

Case number: NAIH / 2020/687/2.

Subject: Decision and procedure granting the application in part
partial termination order

History: NAIH / 2019/6203.

Before the National Authority for Data Protection and Freedom of Information (hereinafter referred to as the Authority) [...] on the basis of the request of the Applicant (hereinafter: the Applicant) on 9 August 2019 official proceedings were initiated against the Applicant's personal data in the course of claims management breach of the right of access and the obligation of data controllers to provide information [...] ('Applicant I') and [...] ('Applicant I')

II.) (Hereinafter together: the Applicants). In the case, the Authority made the following decisions
brings:

In the decision of the Authority

I.1.a At the request of the applicant

(a) the part of the data protection fine to be imposed,
b) and to oblige Applicants to refrain from future infringing conduct
concerning and

(c) in connection with the letters of 26 and 17 March 2019 sent to the requested II, the
infringement of the right of access
rejects.

I.2. in the part of the Applicant's application
gives place
and

I.2.1. notes that claims management of the Applicant's personal data
violated by treating

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the processing of personal data by natural persons

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

Regulation (EU) No 2016/679 of the European Parliament and of the Council of

Article 6 (1) of Regulation (EC) No

Article 5 (1) (d),

Article 18 (1) (a),

in the course of informing the Applicant in connection with the handling of his complaint

Article 14 (1) (c) of the General Data Protection Regulation

point.

I.2.2. notes that

the personal data of the Applicants

breach of Article 15 of the General Data Protection Regulation.

Article 1 (1) (f) and (g).

I.2.3. finds that Applicant I has violated

- Article 5 (1) (a) of the General Data Protection Regulation,

- Article 14 (1) of the General Data Protection Regulation when informing the Applicant

paragraph 1 (c) and (e).

I.2.4. at the same time order to restrict the processing of the Applicant's personal data, and

prohibits the Applicants from being used for any purpose other than the exercise of the right concerned

in the context of official proceedings against them

15 days from the date on which the decision becomes final

provide adequate and complete information on the Applicant's personal data within

data processing for the purpose of complaint handling and any other purposes

including data management.

I.2.5. A I.2.4. the Applicants from the time the measure is taken

within 15 days of receipt of the supporting evidence.

to the Authority, so that the information provided to the Applicant (in full) and the

by sending a copy of the post office to the Authority certifying its dispatch.

II. The Authority will issue the Requested I ex officio due to the unlawful data processing carried out by it

HUF 2,000,000, ie HUF 2 million

data protection fine

obliges to pay.

III. The Authority shall issue the Requested II ex officio due to the unlawful data processing carried out by it

HUF 2,000,000, ie HUF 2 million

data protection fine

obliges to pay.

ARC. The Authority shall, by order of the official procedure, the data processing prior to 25 May 2018

examination

terminates.

V. In view of the fact that the Authority exceeded the administrative deadline, HUF 10,000, ie ten thousand

HUF to the Applicant, at his choice, by bank transfer or postal order

to pay.

The data protection fine shall govern the initiation of legal proceedings

15 days after the expiry of the time limit or, in the case of a review, by the court

within the Authority's centralized collection account for centralized revenue collection (1003200001040425-00000000

Centralized collection account IBAN: HU83 1003 2000 0104 0425 0000

0000). When transferring the amount, NAIH / 2020/687. JUDGE. should be

to refer to.

If the Applicants fail to comply with their obligation to pay the fine within the time limit,

are required to pay a late payment allowance. The rate of the late payment allowance is the statutory interest, which is a

equal to the central bank base rate valid on the first day of the calendar half-year affected by the delay. THE

in the event of non-payment of a fine and a late payment allowance, the Authority shall order the decision

implementation.

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A I., II., III. by a decision in accordance with point IV. by administrative means

there is no right of appeal, but it must be lodged with the Metropolitan Court within 30 days of notification.

may be challenged in an administrative action. The application must be lodged with the Authority

submit it electronically, which forwards it to the court together with the case file. The trial

The application for maintenance must be indicated in the application. Not in full personal exemption

for the beneficiaries, the fee for the court review procedure is HUF 30,000, the lawsuit is substantive

subject to the right to record duties. Legal representation is mandatory in proceedings before the Metropolitan Court.

EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

I.1. The applicant submitted an application to the Authority on 08 August 2019, in which

initiated an official data protection procedure and requested that the Authority establish it

the fact of unlawful data processing and violation of the right of access, instruct the

Applicants for the deletion of personal data or the execution of the deletion - Applicant

to refrain from any future infringing conduct, and

order the Authority to pay the applicants a fine.

At the request of the Applicant, the right to information self - determination and the

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

data protection authority proceedings have been initiated.

I.2.1. Presented by the Applicant

In the application, the Applicant stated that the II. - a letter dated 9 March 2019

received, in which the Applicant I and the Applicant II. with reference to the transfer between

an offer to pay his debt was notified, even though it did not exist

belongs to neither the Applicant I nor the Applicant II. therefore to the Authority in this regard

In his application, the Applicant named unjustified data processing as an infringement.

