

Case number: NAIH / 2019/1590

Object:

application

decision

place

tax

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

hereinafter referred to as "Applicants" ([...]), the Keszthely District Office of the Zala County Government Office

Against the Land Office (hereinafter: the Applicant) (registered office: 8360 Keszthely, Deák F. u. 47.) 2019.

will take the following decisions in the data protection authority proceedings initiated on 2 February:

I. In the decision of the Authority

1. grants the Applicants' application and finds that the Applicant is

In breach of the principles of "data protection" and "transparent data management" for third parties

made the personal data of the Applicants available and did not provide information on its data management

transparent information, therefore the Applicant due to these illegal data processing by him

to condemn

2. due to unlawful data processing, the Requested from the final adoption of this decision

within 30 days

HUF 600,000, ie six hundred thousand forints data protection fine

obliges to pay.

II. In view of the fact that the administrative time limit has been exceeded, the Authority shall, by order,

payment of HUF 10,000 to HUF 10,000, ie ten to ten thousand forints to the Applicants - their choice

by bank account or postal order.

I.2. The Authority shall collect a fine for the purpose of collection of centralized revenue

forint account (10032000-01040425-00000000 Centralized collection account IBAN: HU83 1003

2000 0104 0425 0000 0000). When transferring the amount, NAIH / 2019/1590.

JUDGE. number should be referred to.

If the Applicant fails to meet the obligation to pay the fine within the time limit, it shall be delayed must pay a supplement. The rate of the late payment interest is the statutory interest, which is in arrears equal to the central bank base rate valid on the first day of the calendar half-year concerned.

I.2. In the event of non - payment of the fine and penalty for late payment referred to in point implementation of this Decision.

There is no administrative remedy against the decision under point I above, but a within 30 days of the communication with the action brought before the Metropolitan Court can be challenged in a lawsuit. The application shall be submitted to the Authority, electronically, which shall be forward it to the court together with the case file. 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.

A II. There is no place for an independent appeal against the order under point 1, only on the merits of the case may be challenged in an appeal against a decision taken.

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EXPLANATORY STATEMENT

I. Facts, antecedents

I.1. In their application received by the Authority on 1 February 2019, the Applicants are data protection authorities proceedings were initiated. Applicants turned to Applicant on December 21, 2018 information on how the decision to change the mortgagee in respect of their property could have been served by the owners of an additional 40 properties affected by the same cancellation request by the same rightholder sent to the Applicant.

Applicant In its response to Applicants, it referred to the relevant legislation the file received with one application must be entered under one main number and during registration

should also be treated as one case, so as a consequence the IT system of the Applicant is also one include the decision in a decision. According to the applicant, he did not do so infringement.

The Applicants subsequently requested in their application to the Authority that the Authority: establish that the Requested has carried out unlawful data processing by: decision on the change of mortgagee with a documented application from the mortgagee all relevant properties are included in the decisions on the additional properties concerned also provided the owner with the personal data of the Applicants, including the name of the Applicants, year of birth, mother's name, address, amount of loan taken out, currency, title of the loan before them also became known.

The Applicants also referred in their application to the loan taken out by natural persons and its its size is an issue of a nature that is part of the private sector. The Applicant with the decision also mailed a list of service documents relating to the decision to those affected by the decision, a list of all natural persons affected by the decision, including the names of the Applicants and also contained his address.

Act CXII of 2011 on the right to information self-determination and freedom of information. Act (a hereinafter: Infotv.) at the request of the Applicants NAIH / 2019/1590. proceedings were initiated by a data protection authority.

I.2. The Authority called on the Applicants to remedy the deficiencies. In their reply, the Applicants a the deficiencies in their application were remedied and confirmed as unlawful data processing by the Authority are asked to establish the fact.

I.3. The Authority's decision of 30 April 2019 to initiate the data protection authority procedure NAIH / 2019/1590/5. notified the Applicant in his order no. and clarification of the facts called for a statement to that effect.

