

Case number: NAIH / 2019/2153/2

Subject: Decision

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The National Authority for Data Protection and Freedom of Information (hereinafter: the Authority) a

Ministry of Foreign Affairs and Trade (1027 Budapest, Bem rakpart 47.) (hereinafter:

On 15 February 2019 following the data protection incident reported by the

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

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (hereinafter referred to as

Data Protection Regulation or Regulation) 32-34. the provisions of Articles

in official infringement proceedings

1. Notes that the Debtor acted unlawfully in failing to report the data protection incident;

informed those concerned with appropriate content;

2. Obliges the Debtor to comply with Article 34 (2) of the General Data Protection Regulation

inform those concerned with the required content; and

3. order the final decision by publishing the identity of the controller

disclosure.

The measures provided for in point 2 shall be taken from the date of receipt of the decision by the Debtor

You must provide proof in writing within 15 days, together with supporting evidence

to the Authority.

In the event of non-compliance with the obligations under point 2, the Authority shall order the decision

implementation.

There is no administrative remedy against this decision, but from the date of notification

within 30 days of the action brought before the Metropolitan Court in an administrative action

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. The request for a hearing must be indicated in the application.

For those who do not benefit from full personal exemption, the judicial review process

its fee is HUF 30,000, the lawsuit is subject to the right to record material fees. Before the Metropolitan Court legal representation is mandatory in these proceedings.

EXPLANATORY STATEMENT

I.

Facts, history

On November 29, 2018, the Debtor filed an incident report with the Authority. According to the announcement

[...] (Hereinafter referred to as "stakeholders") [...] In their public interest notices, the Mandatory Integrity proceedings have been initiated with one of the Debtor's senior officials

against. The Integrity Consultant will review the submissions of those concerned with the notification

it was also sent to the official concerned within the organization, in such a way that it bears only the name

and the address has been rendered unrecognizable, the other personal data not. The privacy incident

thus caused by the Integrity within the organization of the integrity of the consultant's examination

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was communicated with the submission of the application.

The Authority initiated an official investigation into the incident, given that a

the available data were not sufficient to judge that the Debtor

whether Articles 33 to 34 of the General Data Protection Regulation have been fully complied with. contained in Article obligations. The Authority shall issue three declarations during the inspection

called the Client to clarify the facts, which the Debtor complied with.

Stakeholders [...] approached the Authority and requested that the follow-up to the incident report be

the Authority shall provide information on the procedure after the closure of the procedure. [...] Stakeholders of the Authority correspondence with the Debtor regarding the data protection incident was made available to him.

Given that, on the basis of the information revealed during the official inspection, it was probable that

that the Debtor has not complied with Articles 32-34 of the General Data Protection Regulation. provided for in Article the Authority on 15 February 2019 on the right to information self-determination and

CXII of 2011 on freedom of information Section 60 (1) of the Information Act (hereinafter: the Information Act)

decided to initiate an official data protection procedure with regard to

During incident reporting and official control and subsequent official proceedings

On the basis of the evidence and statements obtained, the Authority concluded that:

The parties concerned [...] wrote to the Debtor requesting information that:

the reason and manner in which they may have become aware of their previous public interest notification in the notification

an official concerned who has lodged a complaint against him with defamation. The Dedicated to this

subsequently launched an internal investigation into whether personal data had taken place

as a result of which it was established on 28 November 2018 that

there was a privacy incident. He then made a notification to the Authority.

The Debtor himself identified the case as a data protection incident, given that a

The report also contains a number of other personal details of the name that have been rendered unrecognizable, and

other than the address from which the identity of the notifiers has become identifiable to the official concerned.

The personal data of the data subjects took place during the data protection incident

unauthorized access, thus violating the confidentiality of the personal data of the applicants. THE

According to his obligated statement, the incident “constitutes a misunderstood driving instruction

due to an administrative error ”.

The Debtor stated that the seriousness of the consequences of the data protection incident

classified as significant on the basis of:

the notification contains specific personal data of the data subjects, such as

data on religious and political beliefs;

as a result of the unauthorized disclosure, the official concerned by the notification shall:

in possession of applications - given that on the basis of his name and address

even if they were made unrecognizable, those involved could be identified - a private prosecution

initiated criminal proceedings against those concerned;

- Act CLXV of 2013 on Complaints and Notices of Public Interest. Act (a

hereinafter referred to as the Complaints Act) and the handling of integrity reports

27/2017 on the rules of (VII.13.) KKM instructions also contain data protection

provisions.