The Applicant filed a claim on 26 March 2019 (first times) contacted Applicant II by e-mail and at the nearest bank branch. The Applicant, according to him, has not received it since 26 March 2019 reply from the Applicant II and therefore requested information again. The Applicant attached the Applicant Sent a copy of the e-mail sent to I., dated 17 April 2019, requesting a reply from the 2019. to his questions by letter dated 26 March. A copy of the reply letter attached to this request is attached to this letter According to the Applicant I replied on 30 April 2019. In Letter I, the Applicant stated that the complaint had been forwarded to the concessionaire, ie He applied to II, who will respond to his petition. The Applicant shall send the application to the Applicant I on May 3, 2019 and to the Applicant II on May 5, 2019. wrote an e-mail requesting information about the processing of your personal data. The Applicant does this no such request was made in its previous letters. According to a copy of the letter dated 10 May 2019 attached to the application, the II. - By e-mail sent on 10 April 2019, he informed the Applicant that a

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Further action was required in respect of certain parts of the notification their reply will be sent in a separate letter. The Applicant sent it to the Magyar Nemzeti Bank on 21 May 2019 (hereinafter: MNB) and received it on the same day information on the result of the investigation from the Applicant II, according to which the Applicant II there is no claim against the Applicant, therefore their proceedings are closed and the Applicant their personal data will be deleted from their records. The Requested II. justified by an administrative error A letter of demand for payment was incorrectly sent to the applicant. The Applicant stated in his application that the payment due to an administrative error his health had deteriorated as a result of the request (including a copy of the findings) therefore filed a claim for damages with Applicant II, which rejected it.

According to the copy of the letter attached to the application - dated 7 June 2019 - the II. the 5/16/2018 and 21.05.2011. referring to the e-mail received by the Applicant II on sent information. According to the letter, the Applicant's personal data has been deleted from their records, further, it was found that the Applicant dated 10.04.2019, 17.04.2019 and 03.05.2019 they replied in their letter of 16 May 2019, objecting to their informed are not considered to be justified.

I.2.2. Statements made by the Applicants during the proceedings

The Authority notified the Applicants in accordance with NAIH / 2019/6203/4. and NAIH / 2019/6203/5. in his orders no called for a statement to clarify the facts.

The Requested II. - Declaration dated 8 October 2019 (hereinafter: Declaration No. 1) according to the notification received by the Applicant II on 10.04.2019, in the letter dated 10.05.2019 that the Applicant need.

The Requested II. 5/16/2018 informed the Applicant in his reply dated their claim against him and their proceedings to enforce the claim permanently closed, the Applicant's data will be 'deactivated' from their records, and he requested the Applicant II. in a letter dated sent due to an administrative error. The Requested II.

According to the letter of the Applicant on April 10, 2019, April 17, 2019, May 3, 2019 and May 5, 2019 information about the letter you sent.

In the letter sent to the Applicant II on 16.05.2019, the Applicant called the Applicant II.

note that he will contact the Authority for no response. The Applicant a

In a letter sent to Applicant II on 21 May 2019, he sent information that a

He turned to the Magyar Nemzeti Bank with a complaint and can be traced back to an administrative error demands damages from the Applicant II for unlawful data processing.

The Requested II. in a letter dated 7 June 2019, informed the Applicant that it was personal your data has been deleted from their records.

No. 1 According to the statement, "one-off, erroneous can be traced back to manual clerical activity

Based on the recording, the Applicant was involved in a case in which the name of the debtor is

"Dead" event has been recorded. " Administrative error based on the Applicant's complaint

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became known. There is no claim of the Applicant II against the Applicant, therefore a

data recorded for receivables management purposes has been deleted. The Applicant II. referred to in the declaration
attachments that were not or not properly transmitted.

Declaration of the Applicant I - dated 8 November 2019 (hereinafter: Declaration No. 2)

According to the Requested I and the Requested II. and a copy to the Authority

forwarded - "Cooperation Agreement" II./4/4. have acted in accordance with point

When responding to requests from interested parties submitted by the applicant that:

'If the customer application is received by [...], [...]

forward it by e-mail to [...] 's complaint handling area within one working day. At the same time

notify the customer in writing that he has forwarded his application to [...] out of jurisdiction. THE

notification of the [...] "(Note: Requested I.)" with respect to the relevant part of the answer - required

in the case of 4.4. using the data request detailed in point [a], specify [...], made by [...]

within the legal time limit from the date of receipt. "

According to the Applicant's Statement I, the Applicant's personal data is used exclusively for his submissions

(complaints) with reference to the following legislation:

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Act CCXXXVII of 2013 on Credit Institutions and Financial Undertakings Act (a

hereinafter: Hpt.) Section 288 (2),

About investment firms and commodity exchange service providers and by them

Act CXXXVIII of 2007 on the rules of activities that can be carried out Section 121 (2) of the Act

paragraph,

MNB Decree 46/2018 (XII.17.),

MNB Recommendation No. 13/2015 (X.16.) IX. Section 26-28. point,

435/2016. (XII.16.) Government Decree §§ 2 and 3.

