Case number: NAIH-4783-1/2022. Subject: decision and termination order

History: NAIH-5700/2021.

The National Data Protection and Freedom of Information Authority (hereinafter: Authority) [...]

based on the request of the applicant (hereinafter: the Applicant) on June 22, 2021, […] (the

hereinafter: Applicant 1) and […] (hereinafter: Applicant 2) (hereinafter together:

Applicants) by opening a credit account, assignment related to a claim, and also

illegal related to the fulfillment of the obligation to provide information related to a stakeholder request

makes the following decisions in the official data protection proceedings regarding its data management:

I. 1. In its decision, the Authority accepted the Applicant's request on May 25, 2018.

partly in the part aimed at establishing the illegality of subsequent data processing

gives place and

I.2. finds that Respondent 1 has violated the personal rights of natural persons

on the protection of data in terms of processing and the free flow of such data, as well as

Regulation 2016/679 (EU) repealing Directive 95/46/EC (hereinafter:

GDPR or General Data Protection Regulation)

- Article 5, paragraph (1), point a),

- Paragraph (1) of Article 6 and

- paragraph (1) of Article 12,

furthermore, that Respondent 2 violated Article 5 (2) of the GDPR.

I.3. The Authority ex officio obliges Respondent 1 to make this decision final

within 15 days of the divorce

I.3.1.

inform the Applicant in connection with his data subject application with which

in connection with this, Respondent 1 did not comply with the requirement of transparent information.

I.3.2. confirm to the Applicant his telephone number […] and mailing address […]

the legal basis for processing your personal data, and

I.3.3. delete the Applicant I.3.2. personal data according to point, for which it is appropriate

no legal basis has been proven.

I.4. The Authority ex officio obliges Respondent 2 to make this decision final

within 15 days of the divorce

I.4.1. certify to the Authority if it has a legitimate interest in the Applicant's personal data

for claims management purposes and this interest against the basic rights of the Applicant

takes precedence and

I.4.2. delete the personal data of the Applicant for which a suitable legal basis has not been proven,

and his legitimate interest is not justified by I.4.1. as written in point

I.5. The Authority ex officio obliges Respondent 2 to comply with I.4. in point

as an obligation, until then it is limited by the Applicant's personal legitimate interests

the processing of his data for claims management purposes, and the Respondent 1 that until he does not

sufficient for I.3. to the obligation contained in point, until then limited by the data of the Applicant's phone number and

management of your mailing address.

II. The Authority, in its order, of the personal data of the Applicant on May 25, 2018

in the part relating to the determination of unlawful treatment in the previous period,

also in the part to instruct the Respondents regarding the Applicant's property and non-property

to compensate you for your damages and determine the misuse of your personal data, the procedure

III. In the Authority's decision, the Respondent 1 because of the illegal data processing it carried out

ex officio

terminates.

HUF 2,000,000, i.e. two million forints

data protection fine

obliged to pay.

ARC. In the Authority's decision, the Applicant 2 because of the illegal data processing it carried out

ex officio

HUF 1,000,000, i.e. one million forints

data protection fine

obliged to pay.

During the official procedure, no procedural costs were incurred, therefore, no costs were incurred

was provided by the Authority.

The data protection fine is the governing action for the initiation of the administrative lawsuit

the 15th following the expiry of the deadline, or in the case of the initiation of a public administrative lawsuit, following the

court's decision

Within days, the forint account for the collection of centralized revenues of the Authority

(10032000-01040425-00000000 Centralized direct debit account IBAN: HU83 1003 2000 0104

0425 0000 0000) must be paid. When transferring the amount, NAIH-5700/2021. FINE.

number must be referred to.

If the Applicants do not comply with their obligation to pay fines within the deadline,

they are obliged to pay a late fee. The amount of the late fee is the legal interest, which is a

it is the same as the central bank base rate valid on the first day of the calendar semester affected by the delay. THE

in the case of non-payment of fines and late fees, the Authority shall issue a decision

implementation.

A. Given that the Authority exceeded the administrative deadline, HUF 10,000, i.e. ten thousand forints

shall be paid to the Applicant - at his choice - by bank transfer or postal order.

I.3. the fulfillment of the obligation according to point I.4. according to

Respondent 2 must fulfill its obligation within 15 days from the date of taking the measure

certify to the Authority in writing, together with the submission of supporting evidence. THE

in case of non-fulfilment of the obligation, the Authority orders the execution of the decision.

The I., III., IV. with the decision according to point II. against the order according to point is administrative

there is no place for a legal remedy, but within 30 days from the date of notification, the Fővárosi

It can be challenged in an administrative lawsuit with a claim addressed to a court. The statement of claim a

It must be submitted to an authority, electronically1, which forwards it together with the case documents to to the court. For those who do not receive the full personal tax exemption, the administrative lawsuit the fee is HUF 30,000, the lawsuit is subject to the right to record fees. In the proceedings before the Metropolitan Court legal representation is mandatory.