I.4. According to the statement received by the Authority on 27 May 2019, the mortgagee the decision to change is "generated by the computer, so it is not possible to make a decision in this format

print out a summary decision so that the decision is communicated to all concerned '.

At the request of the Authority, the Applicant also stated that he was aware that he was national

The CXLI of 1997 on land registration has already been a problem at several levels. law

109/1999 on the implementation of (XII. 29.) of the Ministry of Agriculture and Rural Development (hereinafter: MARD Decree)

land registry service other than that provided for in this section, and therefore in their department the practice

designed for such submissions to be filed separately for each topographical number

the registration shall be made under case number. In his reply, the applicant also indicated that he had called in writing

the attention of the administrator and the head of the department to the administration in accordance with the law.

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I.5. In order to clarify the facts of the Requested Due to contradictory statements, the Authority

Dated June 6, 2019, NAIH / 2019/1590/7. In his order no., he called on the

Applicant to justify the reasons why the

justified to the Applicants as the Authority. The Authority also invited the Applicant to

to send the user guide for the software you are using.

Applicant received the statement in his statement of June 25, 2019 as follows

clarified that the form of the decision which it had developed had only the serial number affected by the change

other encumbrances on real estate. The sender objected

According to a copy of the decision, the decision only covers the entries affected by the transfer of the contract portfolio

contained. The applicant also stated that he had reviewed his service practices and -

except in the individual case complained of, it found it appropriate to comply with the provisions of Article 99 of the MARD Decree.

under the rule of abstract delivery. Applicant also stated that the department concerned

incorrect land office, special sectoral law enforcement and incorrect software user error,

caused by a unique, non-systemic, negligent omission.

The Applicant also referred to the fact that the Applicants' letter of complaint was his own

competent authority by e-mail and referred to the legality as not

assumed that from the data already available on the title deeds to anyone

Adverse legal consequences may arise for property owners because the

The data contained in the decision are available in the knowledge and possession of the given topographical number also through the customer service of any government office in the country, or online through a customer portal.

II. Applicable legal requirements

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 personal data in part or

fully automated processing of personal data

which are part of a registration system,

or which are intended to be part of a registration system.

According to Article 5 (1) (a) of the General Data Protection Regulation, personal data

must be handled lawfully and fairly and in a manner that is transparent to the data subject

("Legality, due process and transparency");

According to Article 5 (1) (c) of the General Data Protection Regulation, personal data shall be

they must be appropriate and relevant to the purposes of the processing and necessary

limited ('data saving').

Pursuant to Article 58 (2) (b) of the General Data Protection Regulation, the supervisory authority

condemns the controller or the processor in the exercise of its powers of correction if

breached the provisions of this Regulation.

Pursuant to Article 58 (2) (i) of the General Data Protection Regulation, the supervisory authority

shall impose an administrative fine in accordance with Article

in addition to or instead of the measures referred to in

Pursuant to 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 data in breach of this Regulation.

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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 52 (1), anyone may initiate an investigation with the Authority on the grounds that the processing of personal data or the processing of personal data or the exercise of rights of access to public data in the public interest an infringement has occurred or is imminent.

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.

Infotv. Pursuant to Section 61 (1) (a), it was taken in a data protection official proceeding

In its decision, the Authority With the data management operations specified in Section 2 (2) in this context, the legal consequences set out in the General Data Protection Regulation you can apply.

Infotv. Pursuant to Section 61 (4) (b), the amount of the fine is the general data protection decree

In the case of a fine imposed pursuant to Article 83 of the EC Treaty, it may range from one hundred thousand to twenty million forints.

budget for the payment of a fine imposed in a decision taken in an official procedure body.

Unless otherwise provided in the General Data Protection Regulation, data protection was initiated upon request

CL of the General Administrative Procedure Act 2016. Act (a

hereinafter: Ákr.) shall apply with the exceptions specified in the Information Act.

In the proceedings, the Authority shall, in so far as it approves the application, issue a decision

it may apply the legal consequences set out in the General Data Protection Regulation. The

According to the General Data Protection Regulation, the Supervisory Authority has this general right to data protection may apply the consequences provided for in Article 58 (2) of this Regulation.

