

Case number: NAIH / 2019/3620/4.

Subject: Decision rejecting the application

## DECISION

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

the unlawful processing of personal data of the applicant (hereinafter: the Applicant)

- by a power of attorney, at the request of [...]

He initiated legal proceedings against a notary public (hereinafter: the Applicant)

makes the following decision:

The Authority shall, at the request of the Applicant

e l u t a s í t j a.

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. 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

Through the Authorized Legal Representative of the Applicant to the Authority on 15 April 2019.

In his application received on 31 July 2018, the

an order for the transfer of a will and the trial of a will

sent the minutes to the [...] Law Office. According to the Applicant

there is no legal interest to show that the Applicant is the Applicant,

and a transfer order containing a third party's personal information to a third party

forward.

The Applicant requested the establishment of the fact of illegal data provision and data transfer a Authority.

The Authority shall notify the Applicant of the initiation of the data protection official procedure a NAIH / 2019/3620/2. notified by order no. In the same order, the Authority shall:

In order to clarify the facts, the Applicant invited the Applicant to make a statement. § 63 with reference.

In its reply to the Authority received on 30 May 2019, the Applicant stated a

Authority asked questions and informed the Authority that notaries

XXXVIII of 2010 on probate proceedings. Act (hereinafter:

Act CXXX of 2016 on the applicable civil procedure. Act (a

hereinafter referred to as "Pp."), the legal basis for the transfer of data is the

Requested for the processing of personal data by natural persons

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

Regulation (EU) 2016/679 (hereinafter referred to as the General Data Protection Regulation)

Article 6 (1) (c) and (e). Based on this, the Debtor is the transferor

order and the minutes of the hearing were published in Pp. exercise of the right of access to the file pursuant to issued in the framework of.

Attached to the Applicant's reply letter [...] dated 25 July 2018 and attached to the Applicant

Received a letter dated 26 July 2018 in which [...] the transfer order was extracted

and the extracted inventory in that form

asked the Applicant to determine from these documents whether he was late [...]. [...]

and if he had one, what is his personal information

(at least mother 's name, place and date of birth, address).

Among the proof of the legal interest in accessing the data, the Applicant assessed it

the fact that the [...] lawyer acting on behalf of the Hungarian State requested the requested documents

intended to use it in an ongoing court proceeding, and this is Applicant

In its view, there is a legal interest in granting access to the file.

In its reply, the Applicant informed the Authority of the background to the court proceedings, which

According to the

owned by the Hungarian State. The property was not vacated or given away by the heirs of the testator

transferred to the Hungarian State, therefore the Hungarian State filed a lawsuit against the Applicant for the property

for emptying. Given that the data of the heir was not entirely available to the Hungarian State

therefore, [...] a lawyer approached the Applicant conducting the probate proceedings.

The Applicant further submitted that he had applied to the Applicant's legal representative on 2 April 2019 for the exercise of the right concerned. He asked about it in the inquiry

information on the legal basis at whose request the Applicant [...]

the minutes of the testamentary trial of the testator and the transfer order.

Upon request, the Applicant informed the Applicant by letter dated 2 May 2019,

that the Pp. Section 162 (5)

Article 6 (1) (c) and (e) as the legal basis.

marked point.

The Applicant further informed the Applicant that the Pp. right of access to documents under

after exercising a probable legal interest in the exercise of the right, the insider may become acquainted with the proceedings

any documents have been created, therefore, after granting access to the documents, the notary must

there is no obligation under the law to order injunctions

make an extract, since they are Pp. can be found in their entirety according to

by insider.

The Applicant further explained that granting permission to exercise the right of access to the file

nor did it result in a breach of the principles enshrined in the GDPR, given that the purpose

subject to the principles of constraint and data protection

the required amount of documents was handed over to the representative of the Hungarian State.

II. Applicable legal provisions

The General Data Protection Regulation applies to personal data in part or

fully automated processing of personal data

non-automated management of any registration system

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

Infotv. Section 2 (2)

the general data protection regulation applies with the additions indicated therein.

