions for data processing. The applicant's application of 3 February 2020 is based on Article 15 of the GDPR on the basis of which the controller is obliged to provide access to the data subject personal data processed. The Applicant may request information from the Applicant pursuant to Article 15 of the GDPR He replied on 18 February 2020, but did not adequately provide information obligation.

The Applicant shall submit to the I.1. and I. 3, the specific own did not provide information on his personal data, but on his own, for individual cases the type of personal data processed in connection with them, the purpose of their processing, the legal basis, the place of storage and the

sent a Data Management Register containing a deadline for cancellation and a reply letter only informed the Applicant about the type of personal data it handles.

Not to fulfill access requests in a manner that complies with data protection requirements a formal answer without relevant information is sufficient. Exercise of the right of access

As a result, the obligation to provide information on the side of data controllers is not an administrative one obligation that can be fulfilled in a template. During the execution of access requests, the data controllers by tailoring the information to specific data subjects, personalizing it and asking them to do so issues should be made available to those concerned on a substantive basis. In the absence of this, the data subjects are not given a clear picture of how their personal data is handled, it is not for them transparent.

In the Authority's view, the Applicant's request for information under Article 15 of the GDPR in particular, that in the application the Applicant also formulated as a separate question the question "which my personal data are processed" - could not have interpreted it as the Applicant's request has been formulated in general terms for all Office systems and not could have assumed that since the Applicant was "a data protection lawyer by his own The transfer of data records is the right solution. "

However, the Authority noted that the Applicant had provided information to the Applicant in its reply of 18 February 2020 on the conditions for data processing.

In view of the above, the Authority finds that the Applicant has infringed Article 15 (1) of the GDPR. when it did not provide substantive, specific answers to the Applicant's request for access about the personal data processed about the Applicant prior to the official request by which the Applicant 's right of access.

The issue in the Applicant's access request is whether the Applicant is storing personal data what data security (physical, logical) guarantees it provides goes beyond Article 15 (1) of the GDPR The right of access of the Applicant is therefore information, therefore the Applicant is not obliged under the GDPR, to inform the Applicant of the data security measures it is applying. Erre

In view of this, the Authority notes that the Applicant's right of access under Article 15 of the GDPR is not

7

damaged by the Applicant's failure to provide sufficient information under Article 32 of the GDPR regarding.

### III.2. The principle of transparency

Transparency must apply throughout the data management process. For the person concerned it must be transparent which personal data are processed by which data controllers. That's about it One way to persuade is to exercise the right of access under which the data subject is controlled knows the lawfulness of data processing.

By applying to the III.1. within one month of receipt of the request

provided the Applicant with incomplete information on the processing of his / her personal data within the deadline - because the

information did not specifically state that in connection with the fulfillment of its obligations specifically what personal data he / she handles in relation to the Applicant - has made it impossible for him / her to the processing of personal data concerning him by the Applicant, in breach of Article 5 of the GDPR

The principle of transparency referred to in paragraph 1 (a).

Given that the information was incomplete, the Applicant was required to comply with Article 15 (1) of the GDPR.

to respond in accordance with points (a) to (h) of paragraph

III.3. Application of data protection officer and data management regulations, data management register content

The Applicant submitted its applications in general, in its non-affected capacity, in which

sought a declaration that the Applicant had violated the GDPR

(a) Article 37 (1) (a), because not between 25 May 2018 and 14 December 2018

the Data Protection Officer employed;

(b) Articles 13 and 14 because it did not provide between 25 May 2018 and 14 September 2018

data management policy and data management information, and

(c) Article 30 of the GDPR, because the register of data processing is not a legal basis but a legal basis contains legislation

as a result, the Authority With regard to Section 46 (1) (a), Ákr. Section 47 (1)

(a) shall terminate the proceedings in those parts of the application.