Applicant I further stated that "Prior to the transmission of the complaints

The data of the Applicant was not transmitted. for."

According to the statement of the Applicant dated December 6, 2019, the Applicant is personal

source of data Requested I. as the [...] hrsz. non-authentic title deed of real estate

a copy of it (hereinafter: non-authentic title deed) was forwarded from the Applicant I.

Applicant II. with reference to the assignment. The Requested II. attached the referenced - [...] hrsz. a non-authentic copy of

the title deed, which was requested on 27.09.2012 a

From the TAKARNET system. According to the non-authentic title deed, the Applicant is entitled to [...] hrsz. real estate

Owned by 1/12. The Requested II. the scope of the data processed according to his statement

matched the personal information on the non-authentic title deed. The title deed

It can be seen on the copy that at the expense of the Applicant, but at the expense of the other co - owner of the property, the

Applicant I has registered the right of enforcement. The Requested II. in its register

according to the event registration - on 13.11.2014 he again requested the title deed of [...] hrsz, on which

the personal data of the Applicant were also included.

The Requested II. it also informed the Authority that it was not reviewing the case

it was possible to determine when and as a result of the erroneous recording

no further explanation can be given regarding the circumstances and causes of the erroneous recording

was able to give and also attached a screenshot of the personal data to be deleted

screenshot.

In his statement dated 9 January 2020, the Applicant provided the following information:

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The "Cooperation Agreement" concluded with the Applicant on 31 October 2018

their obligation under Article 26 (2) of the General Data Protection Regulation

No separate information was provided to the Applicant, the Applicant I and the

Applicant II. data management information is available on the companies' websites.

During the investigation of the case, the Applicant I. found that the Applicant was not his client,

and there was no legal relationship between them. The receipt of the Applicant's complaint to the Applicant I.

After that, the clerk did not find the data of the Applicant in the IT systems

relevant information. On the subject of the complaint, according to which the Applicant received from the Applicant II

the administrator assumed that the

Applicant had a debt that was due for a retention period of eight years after the account was closed

was not assigned and therefore could not find any information about it in the banking systems. E

A template letter was sent based on the assumption that

The legal relationship between Applicant I and the Applicant was terminated.

The details of the Applicant were included in the title deed handed over during the assignment as collateral

details of one of the owners of the property.

II. Applicable law

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) No 2016/679 (hereinafter referred to as the General Data Protection Regulation)

The Regulation applies to all or part of personal data

automated processing of non-automated data

which are part of a registration system or which are part of a

intended to be part of a registration system.

According to recital 47 of the General Data Protection Regulation, if the data processing

legal basis is a legitimate interest, a prior balancing of interests must be carried out

it is necessary to determine, inter alia, the legitimate interest, the effect on the data subject and whether

whether the processing is necessary or proportionate and whether a legitimate interest or consideration is required

and whether the right of the data subject is superior.

Article 4 (1) of the General Data Protection Regulation "personal data" means identified or identifiable any information relating to a natural person ("data subject"); identifiable by that natural a person who, directly or indirectly, in particular by means of an identifier such as a name, number, location data, online identification or physical, physiological, genetic, on the basis of one or more factors relating to his or her intellectual, economic, cultural or social identity identifiable.

Personal data pursuant to Article 5 (1) (a) of the General Data Protection Regulation must be handled lawfully and fairly and in a manner that is transparent to the data subject ("Legality, due process and transparency");

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").

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Personal data pursuant to Article 5 (1) (d) of the General Data Protection Regulation they must be accurate and, where necessary, kept up to date; all reasonable measures must be taken in order to ensure that personal data are inaccurate for the purposes of data processing deleted or corrected immediately ("accuracy");

Pursuant to Article 5 (2) of the General Data Protection Regulation, the controller is responsible for shall be able to demonstrate such compliance ("Accountability").

Processing of personal data under Article 6 (1) of the General Data Protection Regulation is lawful only if and to the extent that at least one of the following is met:

(a) the data subject has given his or her consent to the processing of his or her personal data for one or more specific

purposes

...

(f) processing for the legitimate interests of the controller or of a third party necessary, unless the interests of the data subject take precedence over those interests or fundamental rights and freedoms which call for the protection of personal data, especially if the child concerned.

Pursuant to Article 13 (3) of the General Data Protection Regulation, if the controller a intends to carry out further processing of personal data for purposes other than those for which they were collected, a inform the data subject of this different purpose and any relevant additional information referred to in paragraph

Pursuant to Article 14 (1) (c) and (e) of the General Data Protection Regulation, if personal data have not been obtained from the data subject, the controller shall make the data subject available to the data subject the following information:

- (c) the purpose of the intended processing of the personal data and the legal basis for the processing;
- (e) the recipients or categories of recipients of the personal data, if any;

Pursuant to Article 15 (1) of the General Data Protection Regulation, the data subject is entitled to 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 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
comprehensible information on the significance of such processing and on the data subject
the expected consequences.