Until the expiry of the time limit for filing an appeal against the decision, or an administrative lawsuit in case of initiation, until the final decision of the court, the data affected by the disputed data processing will not they can be deleted or not destroyed.

JUSTIFICATION

I. Procedure of the procedure

I.1. At the request of the Applicant, on the right to self-determination of information and freedom of information CXII of 2011 Act (hereinafter: Infotv.) June 2021 based on Section 60 (1) On the 22nd, official data protection proceedings were initiated.

I.2. The Authority considered Application 1 under NAIH-5700-2/2021. notified in order no on the initiation of proceedings and for the first time called him to make a statement to clarify the facts order, with reference to the 2016 CL. law (a hereinafter: Ákr.) to § 63, to which Respondent 1's response was received on August 3, 2021 and to the Authority (document No. NAIH-5700-4/2021).

The Authority has approved Request 2 under NAIH-5700-3/2021. the procedure was notified in order no and invited him to make a statement for the first time in order to clarify the facts, with reference to Art. § 63, to which Respondent 2 replied on August 25, 2021 was received by the Authority (document No. NAIH-5700-5/2021).

Applicant 1 was appointed by the Authority under NAIH-5700-6/2021. also for the second time in order no invited him to make a statement, as Respondent 1 of the data management circumstances of the case when answering the essential questions necessary for its investigation, he did not elaborate on the Data management operations objected to by the applicant. The Authority

within the deadline

Respondent 1 forwarded his answers, however, to the Authority again, i.e. for the third time

had to invite him to make a statement (in order No. NAIH-5700-9/2021), since the answers

not of 2015 on the general rules of electronic administration and trust services

CCXXII. transmitted in the manner prescribed by law (hereinafter: Eüsztv.) and based on his answers

further questions arose.

I.3. The Authority is NAIH-5700-11/2021. s. notified the Applicant in his document that a

proof procedure is completed. The Authority's order in this regard, as evidenced by the receipt

The applicant received it on 02.12.2021,

10.12.2021 expired on The Applicant arrived at the Authority on December 13, 2021 -

He made comments and statements in his letter dated December 9, 2021.

II. Clarification of facts

II.1. In his application submitted to the Authority on June 21, 2021, the Applicant submitted that the

The respondents carry out/have carried out unauthorized data processing by opening a credit account and making a claim

with related assignment,

informative

in connection with the fulfillment of obligations. The Applicant requested the following from the Authority:

also related to stakeholder requests

so the deadline given for making a statement

- the examination of the data management of the Applicants and official data protection procedure

conducting,

- the determination of illegal data processing going back to March 21, 2015,

1 The NAIH_KO1 form is used to initiate the administrative lawsuit: NAIH KO1 form (16.09.2019) The

form can be filled out using the general form filling program (ÁNYK program).

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-

In the event of illegal data management, the Applicant shall oblige the Respondents

to delete his personal data, as well as the Applicant's pecuniary and non-pecuniary damage

to reimburse

ordering the deletion of unlawfully transmitted personal data at Respondent 2,

so that it is retroactive to the date of its illegal transmission, i.e. March 8, 2016

with effect, the Authority prohibits the unlawful processing and transmission of personal data,

order the Authority to notify the addressees with whom or with which the personal

data was disclosed and in which procedures it was used, and the Authority shall order it

procedures initiated using unlawfully transmitted personal data Applicant

its withdrawal by 2,

- if the Authority deems it justified taking into account the violation, a data protection fine

oblige the Respondents to pay.

(the

using

hereinafter: loan agreement) concluded a

II.1.1. According to the Applicant, with Respondent 1 on 31.08.2005. recorded in a notarial deed on

loan agreement

Credit account number […]

opening, in connection with this credit account, the Applicant gave his consent to his personal data

for treatment. The Applicant 1 opened this credit account on 21.03.2015. canceled on the day of, and the Applicant

"on behalf of" and your personal data

moreover, it was recorded in the contract

also using the personal data of the pledgees, the new no. [....] - 21.03.2015 open on -

linked to an account.

The Applicant 1 08.03.2016. was registered on the newly opened loan account number […]

assigned the debt to the Applicant 2, and the Applicant's related personal data

forwarded to Respondent 2, […] notary public and […].

II.1.2. According to the Applicant, Respondent 2 forwarded it to the following third parties

your personal data in connection with the following procedures:

Recipient's name and address

Procedures

case number

[…].

[…]

[….]

[…]

[….]

[….]

[...] notary public

[…] Executive Office

[…] Executive Office

[…]

II.1.3. On May 27, 2021, the Applicant submitted a data protection incident notification request

turned to Respondent 1 (its data protection department, its data protection officer) and requested a

on the opening of an [….] account created by the Applicant using his personal data

signed bank account agreement or loan agreement and related personal data

send a copy of the consent to its processing (if such documents exist) to

for, in the absence of these, the Applicant requested that his personal data be deleted retroactively,

and notify the assignee of this.