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The Debtor therefore considered that the data protection incident occurred with a high risk the rights and freedoms of the data subject, since the fact of the public interest notification is unauthorized disclosure of its contents may have serious consequences for them.

The Debtor has presented the measures it has taken to ensure the security of the data measures, which mainly covered the establishment of internal rules, and at the request of the Authority, the Debtor sent to the Secretary of State for Administration, issued by the Ministry of Foreign Affairs and 1/2019 on the data protection and data security regulations of the Ministry of Foreign Affairs. (I.23.) Administration and detailed rules for the handling of integrity declarations 27/2017. (VII.13.) KKM instruction.

The former is the occurrence or knowledge of a data protection incident was not yet in force at that time, given that it was only released on 23 January 2019 who is the Secretary of State for Administration.

A 27/2017. (VII.13.) KKM instruction is relatively detailed, it also governs the confidential nature of the data lays down rules for the handling of integrity declarations during treatment. For example, Article 3 (4) of that instruction provides that "integrity consultant is obliged to ensure that it is not authorized to access personal or protected data person should not have access to it. " The instruction also specifies who can access the for notifications: under Section 3 (5), "with integrity matters in the registration system documents relating to the file shall be filed in such a way that the data content of the record is reserved exclusively to the Secretary of State for Administration and the integrity of the consultant. The process of receiving and filing data shall be fixed in such a way as to protect the notifier. " Section 13 of the Instruction further states that the integrity of the consultant and the administrative staff

Secretary of State, with regard to his statements in connection with the internal audit audited a
may be inspected by an internal auditor. Finally, Section 15 (2) - (3) of the Instruction provides for integrity
the rights or legitimate interests of the notifier
and that the Integrity Adviser became aware of the investigation
information shall be kept confidential.

Relevant provisions of the Instruction in the present case [3. § (4) and (5), § 13 and § 15 (2) - (3)
inter alia, specify the type of notification within the organization,
the rules laid down in the Complaints Act, and their clear purpose is to make notices
the security of personal data is ensured during the processing of data in connection with
confidential nature.

The Debtor has therefore taken such a general approach, taking into account the risks
specified measures to be followed by notifications to the Integrity Adviser
security of related data management. The privacy incident was caused by a
one of the Debtor's employees did not drive it properly when handling a specific report
implement the measures taken by the Debtor and, according to his statement, "an ambiguous
due to an administrative error constituting a driving instruction "
resulting in a breach of the confidentiality of personal data.

Following the incident report, the data protection officer began with internal regulators
reviewed access rights, and was ordered on a line-by-line basis
implementation of external data protection, information security and general records management training. THE
Debtor also ordered the complainant's official from the mailing account in error
immediate deletion of the letter sent.

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In response to the [...] letter from the parties concerned, the Debtor informed them on 29 November 2018 that
conduct an internal investigation into the case they object to. For the same request
in response, the Debtor subsequently [...] informed those concerned that a data protection incident occurred

which was notified to the Authority. The information is also so much information

contained that the Debtor had taken the necessary measures to remedy the incident.

Stakeholders [...] have repeatedly requested information on the data protection incident at

From an obligation to which the latter replied on 23 January 2018. In the reply, the Debtor a

stated: "criminal proceedings in the cases which are the subject of their request, and a

An audit before the National Data Protection and Freedom of Information Authority is ongoing. On this

subject to the availability of information, the Ministry shall, subject to such procedures

provided. "

The obligated budgetary body.

II.

Applicable legal provisions

He is involved in the reported incident pursuant to Article 2 (1) of the General Data Protection Regulation

the general data protection regulation applies to data processing.

Article 4 (12) of the General Data Protection Regulation defines what constitutes data protection

incident, on the basis of which a "data protection incident" is a breach of security which is

accidental or unlawful destruction of personal data stored or otherwise processed,

loss, alteration, unauthorized disclosure or unauthorized disclosure

results in access.

Personal data pursuant to Article 5 (1) (f) of the General Data Protection Regulation

shall be handled in such a way that appropriate technical or organizational measures are taken

ensure the adequate security of personal data

unauthorized or unlawful handling, accidental loss, destruction or

including protection against damage ("integrity and confidentiality").