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Under Article 17 (1) (b) of the General Data Protection Regulation, the data subject is entitled
that, at his request, the controller deletes his personal data without undue delay
data, and the controller is obliged to provide personal data concerning the data subject
delete it without undue delay if the data subject withdraws the authorization referred to in Article 6 (1) (a).
consent to the processing, and there is no consent to the processing
other legal basis.

Pursuant to Article 58 (2) (b), (c) and (i) of the General Data Protection Regulation
acting within the corrective power of the competent authority:

(b) reprimands the controller or the processor if he or she is acting in a data-processing capacity
has infringed the provisions of this Regulation;

(c) instruct the controller or processor to comply with this Regulation
the exercise of his rights under this Regulation;

(i) impose an administrative fine in accordance with Article 83, depending on the circumstances of the case
in addition to or instead of the measures referred to in this paragraph.

Pursuant to Article 17 (3) of the General Data Protection Regulation, paragraphs 1 and 2 do not
applicable if data processing is required:

...

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

...

e) to file, enforce or defend legal claims.

Pursuant to Article 18 (1) (a) of the General Data Protection Regulation, the data subject is entitled to
that, at the request of the controller, restrict the processing if the data subject disputes the personal data
accuracy, in which case the limitation shall apply to the period during which it is possible to
the data controller verifies the accuracy of personal data;

Pursuant to Article 83 (1) of the General Data Protection Regulation, all supervisory authorities
ensure that any infringement of this Regulation referred to in paragraphs 4, 5 and 6 is in accordance with this Article
The administrative fines imposed pursuant to this Regulation shall be effective, proportionate and dissuasive in each case
be dissuasive.

Pursuant to Article 83 (2) of the General Data Protection Regulation, administrative fines are imposed by
referred to in Article 58 (2) (a) to (h) and (j), as the case may be
should be imposed in addition to or instead of measures. When deciding if it is necessary
to impose an administrative fine or to determine the amount of the administrative fine
in each case due account shall be taken of the following:

(a) the nature, gravity and duration of the breach, taking into account the processing in question
the nature, scope or purpose of the infringement and the number of persons affected by the infringement;
the extent of the damage they have suffered;

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

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

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

Technical and organizational measures taken pursuant to Articles 25 and 32;

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

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

the degree of cooperation to alleviate

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

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

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

in detail;

(i) if previously against the controller or processor concerned, in the same

one of the measures referred to in Article 58 (2) has been ordered orally

compliance with revolving measures;

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

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

and

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

for example, the financial gain obtained as a direct or indirect consequence of the infringement; or

avoided loss.

Pursuant to Article 18 (2) of the General Data Protection Regulation, where the processing is

subject to paragraph 1, such personal data, with the exception of storage, shall be subject only to

with the consent of the data subject, or to bring, assert or enforce legal claims

to protect the rights of another natural or legal person, or

Important public interest of the Union or of a Member State.

Pursuant to Article 83 (5) of the General Data Protection Regulation, the following provisions apply

an administrative fine of up to EUR 20 000 000 in accordance with paragraph 2

or, in the case of undertakings, the total worldwide turnover in the preceding business year

up to a maximum of 4%, with the higher of the two amounts

to impose:

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

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

Infotv. Pursuant to Section 2 (2) of the European Parliament (EU) 2016/679

and Council Regulation (hereinafter referred to as the General Data Protection Regulation)

the general data protection regulation in accordance with Articles III-V. and VI / A. Chapter and Section 3 (3), (4),

6, 11, 12, 13, 16, 17, 21, 23-24. Section 4 (5), Section 5 (3) to (5), (7) and (8)

§ 13 (2), § 23, § 25, § 25 / G. § (3), (4) and (6)

in paragraph 25 / H. § (2), 25 / M. § (2), 25 / N. §, 51 / A.

§ (1), Articles 52-54. § 55 (1) - (2), 56-60. §, 60 / A. §

(1) - (3) and (6), Section 61 (1) (a) and (c), Section 61 (2) and (3)

paragraph 4 (b) and paragraphs 6 to 10, paragraphs 62 to 71. § 72

in Section 75 (1) - (5), Section 75 / A. With the additions specified in § and Annex 1

should be used.

CL of 2016 on General Administrative Procedure. Act (hereinafter: Act)

Pursuant to Section 46 (1) (a), the authority shall reject the application if the procedure

there is no statutory condition for initiating proceedings, and this law is different

has no legal effect.

The Ákr. Section 47 (1) (a) states that the authority shall terminate the proceedings if a

would have been the subject of the rejection of the application, but for a reason after the initiation of the proceedings came to the attention of the authority.

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

the Authority shall, at the request of the data subject,

initiate proceedings and may initiate ex officio data protection authority proceedings.

Infotv. Pursuant to Section 60 (2), to initiate official data protection proceedings

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

may be submitted in the case specified 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

in the Member State of the alleged infringement, if it considers that the

the processing of personal data infringes this Regulation.