The Applicant also complained that Respondent 1's complaint management consultant, so not the

data protection officer informed the Applicant on 09.06.2021. in his reply letter dated

that the "transfer of data" related to the creation of a new credit account is based on legal authorization

happened, data protection

happened because the consent of the Applicant is personal

no new bank account contract was concluded without his appearance and personal identification.

In his response letter, Respondent 1 referred to his correspondence with the Applicant, however, a

According to the applicant's statement, its subject is about the termination of the terminated credit account and

a request for proof of his balance at the time of termination, which Respondent 2 ultimately failed to fulfill.

In his response, Respondent 1 did not specify which law the new law was based on

to open a credit account, the Applicant only

consumer

related to changes in the currency of loan contracts and interest rules

assumes that the individual

no incident

LXXVII of 2014 on the settlement of issues Act (hereinafter: Forintization Act).

Respondent 1 indicated only the laws on the basis of which the data is to be transmitted

are sent to the Central Credit Information System or to the concessionaire, and Hpt. 161.

§ (1), on the basis of which a bank secret can be issued to a third party there

in a specific case.

According to the Applicant's point of view, neither the Foreign Exchange Act nor any other law makes it mandatory

and it is possible to unilaterally change the credit account number, or to open a new credit account,

only the modification of the currency of the registered debt of the credit account according to the original contract,

i.e. its conversion. The Applicant did not agree to this when opening the previous account

consent to open a new account in the name of the Applicant.

II.1.4. In his application, the Applicant also objected to the "data deletion procedure" of the Respondent 1, since

the data subject addressed his request to the Data Protection Department and the data protection officer, however

it was not delivered to him and was treated as a simple complaint.

To support his claims, the Applicant attached the following documents in copies:

-

-

loan agreement,

new number […] - 21.03.2015 opened on the day of - account-related assignment

notice,

- Data deletion request sent to Respondent 1,

- Respondent 1's response to the Requester's data deletion request.

II.2. The Authority assigned Applicant 1 to NAIH-5700-2/2021., NAIH-5700-6/2021. and NAIH-5700-9/2021. in order to clarify the facts, he was invited to make a statement, to which a

Respondent 1 stated the following:

Respondent 1 sent a table to the Authority by Respondent 1 with the Applicant

about the personal data handled in connection with it, and it was also forwarded in a copy by the Applicant

claims handling and complaint handling documentation.

In the course of the data management activity objected to in this official procedure, Respondent 1 […]

No. and [...] in connection with the terminated credit accounts, it handles the following data:

Start and end of legal relationship:

-

-

In connection with invoice number […]: 31.08.2005-21.03.2015.

In connection with invoice No. […]: 31.08.2005-08.03.2016.

Personal data handled: name, birth name, mother's birth name, place of birth, date of birth

date, nationality, number and type of personal identification document, official proof of address

ID number, permanent address, mailing address, mobile phone, account number.

Data retention

termination 21.03.2015

The legal basis for data retention is Art. LIII of 2017. Act (hereinafter: Pmt.) Section 56 (2)

paragraph, § 57, paragraph (1) in the case of the following data:

period is 8 years from the termination of the contract. The contract

- name, birth name, mother's birth name, place of birth, date of birth, nationality,

number and type of personal identification document, number of official ID card confirming residential address,

permanent address, account number.

The legal basis for data retention is Act C of 2000 on accounting (hereinafter:

(Accounting Act) Section 169 (2) in the case of the following data:

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- name, birth name, mother's birth name, place of birth, date of birth, nationality,

number and type of personal identification document, number of official ID card confirming residential address,

permanent address, mailing address, mobile phone, account number.

The legal basis for data retention is the Civil Code. 6:22 a.m. § (1) in the case of the following data:

-

mailing address […], mobile phone [….].

According to the statement of Respondent 1:

In his letter of 27.05.2021, the Applicant submitted a request for deletion of his personal data

live. Respondent 1 was unable to complete the cancellation request, therefore in an understandable manner

informed the Applicant about this, and in his letter he referred to his data management information sheets, and they referred to

them

available online. These information sheets provide detailed information - among other things

- on the legislation requiring mandatory storage.

The loan was granted to the Applicant by Applicant1 and [...] for joint data management

based on their respective agreement, it is the responsibility of Respondent 1 to answer the requests, a

Respondent 1 indicates in all sent letters that he is acting on behalf of […].

Opening a new credit account is the legal basis for the currency of individual consumer loan contracts

of 2014 on its amendment and settlement of issues related to interest rules

LXXVII

consumer loan contracts

in view of its invalid contractual clauses, necessary for accounting, as well as the consumer

related to the modification of loan agreements

on consumer protection provisions

58/2014. (XII.17) The annexes to the MNB decree contain samples of forint-denominated contracts.

law. The president of the Hungarian National Bank

CXII of 2011 on the right to information self-determination and freedom of information. law

(hereinafter: Infotv.) was effective at the time of conversion to forints based on § 6, paragraph (5), if the

personal data was collected with the consent of the data subject, the data controller is the data controller

data, in the absence of other provisions of the law, to fulfill the relevant legal obligation

purpose, without further separate consent, as well as the withdrawal of the consent of the data subject

could also manage it afterwards.