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

collected for specified, explicit and legitimate purposes and not processed

in a way incompatible with those objectives; ("Purpose-bound").

Pursuant to Article 5 (1) (c) of the General Data Protection Regulation, personal data are:

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

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

Personal data pursuant to Article 6 (1) (c) of the General Data Protection Regulation

processing is lawful if it fulfills a legal obligation on the controller

required.

Personal data pursuant to Article 6 (1) (e) of the General Data Protection Regulation

processing is lawful if it is in the public interest or entrusted to the controller

necessary for the performance of a task carried out in the exercise of that right.

Pursuant to Article 12 (3) of the General Data Protection Regulation, the controller is unjustified

without delay, but in any case within one month of receipt of the request

inform the data subject in accordance with Articles 15 to 22. on the action taken in response to a request under Article.

Where appropriate, taking into account the complexity of the application and the number of applications, this shall be

this period may be extended by a further two months. The extension of the time limit is

the controller shall indicate the reasons for the delay from the date of receipt of the request

inform the data subject within one month. If the person concerned has submitted the application electronically,

the information shall, as far as possible, be provided by electronic means, unless the data subject so requests

asks otherwise.

Pursuant to Article 15 (1) of the General Data Protection Regulation, the data subject is entitled to:

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

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, failing that

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 limitation of the handling of such personal data

against data processing;

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

(g) if the data were not collected from the data subject, all available sources

information;

(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

comprehensible information on the significance of such data processing and the

the expected consequences for the data subject.

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.

Unless otherwise provided in the General Data Protection Regulation, the application was initiated

CL of the General Administrative Procedure Act 2016 on the data protection authority procedure.

(hereinafter: the Act) shall apply as defined in the Information Act

with differences.

The Ákr. Pursuant to Section 27 (1), the authority is entitled to the client and the procedure is different the natural identity of the participant and the law governing the type of case specified personal data and, unless otherwise provided by law, a access to other personal data is essential to clarify the facts and treatment.

The Ákr. Pursuant to Section 27 (2), the authority shall ensure that personal data be protected.

Act XXXVIII of 2010 on probate proceedings. Section 2 (1) of the Act (hereinafter: the Act)

Pursuant to paragraph 1, the probate proceedings are civil non-litigation proceedings, to which - if this Act does not provide otherwise - Act CXXX of 2016 on Civil Procedure. Act (a hereinafter: Pp.) with the differences arising from the specifics of civil non-litigation proceedings should be used.

The Hetv. Pursuant to Section 2 (2), the notarial proceedings in the probate proceedings are of first instance have the same effect as court proceedings.

A Pp. Pursuant to Section 162 (5), information on the procedure may be given to the person to whom the has a legal interest in the conduct or outcome of the proceedings. The court seised

The President of the

make a copy or extract of them or provide the necessary information.

37/2003 on the rules of notarial administration. (X. 29.) IM Decree § 12 (1)

The notary shall authorize a person not taking part in the proceedings pursuant to information if permitted by law or with the consent of all concerned.

III. Decision:

1. Legality of the Transmission of the Requested Data

The purpose of establishing the fact of unlawful transfer of the Applicant's personal data

In order to assess its request, the Authority had to examine whether the transmission of the data appropriate purpose and an appropriate legal basis under the General Data Protection Regulation based on.

The transfer order subject to data processing and the minutes of the hearing contains personal data, including the name, place and date of birth of the Applicant, the name and address of the mother, as well as the part of the decision made by the Applicant concerning the Applicant, which data are personal to the Applicant in accordance with Article 4 (1) of the General Data Protection Regulation data. This data was provided by the Applicant to a third party to the processing pursuant to Article 4 (2) of the General Data Protection Regulation it counts as. Accordingly, the general data protection regulation also applies in this case provisions of national law which are permitted by national law should be read in conjunction with national legislation in line with this option. In the same way as all domestic legal provisions, in this case Pp. and the IM Regulation in accordance with the Regulation, without prejudice to its rules need to be interpreted.