III. Authority decision

III.1. The issue of the unlawful data processing of the Applicant I. prior to 25 May 2018

Contradictory statements were received regarding the transfer of the data of the Applicant I. a

Authority from Applicant I and Applicant II.

According to Claimant I, on the title deed handed over during the assignment

the data of the Applicant were included as the data of one of the owners of the hedging property, and

Applicant was never his client. On the other hand, according to the attached documents, the Requested I.

informed the Applicant that it would forward the complaint received to him on the grounds that

that the contract between them has already been terminated.

According to the statement sent by the Applicant to the First Authority, the Applicant 's complaint is addressed to the Applicant

Upon arrival at I., the clerk in the IT systems to the data of the Applicant

did not find any information about it. The subject of the complaint, according to which the Applicant a

The clerk received a summons from the requested II

assumed that the Applicant had a debt that was eight years after the account was closed

it was assigned before the retention period and therefore could not be found in the banking systems

information. Based on this suggestion, a template letter was sent which incorrectly stated that

that the legal relationship between the Applicant I and the Applicant has been terminated.

On the basis of the above, the Authority concluded that it was not a obligor in a credit transaction

The personal data of the Applicant were transmitted due to an incorrect reference to

as part of the file of the assigned contract (non - authentic for the hedged property)

data on the title deed) were transferred to the Applicant II

data. A copy of the title deed shows that it is not the Applicant but the property that is different

registered the right of enforcement against the co-owner of the

In the present proceedings, the Authority will only decide on the requested data processing on 25 May 2018.

the findings made in connection with the data management after the day of Section 47 (1)

In accordance with paragraph 1 (a), the Authority shall initiate the data protection authority proceedings before 25 May 2018.

terminated the data management part of the period as the request was not answered

and Infotv. Section 60 (2), since the requested data processing

In this part of the period, the General Data Protection Regulation was not yet applicable, so the

An authority shall not conduct official data protection proceedings upon request.

The Requested II. - Dated April 30, 2019 - According to the letter sent to the applicant, the subject of the application

The claim was assigned by the Applicant I on 25 April 2013.

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Based on the above, the Authority in the present proceedings is the general data management of the Applicants

examined the period following the date of entry into force of the Data Protection Regulation (25 May 2018).

Accordingly - although the history of data management and thus of administrative error is a

Data transfer related to the requested transfer I - 25 May 2018

the Authority did not take any action in relation to the previous data processing activity

findings.

This is due to the application of the General Data Protection Regulation to this processing

and therefore not subject to the rules of the General Data Protection Regulation

applicable to the Authority's data protection authority proceedings against it

nor can an application be made, so the general data protection is general

on request for data protection to examine compliance with the provisions of the Data Protection Regulation

not possible under an official procedure.

III.2. The Requested II. illegal data processing (incorrect recording of the Applicant's personal data)

and the principle of accuracy

III.2.1. on the basis of its statements that the data management

During the process, the Requested II. unlawful data processing was caused by incorrect data recording.

The Authority found that the requested II. claims made by erroneous data recording

infringed Article 6 (1) of the General Data Protection Regulation by processing data for the purposes of

The applicant was not in connection with the given transaction or in connection with any other transaction

Applicant II. debtor and therefore had no legal basis for data processing.

The Requested II. stated that the unlawful conduct was caused by unlawful conduct,

but the careless behavior of clerks can be traced back to it. In the Authority's view, this is

the argument does not relieve the Requested II from the responsibility of the controller, given that the

Pursuant to Article 4 (7) of the General Data Protection Regulation, it counts as

data controller and not its employees. The Requested II. the one who organizes the data management

process and establish its circumstances, not the clerks. The data controller is the most important

is characterized by the fact that it has substantive decision - making powers and is responsible for

data processing are all obligations set out in the General Data Protection Regulation

for fulfillment. The Working Party on Data Protection set up under Article 29 of the Data Protection Directive (a

hereinafter referred to as the "Data Protection Working Party") on the concept of "controller" and "processor"

1/2010. He also stated in his opinion that "Ultimately, the company or body needs to

be held responsible for the processing of data and arising from data protection legislation

unless there are clear indications that a natural person is a

responsible. [...] However, even in such cases where a specific natural person is appointed,

to ensure compliance with data protection principles or to process personal data, this a

the person will not be a data controller, but a legal entity (company or public body) a

acting on behalf of the data controller, who remains responsible for the breach of the principles in his capacity as data

controller

in case of." The fact that the data was recorded incorrectly by the administrator does not therefore constitute an excuse

In this case, too, the controller shall be liable. On the basis of all this decision

Infringement II falls under the responsibility of the Requested II as data controller. The general

Article 25 of the Data Protection Regulation requires the controller to have the whole process of data processing

take appropriate technical and organizational measures to ensure that:

by default, only personal data that is

necessary for a specific data processing purpose.

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III.2.2. Principle of accuracy

The Applicant repeatedly objected to the debts registered with the Applicants and questioned them its existence.