According to Article 33 (1) of the General Data Protection Regulation, a data protection incident is

without undue delay and, if possible, no later than 72 hours after

the data protection incident becomes known to the competent supervisory authority in accordance with Article 55

unless the data protection incident is not likely to pose a risk to the
the rights and freedoms of natural persons. If the notification is not made 72
within one hour, it shall be accompanied by the reasons for the delay.

Under Article 34 of the General Data Protection Regulation, "if the data protection incident
is likely to pose a high risk to the rights and freedoms of natural persons
the data controller shall inform the data subject of the data protection without undue delay
incident. " The information provided to the data subject shall state clearly and intelligibly:

the nature of the data protection incident and shall be communicated at least in accordance with Article 33 (3) (b), (c) and (d).
information and measures referred to in

The information in Article 33 (3) (b), (c) and (d) is as follows:

(a) "shall be communicated to the Data Protection Officer or to any other person providing further information
the name and contact details of the contact person;

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(b) a description of the likely consequences of the data protection incident;

(c) describe the actions taken or planned by the controller to remedy the data protection incident
measures, including, where appropriate, any consequences arising from a data protection incident
measures to mitigate the adverse effects. "

CLXV of 2013 on Complaints and Notices of Public Interest. Act (hereinafter:

According to Section 3 (2) of the Complaints Act), "the complainant or the public interest complainant

Except as provided in paragraph 1, the complaint or the public interest notification shall not be prejudicial

for doing so. " Paragraph 3 of the same section provides that "the complainant or the

the personal data of the public interest notifier, with the exception of paragraph 4, shall be the subject of the complaint only

or competent to conduct proceedings initiated on the basis of a public interest notice

may be transferred to a body if that body is authorized to manage it by law or its data

the complainant or the public interest notifier has explicitly consented to its transmission. The complainant and

the personal data of the public interest notifier may not be disclosed without his or her express consent

to the public. "

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

shall apply with the additions provided for in

Infotv. Enforcement of the right to the protection of personal data pursuant to Section 60 (1)

In order to do so, the Authority may initiate ex officio data protection proceedings. The data protection authority

CL of the General Administrative Procedure Act 2016. Act (hereinafter:

Ákr.) Shall apply with the additions specified in the Information Act and the general

with derogations under the Data Protection Regulation.

Infotv. Pursuant to Section 61 (1) (a), the Authority shall comply with Section 2 (2) and (4)

in the context of certain data processing operations in the General Data Protection Regulation

may apply certain legal consequences.

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

the data controller or processor acting under the corrective powers of the competent authority if

its data processing activities have violated the provisions of the Regulation or instruct the data controller,

to inform the data subject of the data protection incident.

Infotv. Pursuant to Section 61 (2) (b) and (c), the Authority may order its decision - the

by publishing the identification data of the data controller or the data processor

if it was made in the context of the activities of a body performing a public task, or

the gravity of the infringement justifies disclosure.

III.

Decision

The Debtor investigated whether it was personal following a report from the data subjects

unauthorized access to their data and found that data protection had indeed taken place

incident when the official concerned has been informed of the outcome of the investigation

The notification itself was sent as an annex to the

the name and address have been made unrecognizable, the other personal data has not.

Following the above, the Debtor became aware of the incident on 28 November 2018, he was then convinced with reasonable certainty that he was in breach of the internal rules there was a security incident that resulted in the personal injury of those involved

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unauthorized access to your data. After becoming aware, the Debtor will also found that the incident poses a high risk to the rights and freedoms of those affected viewed. Data management affected by the data protection incident and the data processed in the process unauthorized access to such high-risk data processing considered, which is why the previously cited complaint law contains the complainant's personal additional strict rules on the confidentiality of your data.

The incident was reported by the Debtor to the Authority on 29 November 2018, ie a within 72 hours of becoming aware of it, thus complying with Article 33 of the General Data Protection Regulation. obligation under Article 1 (1).

Given that, as the Debtor himself has stated, it is a data protection incident high risk to the rights and freedoms of data subjects, general data protection Pursuant to Article 34 (1) of the Regulation, the Debtor must inform those concerned.

The content of the information shall be governed by Article 34 (2).

The Debtor sent information to the data subjects several times: he informed them that that it is conducting an internal investigation and, subsequently, that a data protection incident has taken place, in respect of which he has taken the necessary measures to remedy the incident. The in response to a request for information from interested parties concerning the incident with reference to the ongoing proceedings and the ongoing criminal proceedings did not provide any further information to those concerned.