Infotv. 75 / A. §, the Authority shall comply with Article 83 (2) to (6) of the General Data Protection Regulation shall exercise its powers in accordance with the principle of proportionality, in particular by: legislation on the processing of personal data or binding European Union law 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 by alerting the controller or processor.

Act V of 2013 on the Civil Code (hereinafter: the Civil Code) 5: 166. § provides for on the publicity of real estate registers.

(1) The real estate register is public.

(2) The contents of the property registration sheet or map - subject to special protection with the exception of personal data - anyone can find out about it, make a note of it, and be authentic you can request a copy or a certificate.

(3) The real estate registration entry, record and the demarcated real estate registration requirement the content of the underlying documents, within the framework of the consent and the substantiated claim, then may be disclosed if the applicant proves that he is affected by the content of the document those entitled and obliged have consented, or that the exercise of the right of access to the document or necessary to fulfill an obligation based on a law or an official decision.

(4) Rights, facts and data transferred to a specific part of the property the content of the underlying instrument to determine the in-kind part concerned can be accessed without restriction even if the entry on the title deed does not indicate that that the definition of the in-kind part is contained in the deed.

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Act CXLI of 1997 on the registration of real estate. Act (hereinafter: Inytv.) § 52 (1) a decision on the registration of rights and facts and the transfer of data pursuant to paragraph

after the change has been transferred to the title deed - must be delivered

(a) to the applicant by means of an originally signed document, if this document is not required by the State forward to the tax authority,

(b) the person who becomes entitled as a result of the registration or in whose interest the right or fact registered

(c) the person whose registered right has been altered or terminated or in whose interest the registrant has the right or fact has changed or ceased to exist,

d) in the case of a registration of ownership, all shareholders,

e) to the owner of the land, if the ownership of other independent real estate has been transferred,

f) the owner of the immovable property, the organization exercising the ownership rights of the state and all whose rights are affected by the new registration, unless the property authority has taken an official decision or at the request of the court, § 17 (1) 1-10. noted the fact set out in point

enter in the real estate register,

g) in the case of land development, to the building authority,

h) Act CXXII of 2013 on the turnover of agricultural and forestry land. Act (hereinafter:

Fftv.) Specified by a foreign legal or natural person in accordance with Fftv. not covered by this Regulation

in the case of the acquisition of real estate, to the competent capital and county government office,

(i) the registration of the right to enforce a tax and duty debt by the State tax authority,

(j) if the minor concerned is under guardianship or custody, the guardianship authority,

(k) in the case of a creditor in liquidation or winding - up, the liquidator; or liquidator,

l) the land

(la) in the case of the acquisition of ownership subject to official approval,

(lb) in the case of acquisition of ownership without official approval, on which the registration is based together with a copy of the deed

to the agricultural administration.

Inytv. § 67. (2) As a basis for the real estate register or the land-registered real estate registration claim entitled or obliged to a private document with full probative value, or with the permission of a notarized deed:

- (a) the content of any private or public document, official decision which the holder or served as the basis for the registration or cancellation of the debtor or as the basis for a marginal note, and
- (b) list of owners (index).

Inytv. § 68. (1) Upon request or request from the title deed, § 68 / A. § copy of the may be provided by a real estate authority. An application for a certified true copy shall state: the natural identity of the applicant, the legal entity or not the name of the other organization and the person acting on its behalf is natural personally identifiable information. The data included in the application shall be provided by the real estate authority a from the document proving the identity and the right of representation.

According to Section 99 of the MARD Decree, if a decision contains several measures that are not applies to all stakeholders (eg land development, expropriation, etc.), for each stakeholder a only an extract of the decision relating to them shall be served.

The Ákr. Pursuant to Section 85 (1), the authority shall communicate the decision to the client to whom it is addressed with the competent authority dealing with the matter. The Ákr. In addition, pursuant to Section 27 (2) the authority shall ensure that a secret protected by law (hereinafter: protected data) does not be disclosed, not disclosed to an unauthorized person, and personal data be protected.