The Requested II. he took the "necessary measures" following the complaint, which he mentioned

meant the acquisition of a transfer order, but not the processing of data for that time

did not take steps to do so. The Authority is of the opinion that the Applicant

II. measures to obtain a transfer order are appropriate but not sufficient

considered as a measure.

The data controller has no obligation to delete data in the case of data processed by him

the accuracy of which becomes questionable on the basis of a third-party report and this is the case with the report not certified at the same time.

The action taken by the controller on the basis of the notification should promote the principle of accuracy and prevent the use of inaccurate data. In this case, the

The Authority is of the opinion that, by taking reasonable steps, the data controller is inaccurate should be temporarily restricted.

In view of the above, Applicant II should have taken action on Applicant's personal

restrictions on the processing of your data until the situation is clarified and the accuracy of the data is verified

it should have notified the person concerned. The Requested II. has not complied with this obligation, thereby infringing Article 5 (1) (d) and Article 18 of the General Data Protection Regulation Paragraph 1 (a).

III. 3. Applicant I and Applicant II. obligation to provide information

III.3.1. Applicant 's obligation to provide information

According to the statement of the Applicant I, the Applicant I and the Applicant II. created between and Forwarded to the Authority in a copy - "Cooperation Agreement" II./4/4. are set out in point The applications submitted by the Applicant on 3 May and 5 May 2019 were complied with in answering.

According to the "Cooperation Agreement" concluded with the Applicant II on 31 October 2018 they did not provide the Applicant with information about their duties. Based on the attached documents it can be stated that Applicant I. only informed the Applicant that since the termination of the his application was therefore forwarded to Applicant II.

In view of the above, Applicant I failed to inform the Applicant that a

According to the "Cooperation Agreement" concluded with Applicant II, what are the applications concerned the order in which the Applicant II is to be answered

The Authority therefore found that the

Applicant I violated Article 5 (1) (a) of the General Data Protection Regulation

the principle of regulated transparency and Article 14 (1) of the General Data Protection Regulation

c) and e) and the request of the data subject sent by the Applicant on 3 May 2019, Article 15

Paragraph 1 (f) and (g), since it should have stated in its reply that only

handles your personal data for complaint handling purposes and on what legal basis it transmits the complaint to the Applicant II and the right to lodge a complaint with the Authority.

he should have informed.

III.3.2. The Requested II. information obligation and the Applicant's right of access

III.3.2.1. Quality of the Complainant's letter of complaint

The Applicant shall send the Applicant II electronically on 26 March and 17 April 2019

in a letter sent to them requesting information on the nature of their registered claim

is against him, and in this connection he inquired as to when the loan was taken

which financial institution transferred the claim in accordance with Annex II. for.

The Applicant did not indicate the subject of his submissions as a request for access. In his letter to

Applicant disputed the existence and legality of the claim. The letters are also privacy

reference to regulation was not included.

The Applicant requested from the Applicant I on 03 May 2019 and from the Applicant II on 05 May

for the first time, information on the handling of your personal data, therefore only this

two letters can be considered as a request from a data subject under the General Data Protection Regulation.

In the Authority's view, the contents of the Applicant's letters of 26 March and 17 April 2019

are not considered to be applications for the exercise of the right concerned by reason of the above

consequently, there is no violation of the law in the capacity of the Applicant to answer them

in view of this, the Authority rejected the Applicant's request for access

infringement.

III.3.2.2. According to the information filed on 5 May 2019 and 05 May 2019, the

He replied by letter dated 16.05.2019.

The Requested II. 5/16/2018 In its reply dated 1 January 2006, the applicant informed the applicant that

has no claim against the Applicant and has been initiated to enforce the claim

therefore permanently closes the procedure, 'deactivates' the Applicant's data from its register, and

The Applicant II requested that the Applicant consider the application of 09.03.2019 to be irrelevant. dated

sent a letter of formal notice due to an administrative error.

The Requested II. In his letter he also informed the Applicant that his letter was from the Applicant

Concerning the letters sent on 10.04.2017, 17.04.2017, 03.05.2018 and 05.05.2019

information.

The Requested II. by letter dated 7 June 2019, again informed the Applicant that a
their personal data has been deleted from their records.

The Requested II. 7/22/2019 reply to the request concerning the request
did not contain their information on the Applicant's claim for damages
which does not fall within the remit of the Authority.

A 05/16/2019 and 07.06.2017. on the basis of the content of the reply letters dated
that the Requested II. did not fully comply with Article 12 of the General Data Protection Regulation
The requirement set out in paragraph 1, as he did not only have to inform the Applicant
that in view of the fact that they have no claim against him, therefore, his personal data
deleted from their register. Applicant II should also have informed the Applicant that
that the Applicant's personal data will be further processed for the purpose of complaint handling, as well as general
pursuant to Article 15 (1) (f) of the Data Protection Regulation, that it may apply to the Authority,
if you wish to make a complaint about an objection to the data processing of the Applicants.