III.4. Application for a data protection fine

The Authority rejected the Applicant's request for a data protection fine, as e

the application of a legal sanction does not directly affect the rights or legitimate interests of the Applicant, a

Such a decision by the Authority does not create a right or an obligation and, as a result,

the imposition of a fine with regard to the application of a legal sanction falling within the scope of its enforcement

the Applicant does not qualify as a customer in accordance with Ákr. Pursuant to Section 10 (1), or - as the Ákr. Does not comply with Section 35 (1), there is no place to submit an application in this regard, a This part of the application cannot be interpreted as an application.

Based on the above, the Authority has decided in accordance with the operative part.

ARC. Legal consequences

The Authority grants the Applicant's request in part and Article 58 (2) (b) GDPR

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

Article 15 of the GDPR when he did not respond in substance to the Applicant's request for access.

Pursuant to Article 58 (2) (c) of the GDPR, the Authority instructs the Applicant to comply with the

Applicant's request for the exercise of the right of access and communicate it to the Applicant

8

who handles your personal data, for what purpose (personal data is processed separately for each purpose)

the legal basis and the fact that the information was provided shall be certified by the Authority

information addressed to the Applicant and a copy of the post office certificate certifying its posting

by sending.

The Applicant's second call for clarification of the facts of the Authority is dated 2 June 2020

In his reply letter, he sent to the Authority his personal data processed by the Applicant,

A copy of the Applicant's record details as well as that of the Applicant is individual

the purpose for which you process your data and the legal basis for the processing.

The annex to the reply letter sent by the Applicant is arranged in a table, well separated

contains all personal data of the Applicant registered by the Applicant, the Applicant

for each of your personal data, indicating for each purpose the purposes for which that personal data were used

and what is the legal basis for data processing.

In the Authority's view, the statement produced by the Applicant may be an appropriate method of a

Fulfillment of an applicant 's access request.

V. Other issues:

The present decisions are based on Ákr. 80.-81. § and Infotv. They are based on Section 61 (1). The decision is based on Ákr. Pursuant to Section 82 (1), it becomes final upon its communication. The Ákr. § 112 and § 116 (1), or pursuant to Section 114 (1), there is an administrative action against the decision redress.

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 (1), it is against the decision of the Authority administrative lawsuit falls within the jurisdiction of the court, the lawsuit is subject to the Kp. Section 13 (3) (a) (aa) The Metropolitan Court has exclusive jurisdiction under A Kp. Section 27 (1) (b), legal representation is mandatory in litigation falling within the jurisdiction of the Tribunal. Kp. Section 39 (6) unless otherwise provided by law, the date of filing of the application has no suspensory effect on the entry into force of an 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 public administration and trust services. Act (a hereinafter referred to as the Customer's legal representative pursuant to Section 9 (1) (b) of the E-Administration Act obliged 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 Section 77 (1) - (2) and Section 124 (1) and (2) (c) and (5), respectively. based on.

The amount of the fee for an administrative lawsuit shall be determined 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 obligated customer does not duly demonstrate compliance with the required obligations, the Authority shall: considers that it has not fulfilled its obligations within the time allowed. The Ákr. According to § 132, if a the obligor has not complied with the obligation contained in the final decision of the authority, it shall be enforceable. THE Authority's decision on the Ákr. Pursuant to Section 82 (1), it becomes final with the communication. The Ákr. Section 133

enforcement, unless otherwise provided by law or government decree

ordering authority. Infotv. Pursuant to Section 60 (7) of the Authority,

to perform a specific act, to behave, to tolerate or to stop

The Authority shall enforce the decision in respect of the obligation to

Infotv. Pursuant to Section 38 (2), the Authority is responsible for the protection of personal data and the

monitoring the exercise of the right of access to data in the public interest and in the public interest

and facilitating the free movement of personal data within the European Union.

9

According to paragraph (2a) of the same section, in the general data protection decree, the supervisory authority

the entities under the jurisdiction of Hungary

as defined in the General Data Protection Regulation and this Act

exercise. The competence of the Authority extends to the entire territory of Hungary.

Budapest, July 16, 2020

Dr. Attila Péterfalvi

President

c. professor