Conversion of previous foreign currency loans into forints without recording in a notary deed under the law

was arrested. The text of the contracts was modified in accordance with the text of the law. THE

charged in foreign currency as a result of forint conversion carried out in accordance with legislation

A forint-denominated construction was introduced, converting interest, fees, commissions and costs into HUF receivables

created, to which a new account and therefore a new account number are connected in the banking infrastructure. This

the reason that a new account was added to the customer's HUF-denominated foreign currency loan is of a technical nature

for opening. The purpose of data management is to fulfill the mortgage loan even after the forint conversion.

Respondent 1 also confirmed that in 2015 he informed the Applicant 4 times about the new

of the claim registered under the account number, even before the assignment.

II.3. The Authority assigned the Applicant 2 to NAIH-5700-3/2021. clarification of the facts by order no

invited him to make a statement, to which Respondent 2 stated the following and that

attached the following:

The Applicant 2 sent the table of the Applicant's personal data managed by the Applicant 2.

The table records the currently applied legal bases. Before April 1, 2021 a

The legal basis for data processing for the purpose of claims management was Article 6 (1) point b) of the GDPR, the

Applicant 2

however, after April 1, 2021, the

some related to the validation of receivables purchased through assignment

Data processing for the purpose of claims management is Article 6 (1) point f) of the GDPR, i.e. for legitimate interests

are done by reference. Respondent 2 forwarded to the Authority by the Applicant

claims handling and complaint handling documentation. According to the statement of Respondent 2 a

Respondent 2 did not receive a data protection-related data protection request from the Applicant,

change of legal basis

furthermore, there is no pending court action regarding the claim against the Applicant

proceedings.

The Respondent 2 has a table regarding the transfer of the Applicant's personal data

sent to the Authority, in which he listed which organizations, when, for what purpose, which

forwarded the Applicant's personal data with reference to a legal basis, as follows:

Respondent 2 referred to the same third parties as the Applicant

indicated in his application as the recipient of the Applicant's personal data. Marked by that

purpose, legal basis, and date of data transmission, which in all cases is May 25, 2018.

there were dates before the day.

Before and after May 25, 2018, the notary, executor, government office land registry

department, as well as data transmissions to [….] for claims management purposes (including

issuance of enforcement clause, execution procedure, central credit information

in the system for the purpose of data management, mortgage transfer) took place.

II.4. In the statement received by the Requesting Authority on December 13, 2021, in its application

repeated what was presented and added the following:

II.4.1. He explained in detail and derived how he calculated what he believed to be a

Why did the Respondents cause HUF 14,737,370 in damage to the Applicant, and then requested that this

oblige the Applicants to pay the Authority.

II.4.2. The Applicant stated that his personal data had been misused.

II.4.3. The Applicant explained that the data transfer of the Applicant 2 to third parties

it would only have been legal if you were on the original credit account included in the loan agreement

would have purchased an existing debt, or Respondent 2 for the newly opened credit account

would have asked the Applicant for his consent to the processing of his personal data. Asked by

Applicant to primarily examine data transmissions after May 25, 2018

Authorities. The Applicant also explained that, in his opinion, to investigate whether

Whether data transfers after May 25, 2018 were made legally, is it necessary

examination of whether the 21.03.2015 was legal. daily - It was done without the consent of the applicant -

account opening.

In connection with the above, the Applicant submitted that, in his opinion, if the Applicant 1

"data connection was without legal basis, then the same data could not be processed by the Respondent 2 either

legally", he should have obtained the consent of the Applicant for this. The Applicant

in his opinion, "the transfer of data for the purpose of claim enforcement is also legal only if it

the recording, linking and handling of received data was also legal by Respondent 1".

II.4.4. The Applicant complained that Respondent 1 did not attach a consideration of interests, which is

would substantiate a legitimate interest in data processing.

II.4.5. The Applicant also ordered the deletion of the personal data of the pledgees

he asked. Given that this is considered a new request, the Authority therefore approves this request

in proceedings initiated pursuant to NAIH-347/2022. decides in procedure no.

II.4.6. In the knowledge of the information provided by the Applicants, the Data Management of the Applicants

analyzed his practice from the point of view of how

complies with the GDPR

provisions, and in this context objected to the fact that Respondent 2 on April 1, 2021

referred to point b) of Article 6 (1) of the GDPR for the purpose of claims management

in connection with its data management, and then moved to Article 6 (1) point f) of the GDPR.