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Regarding the response to data subjects' requests - Article 12 of the General Data Protection Regulation
(3) - provided by the Applicant within one month

II. information, as on 03.05.2019 containing the applications of the Applicant concerned, and a
He replied to the letters sent on 5 May 2019 on 16 May 2019. On May 16, 2019, and on May 21, 2019
dated (essentially not containing a new request from the data subject, but repeating previous objections)

The respondent replied on 7 June 2019 to the II.

In view of the above, the Authority concludes that the requested Annex II. affected by the Applicant
responded to his requests within the deadline set by the General Data Protection Regulation
nor did it infringe the right to exercise the right of data subject of the General Data Protection Regulation
provisions.

However, in view of the fact that the requested II. did not provide clear information on the
the legal basis for the application received by the Applicant I.

in its reply to the complaint

found that the Requested II. infringed Article 14 (1) of the General Data Protection Regulation and Article 15 (1) (g), and whereas the Authority

nor did it inform the Applicant about the right to complain, therefore the general data protection also infringed Article 15 (1) (f) of Regulation No 40/94.

III.4. Applicant's request for deletion of personal data

Pursuant to Article 17 (3) (b) of the General Data Protection Regulation, the controller shall be deleted obligation does not apply in the event that the processing of personal data is processed compliance with an obligation under EU or Member State law applicable to the controller necessary for that purpose.

According to the Applicant's Statement I, the Applicant's personal data is used exclusively for his submissions (complaints) shall be recorded for the purpose of dealing with the applicant 's statement in Declaration I with reference to the legislation governing the complaints procedure.

The Requested II. According to the statement, the Applicant is a registered personal claim deleted his data after being convinced that they were inaccurate. We have a complaint handling and a It handles the Applicant's personal data due to an ongoing procedure before an authority.

A Hpt. Section 288 (3) provides that the financial institution shall file a complaint and file a complaint retains a given answer for five years. This is supplemented by Section 3 (2) of the Government Decree on Complaints. financial institution about customer complaints and their keep a record of the measures taken to settle and resolve the dispute. Complaints handling the register shall contain, inter alia, a description of the complaint which is the subject of the complaint an indication of an event or fact.

The above registration obligation prescribed in the Credit Institutions Act only applies to customers, however a The Applicants clearly stated that the Applicant was not their customer, therefore the Hpt. pursuant to the above paragraph, they may not handle personal complaints in connection with the Applicant's complaints data.

Accordingly, the applicants claim that Article 6 (1) (c) of the General Data Protection Regulation may not be based on the application of the Applicant's personal data in the complaint register treatment. However, the Applicants arose during the official proceedings initiated against them personal data of the Applicant contained in the documents in the opinion of the Authority Article 17 (3) (e) of the General Data Protection Regulation

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with a view to the final closure of the proceedings, the Authority will therefore delete these personal data in its decision it did not order, but instead restricted the personal data of the Applicant treatment.

III.5. Application for a data protection fine

The Authority rejected the Applicant's request for a data protection fine, as the application of a legal sanction does not directly affect the right or legitimate interest of the Applicant, such a decision of the Authority shall not create any right or obligation for it

With regard to the application of a sanction falling within the scope of the public interest, with regard to the imposition of fines, the Applicant shall not be considered a customer in accordance with Ákr. Section 10 (1) on the basis of, and since the Ákr. Does not comply with Section 35 (1), request in this regard this part of the application shall not be construed as an application.

III.6. Obliging applicants to refrain from future infringing conduct

application

With regard to the future ban on the processing of personal data, the Authority shall:

in addition, it found that it was aimed at an uncertain future event a request for which neither the scope of the data to be processed in the future nor their legal basis is concerned cannot be determined, so that it cannot be ruled out that they have an appropriate legal basis to deal with them, would take place lawfully, as it cannot be said to have done so in an infringing manner, without a legal basis would take place. Therefore, its prohibition should not be the subject of official proceedings in this regard no informed decision can be made.

In view of the above, the Authority will request the Applicant to prohibit future data processing

rejects the

III.7. Legal consequences

The Authority granted the Applicant's request in part and Article 58 of the General Data Protection Regulation

Under paragraph 2 (b)

- the Requested I, because his data management activity violated the general

Article 5 (1) (a) and Article 14 (1) (c) of the Data Protection Regulation.

and (e) and Article 15 (1) (f) and (g).

- He applied for II because his data management activities violated the general

Article 5 (1) (d) and Article 6 (1) of the Data Protection Regulation,

and Article 18 (1) (a), Article 14 (1) (c) and Article 15 (1)

paragraph 1 (f) and (g).

The Authority has ordered, with reference to Article 5 (2) of the General Data Protection Regulation,

that the Applicants are responsible for handling all personal data of the Applicant

the legal basis for the processing of the data is certified to the Authority and limited to this time by the Applicant

the processing of your personal data and to ensure that they are provided in an appropriate and complete manner

information to the Applicant regarding the processing of personal data in the complaint handling

including the processing of data for other purposes.