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III. Decision of the Authority

1.

Finding of the infringement

The part of the decision made by the Applicant concerning the Applicants is the general data protection

shall be deemed to be the personal data of the Applicants in accordance with Article 4 (1) of the Regulation
Transmission by the applicant to third parties pursuant to Article 4 of the General Data Protection Regulation.
shall be considered as data processing within the meaning of Article 2 (2).

Accordingly, the provisions of the General Data Protection Regulation apply in this case as well,
in accordance with the national regulatory option permitted therein
should be read in conjunction with existing national legislation. Just like any domestic law
provision, in the present case the Ákr. the Inytv. and MARD
the provisions of this Regulation in accordance with it, without prejudice to its rules
to interpret.

According to the General Data Protection Regulation, it is appropriate and relevant to the purpose of the data processing
processing of data is considered lawful, it must be ensured that it is only so personal
data that are relevant to the specific purpose of the data processing
are required.

Communication of an official decision is Article 6 (1) (e) of the General Data Protection Regulation
shall be deemed to be mandatory data processing in accordance with which the obligation - the general data protection
As a rule pursuant to Article 6 (3) of Section 85 (1) and Inytv. § 52
(1).

However, the rules of the General Data Protection Regulation must be complied with when notifying the decision
(which is essentially the provisions of § 27 (2) of the Act and the provisions of § 99 of the MARD Decree).
confirmed). Consequently, the Applicant, as the controller of personal data, has
that it must communicate its decision to the clients for whom its decision contains a provision,
is not relieved of its obligation to provide general data protection during the communication in accordance with Article 5
Comply with the principles of data retention set out in paragraph 1 (c).
In his statements, the Applicant himself admitted that due to non-compliance with the relevant rules
containing more personal data than allowed, generated by your own system.
for the delivery of all 41 decisions. for the owner of the property.

According to the Applicant's statements, the decision to register with the refusal was taken by a generated by a computer, so that an abstract decision cannot be printed from a decision in this format, this is how the decision reached all concerned. The fact that the contested decision is beyond what is permissible also contained data, it escaped the attention of the administrator, so during the service of the decision a personal data protection is violated. The relevant department is incorrect land registry, special sectoral an error of law enforcement and an incorrect software user error that is unique - not system-wide - negligence has occurred, thus providing an opportunity for unauthorized access to the data.

Thus, in spite of the provisions of Section 99 of the MARD Decree, the 41 pcs. for the owners of real estate a not only an extract from the decision relating to them was served, but the entire decision, that is to say the decision of the Applicants - and other stakeholders as owners of other properties - is personal containing the data.

Transmission of a delivery note containing the names and addresses of those notified of the decision also implemented a wider range of data transfers than necessary.

The Authority reviewed the software user manual attached to the Applicant. A TARAROS "R"

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User Manual (hereinafter referred to as the Manual)

it is dated August 1996 and last amended in October 1998. The legislation

Among the provisions described in the manual is the then in force on the land register

Decree-Law No 31 of 1972 and Decree-Law No 31 of 1972 on the registration of immovable property.

27/1972 on the implementation of the Legislative Decree (XII. 31.) MÉM decree, the latter

legislation was repealed by the MARD Decree on 1 January 2000.

The manual also sets out how to select properties involved in large-scale transfers,

however, it does not have a large-scale maintenance customized

on delivery and delivery.

However, the subject matter of the present official proceedings initiated upon request is not the General of the Applicant reviewed its data management practices and, within that, the content of the manual it used.

The applicant also wrongly relied on the disclosure of the information on the title deed and for anyone to know.

The data in the real estate register is available to the public with limited publicity. THE

Ptk. 5: 166. § of the Inytv. Section 68 (1) and Inytv. Section 67 (2) (a)

the provision of public data is initiated at the request of the customer or at the request of an authority.