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segmentation,

recording,

organization,

so the collection,

II.4.7. The Applicant objected that the data erasure of the Applicant 1 dated June 9, 2021

in his reply letter rejecting the application, he provided inadequate information, as he did not indicate it

the law or legal place that would support the mandatory data management.

III. Applicable legal provisions

The GDPR must be applied when personal data is partially or fully automated

processing, as well as the processing of those personal data in a non-automated manner

for handling, which are part of a registration system, or which are a

they want to make it part of the registration system. It is for data management under the scope of the GDPR

Infotv. According to Section 2 (2), the GDPR must be applied with the additions indicated there.

According to GDPR Article 4, point 1, "personal data": identified or identifiable natural

any information relating to a person ("data subject"); the natural person who

directly or indirectly, in particular an identifier such as name, number,

location data, online identifier or physical, physiological, genetic,

one or more factors related to your intellectual, economic, cultural or social identity

can be identified based on

Based on GDPR Article 4, point 2, "data management": on personal data or data files

any action or actions performed by automated or non-automated means

total,

storage, transformation or

change, query, insight, use, communication, transmission, distribution or otherwise

by way of making it available, coordination or connection, limitation,

deletion or destruction.

According to GDPR Article 4, point 7, "data controller": the natural or legal person, public authority

body, agency or any other body that determines the purposes of personal data management and

determines its assets independently or together with others; if the purposes and means of data management

determined by EU or Member State law, to designate the data controller or the data controller

relevant special aspects may also be determined by EU or member state law;

Processing of personal data based on Article 5 (1) (1) point (a) of the GDPR

it must be carried out legally and fairly, as well as in a transparent manner for the data subject

("legality, due process and transparency");

Based on Article 5 (2) of the GDPR, the data controller is responsible for paragraph (1).

for compliance and must be able to demonstrate this compliance ("accountability").

Article 6 (1) of the GDPR:

c) the processing of personal data is legal, if it concerns the data controller

necessary to fulfill a legal obligation.

f) the processing of personal data is legal, if the data processing is

it is necessary to enforce the legitimate interests of the data controller or a third party, unless

such interests or fundamental rights of the data subject take precedence over these interests and

freedoms that require the protection of personal data, especially if the data subject

child.

According to paragraphs (1), (3), (4) of Article 12 of the GDPR:

(1) The data controller shall take appropriate measures in order to ensure that the data subject a

all the information referred to in Articles 13 and 14 regarding the management of personal data

and 15-22. and each information according to Article 34 is concise, transparent, comprehensible and easy

provide it in an accessible form, clearly and comprehensibly worded, especially a

for any information addressed to children. Information in writing or otherwise

- including, where applicable, the electronic route - must be provided. Oral at the request of the person concerned

information can also be provided, provided that the identity of the person concerned has been verified in another way.

(3) The data controller without undue delay, but in any case from the receipt of the request

informs the person concerned within one month of the 15-22. following a request according to art

on measures taken. If necessary, taking into account the complexity of the request and the

number of applications, this is the deadline

it can be extended for another two months. The deadline

request for an extension by the data controller indicating the reasons for the delay

informs the person concerned within one month of receipt. If the data subject is electronic

submitted the application via e-mail, the information must be provided electronically if possible,

unless the data subject requests otherwise.

(4) If the data controller does not take measures following the data subject's request, without delay, but

informs the person concerned no later than one month from the date of receipt of the request

about the reasons for the failure to take action, as well as about the fact that the person concerned can submit a complaint to a

with a supervisory authority, and can exercise his right to judicial redress.

Based on Article 15 (3) of the GDPR, the data controller is the personal data subject

provides a copy of the data to the data subject. For additional copies requested by the data subject

the data controller may charge a reasonable fee based on administrative costs. If that

concerned submitted the application electronically, the information was widely used

must be made available in electronic format, unless the data subject requests otherwise.

Based on Article 17 (1) of the GDPR, the data subject is entitled to request that the data controller

delete the personal data concerning him without undue delay, and the data controller

is obliged to provide the personal data concerning the data subject without undue delay

delete if any of the following reasons apply:

a) the personal data are no longer needed for the purpose for which they were collected or otherwise

treated in a manner;

b) the data subject withdraws it pursuant to point a) of Article 6 (1) or point a) of Article 9 (2)

pursuant to point 1, the consent that forms the basis of the data management, and the data management does not have

other legal basis;

c) the data subject objects to the processing of his data on the basis of paragraph (1) of Article 21, and there is no

an overriding legitimate reason for data processing, or the data subject is Article 21 (2).

objects to data processing based on;

d) personal data were handled unlawfully;

e) the personal data is legal as prescribed by EU or member state law applicable to the data controller

must be deleted to fulfill an obligation;

f) to collect personal data with the information society referred to in paragraph 1 of Article 8

took place in connection with the offering of related services.