The Authority examined of its own motion whether data protection against the Applicants was justified

imposition of a fine. In this context, the Authority shall comply with Article 83 (2) and (3) of the General Data Protection

Regulation

Infotv.75 / A. Of its own motion, considered all the circumstances of the case and found that

that in the case of an infringement detected in the present proceedings, the warning is neither proportionate nor appropriate

a dissuasive sanction, it is therefore necessary to impose a fine.

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

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The Requested II. unjustified data processing significantly affects the Applicant's privacy affected, as the Applicant's personal data for the purpose of claims management is such recorded in connection with a contract in which he was not even a debtor, and the administrative also sent a demand for payment traceably to him.

Applicants shall provide the Applicant's personal data for the purpose of handling complaints that the relevant legal basis has been duly substantiated by the Authority at the request of the Authority. (Article 83 (2) (a) of the General Data Protection Regulation point)

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The violation is serious because the Applicants' handling of their data is subject to general data protection several articles of the Regulation have been infringed, including a breach of principle. (Article 83 (2) (a) of the General Data Protection Regulation)

-

It is related to the failure to provide adequate and transparent information to the Applicant Intentional Infringement of the Processing of Applications Affected by Applicants caused by his behavior and data management practices. (General Data Protection Regulation 83. Article 2 (2) (b)

-

The Requested II. for breach of the General Data Protection Regulation has already taken place in NAIH / 2020/2025/2. in which the Authority found that the Requested II. violated the general data protection regulation Article 15 (1), as in the present case. (general privacy policy) Article 83 (2) (e) and (i) of the Regulation)

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To convict the Applicant I for violating the General Data Protection Regulation

has not yet taken place (Article 83 (2) (e) and (i) of the General Data Protection Regulation)

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Based on the financial statements of the Applicant I in 2018, its income was HUF 1,200,000 million. THE

the data protection fine imposed shall not exceed the maximum fine that may be imposed. (general

Article 83 (5) (a) of the Data Protection Regulation)

-

- The II. Based on its 2018 report, the gross income from receivables management

It was HUF 82,000,000 thousand. The data protection fine imposed shall not exceed the fine that may be imposed

maximum. (Article 83 (5) (a) of the General Data Protection Regulation)

Based on the nature of the breach - breach of data processing principles - upper limit of the fine that can be imposed

EUR 20 000 000 pursuant to Article 83 (5) (a) of the General Data Protection Regulation, and

up to 4% of total world market turnover in the preceding business year. (General Data Protection Regulation

Article 83 (5) (a)

Article 83 (2) of the General Data Protection Regulation applies to the imposition of fines.

The following provisions of paragraph 1 were not taken into account because, in its view, the

were not relevant in the present case: points (d), (f), (h) and (k). The Authority shall also:

with regard to the imposition of a fine, it did not take into account the fact that the Applicant

that the Requested II. due to a payment order attributable to an administrative error

his medical condition deteriorated, for which he claimed damages from the Applicant II.

Applicant II. he rejected. In the Authority's view, the attached documents are in

describe the state of health at the time indicated, however, the Applicant's claim that

there is a causal link between the deterioration of his state of health and the violation of the Applicants

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maintained, the attached documents did not support it. (Article 83 of the General Data Protection Regulation

Paragraph 2 (c)

By imposing fines, the Authority's specific deterrent objective is to encourage the Requested II.

to examine the processing of personal data covered by the transfer

and thereby reduce the risk of administrative errors, as well as the Requested I.

encourage you to redesign your complaint handling information. The Authority shall:

In setting the amount of the fine imposed on

also for the general preventive purpose of the fine, which, in order to prevent the Applicants from

the lawfulness of the data management practices of all market participants

to achieve its movement.

In particular, the Authority took into account that the infringements committed by the Applicants were

in accordance with Article 83 (5) (a) and (b) of the General Data Protection Regulation

constitute an infringement falling within the category of fines.

ARC. Rules of procedure

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 Ákr. Pursuant to § 112 and § 116 (1) and § 114 (1)

and the order is subject to administrative 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) by decision of the Authority

The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (3) a)

Pursuant to point (aa) of the Act, the Metropolitan Court has exclusive jurisdiction. A Kp. Section 27 (1)

(b), legal representation shall be required in legal proceedings before the General Court. A Kp. § 39

(6) of the application for the entry into force of the administrative act

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. Act (a

hereinafter: the e-administration Act), the client's legal representative pursuant to Section 9 (1) (b)

obliged to communicate electronically.

The place and time 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 is

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

If the Applicants do not duly demonstrate that the required obligations have been met, a

The Authority considers that the obligations have not been fulfilled in time. The Ákr. Section 132

if the Applicants fail to comply with the obligation set out in the final decision of the Authority

meet, it is doable. 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

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

Pursuant to Section 61 (7), the implementation of the decision of the Authority is included in the decision,

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

shall be carried out by the Authority.

In the course of the procedure, the Authority exceeded the Infotv. One hundred and fifty days according to Section 60 / A (1)

administrative deadline, therefore Ákr. Pursuant to Section 51 b), it pays ten thousand forints to the Applicant.

Budapest, August 6, 2020

Dr. Attila Péterfalvi

President

c. professor

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