According to the Applicant's statement, the legal basis for his data processing is the general data protection Article 6 (1) (c) and (e) of that Regulation. In this context, the transfer of data As a specific legal place enabling it, the Applicant applicable on the basis of Pp. He marked § 162 (5).

Information on probate proceedings is provided for in Article 6 (1) of the General Data Protection Regulation. shall be deemed to be mandatory data processing in accordance with paragraph 1 (e) as a rule under Article 6 (3) of the General Data Protection Regulation - Article 12 of the IM Regulation. § (1) and Pp. Section 162 (5).

However, the rules of the general data protection regulation are also included in the provision of information should be kept. Consequently, the Requested as the controller of personal data is all the more so that, after proving a legal interest in doing so, it allows access to the file,

making a copy or extract of them or providing the necessary information,  
is not exempt from the obligation to disclose during the general privacy process  
the principles of data regulation on purpose limitation and data protection  
adherence.

The Authority found that the General Data Protection Regulation was designated by the Applicant  
provides an appropriate legal basis for the transfer of the Applicant's personal data  
in view of the fact that the Applicant Pursuant to Section 162 (5), it was assessed by a  
the fact that the [...] lawyer acting on behalf of the Hungarian State is the personal applicant  
certified by copies of documents in the pending lawsuit No. 2.P.23.039 / 2017/14

Budapest II. and III. He wanted to use it in response to a call from the District Court, and that is it  
a proven legal interest on the basis of which the personal data of the Applicant (name,  
place, time and address of birth), a copy of the transfer order  
provision.

Subject to the legal regulations referred to, it concerns the personal data of the Applicant  
an unlawful transfer of data cannot be established because it was made with a proper purpose and legal basis  
therefore, the Authority rejected the Applicant's request.

## 2. Applicant's request for access

The Applicant's legal representative dated March 27, 2019 and served on April 2, 2019

In the exercise of its right of access, the

To an applicant requesting information on the legal basis at whose request  
forwarded the minutes of the applicant 's [...] bequest hearing and the  
transfer order.

It follows from the principle of transparency of data management that it is provided to data subjects  
the information must be concise, transparent, comprehensible and easily accessible.

It must be transparent to the data subject which personal data, which  
how data controllers handle them. One way to make sure of this is the right of access



in which the data subject can verify the lawfulness of the data processing.

However, the information shall be provided within the time limits provided for in the General Data Protection Regulation must be fulfilled by the controller.

By letter dated 2 May 2019, the Applicant informed the Applicant that the Hungarian State

to send the referenced documents to the Pp. 162 (5)

and Article 6 (1) (c) and (e) as its legal basis

within the time limit laid down in Article 12 (3) of the General Data Protection Regulation

obligation to provide information. However, provided by the Applicant

information complies with Article 15 (1) of the General Data Protection Regulation

specific content requirements. Therefore, the Authority submitted a request to the Applicant for this also rejected.

IV. 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.

Pursuant to Section 82 (1), it becomes final upon its communication. The Ákr. Section 112 and Section 116 (1) and § 114 (1) of the decision

there is a place for redress.

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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. § 13 (11), the Metropolitan Court has exclusive jurisdiction. The civilian

CXXX of 2016 on the organization of litigation. Act (hereinafter: Pp.) - the Kp. Section 26 (1)

applicable under Article 72 of the Code of Civil Procedure - in a lawsuit falling within the jurisdiction of the General Court pursuant to § 72

legal representation is mandatory. Kp. According to Section 39 (6) - unless otherwise provided by law the bringing of the action for the administrative act to take effect has no suspensive effect.

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. law (hereinafter: the E-Administration Act), the client's legal representative pursuant to Section 9 (1) (b) 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.) 45 / A. § (1). From the advance payment of the fee the Itv. Section 59 (1) and Section 62 (1) (h) shall exempt the person initiating the proceedings half.

Budapest, August 8, 2019

Dr. Attila Péterfalvi

President

c. professor