Based on Article 17 (3) of the GDPR, paragraphs (1) and (2) do not apply if

data management is necessary:

b) EU or Member State law applicable to the data controller, which prescribes the processing of personal data

fulfillment of the obligation according to, or in the public interest or public authority entrusted to the data controller

for the purpose of performing a task performed in the context of exercising a driver's license;

e) to present, enforce and defend legal claims.

Based on Article 21 (1) of the GDPR, the data subject is entitled to, with his own situation

object at any time to your personal data for reasons related to Article 6 (1) e)

or against its processing based on point f), including profiling based on the aforementioned provisions

too. In this case, the data controller may no longer process the personal data, unless it is

the data controller proves that the data processing is justified by compelling legitimate reasons,

which take precedence over the interests, rights and freedoms of the data subject, or

which are related to the submission, enforcement or defense of legal claims.

Other administrative or judicial remedies based on Article 77 (1) of the GDPR

without prejudice, all data subjects are entitled to lodge a complaint with a supervisory authority -

in particular your usual place of residence, place of work or the place of the alleged offence

in the Member State of origin - if, according to the judgment of the data subject, the personal data relating to him

handling violates this regulation.

Pursuant to Article 58 (2) point b) of the GDPR, within the corrective powers of the supervisory authority

acting as:

b) condemns the data manager or the data processor if its data management activities

violated the provisions of this regulation;

f) temporarily or permanently restricts data management, including the prohibition of data management

also;

i) imposes an administrative fine in accordance with Article 83, depending on the circumstances of the given case

in addition to or instead of the measures mentioned in this paragraph;

The Akr. On the basis of § 17, the authority has its authority and competence in all stages of the procedure

investigates ex officio. If you notice the absence of one of them, and it can be established beyond doubt in the case

competent authority, the case will be transferred, failing which the application will be rejected

or terminate the procedure.

Based on Section 46 (1) of the Ákr, the authority rejects the application if

a) there is no legal requirement for the initiation of the procedure, and this law does not apply to it

it does not have any other legal consequences.

Based on Section 47 (1) of the Ákr, the authority terminates the procedure if

a) the request should have been rejected, but the reason for that was the initiation of the procedure

came to the attention of the authorities.

Infotv. On the basis of § 38, paragraph (2b), the Authority is provided with personal data in paragraph (2).

with respect to the defined scope of the litigation aimed at making a court decision and

performed by the court in non-litigation proceedings, based on the relevant regulations

in relation to data management operations, it does not cover the provisions specified in paragraph (3).

to exercise powers.

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

in order to do so, the Authority initiates an official data protection procedure at the request of the data subject and

may initiate official data protection proceedings ex officio.

Infotv. Based on § 61, subsection (1), in the decision made in the official data protection procedure a

Authorities

a) in connection with the data management operations defined in paragraphs (2) and (4) of § 2 a

You can apply the legal consequences defined in GDPR,

b) in connection with the data management operations defined in § 2, paragraph (3).

ba) can establish the fact of unlawful processing of personal data,

bb) can order the correction of personal data that does not correspond to reality,

bc) can order a

blocking of illegally processed personal data,

or deletion

destruction,

bd) may prohibit the unlawful handling of personal data,

[…]

bg) can impose fines,

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and the treatment of which the procedure is successful

Infotv. On the basis of § 71, paragraph (1) during the Authority's procedure - for its conduct

to the extent and duration necessary - you can manage all personal data, as well as by law

data classified as protected secrets and secrets bound to the exercise of a profession, which with the procedure

are related

in order to conduct

required.

Infotv. 75/A. pursuant to § 83 (2)-(6) of the General Data Protection Regulation, the Authority

paragraph

exercises its powers taking into account the principle of proportionality,

especially with the fact that you are in the law regarding the handling of personal data

The regulations defined in the mandatory legal act of the European Union are being implemented for the first time

in case of violation, to remedy the violation - with Article 58 of the General Data Protection Regulation

in accordance with - takes action primarily with the warning of the data manager or data processor.

Infotv. Based on § 61, subsection (5), the Authority, in deciding whether (1) is justified

imposition of a fine according to paragraph b) sub-point bg),

and the amount of the fine

during its determination, it takes into account all the circumstances of the case, so in particular the infringement

the size of the circle of stakeholders, the gravity of the violation, the reprehensibility of the conduct, and the fact that

whether the violator was previously found to be related to the handling of personal data

infringement.

Infotv. Based on paragraph (6), the deadline for filing an action to challenge the decision

until its expiration, or in the event of an administrative lawsuit, until the final decision of the court in dispute

data affected by data management cannot be deleted or destroyed.

Act C of 2000 on accounting (hereinafter: Accounting Act) § 169 (1)–(2)

based on paragraph:

(1) The entrepreneur prepared an account of the business year, the business report, as well as those

supporting inventory, evaluation, ledger extract, as well as the log book, or other, as required by law

can read a register that meets its requirements

mandatory for at least 8 years

keep.