To find out the content of the notarial deed on which the real estate registration entry is based

the creditor or debtor is included in a private document or notarial deed with full probative value

permission is also required. So the publicity of the real estate register referred to by the Applicant

valid in the case of an application to do so, however, in the case under investigation, the real estate register

access to his data took place “unsolicited”, neither the Applicants nor the other data subjects

such a request has been made.

The Applicant, by notifying its decision to all data subjects, during the processing of the data

acted unlawfully because the Applicant did not ensure in the service of his decision that

a decision containing several measures which does not apply to all interested parties, and

serve only the parties concerned and only an extract from the decision which concerns them.

In view of the above, the Applicant made it available in a manner contrary to the principle of data saving

the personal data of the Applicants to third parties, ie the other 40 pieces. property owner

for.

In doing so, the Applicant infringed Article 5 (1) (c) of the General Data Protection Regulation.

the principle of data protection set out in

The Applicant was informed by the Applicants that “the posting of the decision

the legislation does not contain detailed provisions ’, it was misleading as

contained and still is contained in Article 99 of the MARD Decree in force at the time of the infringed data processing

contains a provision for the posting of the decision.

Transparency must apply throughout the data management process. For the person concerned

it must be transparent what rules govern the processing of your personal data

the data subject can verify the lawfulness of the data processing. By the Requested provided false information to the Applicants about the relevant legislation, made it impossible for them to see through the real processing of their personal data by the Applicant circumstances.

Due to misleading information, the Applicant violated Article 5 of the General Data Protection Regulation The principle of transparency referred to in paragraph 1 (a).

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2.

Legal consequences

In view of the above, the Authority grants the applicants' request and the general data protection has convicted the Applicant under Article 58 (2) (b) of the Regulation for breach of Article 5 (1) (a) and (c) of the General Data Protection Regulation.

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The Authority examined of its own motion whether a data protection fine against the Applicant was justified imposition. In this context, the Authority shall comply with Article 83 (2) and (3) of the General Data Protection Regulation Infotv. 75 / A. § considered all the circumstances of the case ex officio, and

found that no warning had been given in respect of the infringement found in the present proceedings is a proportionate and non - dissuasive sanction, so it is necessary to impose a fine, as the

The breach committed by the applicant is Article 83 (5) of the General Data Protection Regulation

It constitutes an infringement falling within the higher category of fines referred to in point (a).

In setting the fine, the Authority took into account the following factors:

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although no express intent on the part of the Applicant can be established, the infringement can be established in the light of the facts revealed, it is a negligent breach of the rules, the Applicant in the exercise of its public authority, as its main recurring activity handles data related to the land register, issues decisions and

the cancellation of the facts relating to the change of mortgagee and the registration;

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the Applicant, acknowledging the fact of unlawful data processing, changed its practice;

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the data of the Applicants were disclosed to 40 persons without permission,

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the breach is both information, transparency and data saving moderately serious infringement.

Based on the above, the Authority convicted the Applicant of unlawful data processing and 600,000 Imposed a fine of HUF.

3. Exceeding the administrative deadline

During the procedure, the authority exceeded the Infotv. One hundred and twenty days in accordance with Section 60 / A (1) administrative deadline, therefore Ákr. Pursuant to Section 51 b), it pays ten thousand forints to the Applicant.

4. Any other business

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.

CL of 2016 on General Administrative Procedure. Pursuant to Section 112, Section 16 (1) and Section 114 (1) of the Act on the there is a right of appeal.

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. 2016 on Civil Procedure

legal representation is mandatory in litigation within the jurisdiction of the tribunal. A 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. 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 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.) 44 / 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. 133.

§, unless otherwise provided by law or government decree - a

ordered by the decision-making authority. The Ákr. Pursuant to § 134 - enforcement if law,

a government decree or, in the case of a municipal authority, a local government decree, otherwise

by the state tax authority. Infotv. Pursuant to Section 60 (7), the Authority

to perform a specific act, to behave in a specific manner,

the Authority shall enforce the decision in respect of the obligation to tolerate or discontinue

implements.

Budapest, August 2019

Dr. Attila Péterfalvi

President

c. professor