Pursuant to Article 34 (2) of the General Data Protection Regulation, the controller must at least you must provide the following information:

- a description of the nature of the incident;

- the name and contact details of the Data Protection Officer or other contact person;
 - a description of the likely consequences of the incident; and
 - a description of the measures taken or planned by the controller to remedy the incident,
- including, where applicable, the possible adverse consequences of the incident mitigation measures.

The Authority found that in relation to the data protection incident, the information provided to data subjects contained only the fact of the data protection incident. No specific information on who and with whom the data protection incident occurred, how the persons concerned can be contacted and the nature of the incident is clear and nor has it been clearly explained. The information to the data subjects in addition, it did not address the likely consequences of the incident or the remedy for the incident measures taken or planned.

The Authority also found that, on the basis of the information available, the data protection incident. At the time of becoming aware of the incident, the Debtor did not have regulations which would determine the internal procedure to be followed in the event of a data protection incident which would also provide guidance on how to proceed in the event of high-risk incidents. Related to that nor are the rules laid down in Decree 27/2017. (VII.13.) KKM instruction, nor about the data protection incident created after becoming aware of 1/2019. (I.23.).

On the basis of the above, the Authority found that the Debtor was not properly informed by concerned about the data protection incident as it did not include general data protection

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the minimum elements provided for in this Regulation, thereby infringing Article 34 (2) obligation.

The Authority shall be bound by Article 58 (2) (d) and (e) of the General Data Protection Regulation provided for in Article 34 (2) of the General Data Protection Regulation

inform stakeholders.

The body performing the obligated public task, and the infringing data processing by performing this public task took place in the context of. The Authority considered that the reasons for disclosure were that:

the data protection incident occurred during a high-risk data processing with which

obligations of the Debtor and the notifiers in the public interest

protection of the individual, there is also a public interest. Occurred during such data processing

Informing those concerned about a high-risk data protection incident is of paramount importance

in order not to undermine public confidence in the institution of public service announcements.

In view of the above, the Authority Pursuant to Section 61 (2) (b) and (c), order a

decision by publishing the identification data of the data controller, ie the Debtor

disclosure.

ARC. Other issues

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

The decision is based on Ákr. 80.-81. § and Infotv. It is based on Section 61 (1). The decision is based on Ákr. 82.

§ (1), it becomes final with its communication.

The Ákr. § 112 and § 116 (1) and § 114 (1), respectively

there is an administrative remedy against him.

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), the Authority

The administrative lawsuit against the decision of the Criminal Court falls within the jurisdiction of the court. Section 13 (11)

The Metropolitan Court shall have exclusive jurisdiction pursuant to On civil procedure

on the 2016 CXXX. Act (hereinafter: Pp.) - the Kp. Pursuant to Section 26 (1)

applicable - legal representation in a lawsuit falling within the jurisdiction of the tribunal pursuant to § 72

obligatory. Kp. Pursuant to Section 39 (6), unless otherwise provided by law, the application

has no 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 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

Information on the possibility of requesting a hearing is provided in the CM. Section 77 (1) - (2)

based on. The amount of the fee for an administrative lawsuit shall be determined in accordance with Act XCIII of 1990 on Fees. law

(hereinafter: Itv.) 44 / A. § (1). From the advance payment of the fee is

Itv. Section 59 (1) and Section 62 (1) (h) shall release the party instituting the proceedings.

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The Ákr. According to § 132, if the debtor does not comply with the obligation contained in the final decision of the authority fulfilled, it is enforceable. The decision of the Authority With the communication pursuant to Section 82 (1)

it becomes final. The Ákr. Section 133 of the Enforcement - if by law or government decree

unless otherwise provided by the decision-making authority. The Ákr. Pursuant to § 134 a

enforcement - if local in a law, government decree or municipal authority matter

the decree of the local government does not provide otherwise - it is carried out by the state tax authority. Infotv.

Pursuant to Section 60 (7), a specific act included in the decision of the Authority

obligation to perform, specified conduct, tolerance or cessation

the Authority shall enforce the decision.

Infotv. 70 / B. § (1), the Authority has published pursuant to § 61 (2)

published in accordance with the decisions of the data controller and the data processor

indication of the infringement and the legal sanction applied.

Budapest, April 24, 2019

Dr. Attila Péterfalvi

President

c. professor