(2) Accounting documents directly and indirectly supporting the accounting

(including ledger accounts, analytical and detailed records), at least 8

must be in readable form for years, it can be retrieved by referring to the accounting records

way to preserve.

Pursuant to § 166, paragraph (1) of the Accounting Act, any accounting document that the entrepreneur

issued or made by, or a natural person with a business or other relationship with the farmer

a document issued or prepared by a person or another entrepreneur

(invoice, contract,

agreement, statement, credit institution receipt, bank statement, legal provision, other

a document that can be classified as such) - regardless of its printing or other production method - which a

supports the accounting accounting (registry) of an economic event.

On the prevention and suppression of money laundering and terrorist financing

CXXXVI of 2007 Act (hereinafter: old Pmt.) Section 7 (1), Section 28 (1)

Based on:

Section 7 (1) The service provider shall, in the case specified in Section 6, paragraph (1), the customer, his

his representative, a

also to identify the representative and

carry out an identity verification check.

(2) During identification, the service provider must record at least the following data:

a) natural person

aa) your family and first name (birth name),

ab) your address,

ac) his nationality,

ad) the type and number of your identification document,

ae) in the case of a foreigner, the place of residence in Hungary;

b) legal person or organization without legal personality

at will

entitled,

in form

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ba) name, abbreviated name,

bb) the address of its registered office or, in the case of a foreign-based company, its branch office in Hungary,

bc) in the case of a legal entity entered in the register of the commercial court, its commercial registration number, other legal

in the case of a person, the number of the decision on its creation (registration, registration).

or registration number.

The old Pmt. Pursuant to § 28, paragraph (1), the service provider - in the register kept by him - in the 7-10.

§ and § 17, data, documents, or

its copy, as well as the notification and data provision specified in § 23,

as well as the document certifying the suspension of the execution of the transaction order according to § 24, or

a copy of them is required for eight years from the date of data recording and notification (suspension).

keep. Data, documents that came into his possession on the basis of point a) of paragraph (1) of § 6, or a

the copy retention period begins at the end of the business relationship.

6:22 of Act V of 2013 on the Civil Code (hereinafter: Civil Code). § [Prescription]

(1) If this law does not provide otherwise, claims are time-barred within five years.

(2) The statute of limitations begins when the claim becomes due.

(3) The agreement to change the limitation period must be in writing.

(4) An agreement excluding the limitation period is void.

ARC. Decision:

IV.1. Preliminary questions affecting the legality of data management, as well as the Applicants 2018.

data management prior to May 25

IV.1.1. The Authority's competence is exclusively based on the rules of the GDPR and the

Infotv. concerning

covers the compliance with its provisions regarding settlement, forint conversion, account opening

the investigation of violations of sectoral legislation falls within the competence of the Hungarian National Bank

question, for this reason the Authority does not comply with these rules during its procedure due to lack of authority

investigated.

IV.1.2. The Applicant 1 21.03.2015. opened the credit account objected to by the Applicant and

08.03.2016 assigned the claim to Respondent 2. Objected to by the Applicant

data transmissions that can be linked to Applicant 2 took place before May 25, 2018.

The request for examination of the period before May 25, 2018 is not eligible

Infotv. to the conditions contained in § 60, paragraph (2), since the requested data management period

in this part, the GDPR was not yet applicable to the Authority's investigation of this period

you may not conduct a data protection official procedure initiated upon request.

In accordance with the above, in this procedure, the Authority handles the data of the Applicants

only in connection with data management after May 25, 2018

findings, the data management of the previous period was used to clarify the facts

into account.

IV.1.3. IV.1.2. due to what was written in point Based on point a) of section 47, paragraph (1), the Authority a

in the part of the application aimed at examining data management for the period before May 25, 2018, the

terminated the procedure.

IV.2. Obligation to compensate property and non-property damage

In his application, the Applicant requested that the Authority oblige the

Applicants.

The Authority is Infotv. Pursuant to Section 38 (2a) of the GDPR, it is a task established for him

and powers with regard to legal entities under the jurisdiction of Hungary in the GDPR

and exercises as defined in Infotv. Neither Infotv nor Article 58 of the GDPR

authorizes the Authority that the Applicant's claim for compensation and damages

decide on the legitimacy of your claim. The decision in this matter rests with Infotv. Section 38 (2)-(2a)

based on its paragraphs, it does not fall under the authority of the Authority, as it falls under the jurisdiction of the courts. THE

Act V of 2013 on the Civil Code 1:6. Pursuant to §

the enforcement of claims for its determination falls under the jurisdiction of the court.

The claim for compensation is a claim that can be asserted in a court of law in the context of a civil lawsuit, which all

the legality and summativeness of the court with authority and jurisdiction

can decide.

In view of the above, the Authority in the relevant part of the application, which with

started in relation to the Authority instructing the Respondents to verify the Applicant's property and not

to compensate for his property damage, the Ákr. terminated based on § 17.

IV.3. Abuse of personal data

The violation referred to by the Applicant, i.e. the misuse of personal data, is the Punisher

According to § 219 of Act C of 2012 on the Code of Civil Procedure, it is considered a crime or a misdemeanor,

in relation to which the police have investigative powers and related to it

criminal liability can be established by a criminal court, so the Authority is the Applicant

rejected his request to establish the misuse of personal data, as

does not have the authority to decide.

In view of the above, the Authority in the relevant part of the application, which with

started in connection with the Authority to establish what happened with the Applicant's personal data

abuse, the Akr. terminated based on § 17.

IV.4. Data controller and data management

IV.4.1. Respondent 2 as data controller

According to the company register, the main activity of Respondent 2 is claims management.

The Authority established, based on the statements of Respondent 2, that with the examined data management in the case concerned, in connection with the above-mentioned activity, the purpose of its data management and its means are determined independently by the Respondent 2, therefore based on Article 4, Clause 7 of the GDPR data controller in connection with the management of the Applicant's personal data.

IV.4.2. Respondent 1 as data controller

According to the statement of Respondent 1, the loan was granted to the Applicant together with […], one on the basis of a cooperation framework agreement. For their activities related to the framework agreement Regarding this, Respondent 1 and […] also agreed on joint data management. The one about that agreement was forwarded by Respondent 1 to the Authority. Based on this, the stakeholder requests it is the responsibility of Respondent 1 to answer it.

In the present procedure, the stakeholder request referred to by the Applicant to Respondent 1 addressed, which was answered by Respondent 1, so in this case it is not [...] in connection with its data management, the Applicant submitted a data subject request.

Taking into account the agreement on joint data management referred to by Respondent 1 the Respondent 1 was obliged to provide the Applicant with information about the data subject's request in context.

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too

old Pmt.

also a

containing documents),

IV.4.3. Personal data and data management

Data related to the claim owed to the Applicant and stored in connection therewith, a the data in the documents supporting the claim are considered personal data a Based on Article 4, Point 1 of the GDPR, as well as the storage and use of this personal data, transmission of data management based on Article 4, point 2 of the GDPR.

IV.5. Objections related to the lack of consideration of the interests of Respondent 1

Regarding the obligation to retain data after assignment, the Accounting Act

(personal data

prescribes

obligations for Respondent 1. Based on these, Respondent 1 has the Accounting

§ 169, paragraph (2) of the Act, and the business relationship between - Respondent 1 and the Applicant

was in force during its existence - old Pmt. On the basis of § 7 and § 28 (1) by law

has a retention obligation based on the GDPR, so since May 25, 2018,

Article 6 (1) point c) refers to the fulfillment of a legal obligation

Applicant's personal data. However, this only means preservation and is therefore personal

data cannot be included in an active register, so it cannot be used for preservation

for a purpose other than intended. If the Respondent 1 considers it necessary for some purpose

the use of these personal data, you must attach an interest assessment. THE

The examination of the consideration of the interests of Respondent 1 was handled with reference to the legal obligation

was unnecessary in the procedure in connection with personal data.

Based on the above, therefore, Respondent 1 does not, in relation to the personal data it handles

referred to Article 6 (1) point f) of the GDPR, for this reason the consideration of the interests of the Respondent 1

was not examined during the decision-making process. The Authority's decision is final

in part, i.e. I.3-I.4. ordered Respondent 1 to prove his legal basis in points.

This means that if some personal data refers to Article 6 (1) point f) of the GDPR

in connection with its management, then the preamble paragraph (47) of the GDPR applies to it

must prove the legality of the cited legal basis by weighing interests. The Authority is in this

case, in the framework of the control of the implementation of the decision, it will examine whether it is

consideration of interests, to which Respondent 1 refers, is acceptable.

IV.6. Data management for the purpose of claims management by the Applicant 2 and by the Applicant 2

executed change of legal basis

From the date of assignment (March 8, 2016) to March 31, 2021, the Applicant 2 is subject to Article 6 of the GDPR.

article

continued from the concession

data processing for the purposes of claims management in connection with your claims. However, this legal basis

in the case of data processing for this purpose, it is not acceptable due to the following:

According to the Authority's findings, the legal basis according to Article 6 (1) point b) of the GDPR - a

with the exception of certain steps prior to concluding a contract - it can only be used if a

is necessary for the performance of the contract, so this legal basis cannot be extended as such

for data management, for which the situation caused by the non-fulfillment of the contract by the data subject

in order to remedy it, the contracting parties take steps arising from the normal obligation of cooperation

it is necessary to perform overreaching actions. They may still fall within the scope of the contract

the steps when the data controller who concluded the contract with the data subject - that is, who a

in the contract, the other party - in the event of a delay in performance, calls on the person concerned to perform.

However, it is no longer a contractual legal basis according to Article 6 (1) point b) of the GDPR

can be applied in the event that the data controller is against the data subject due to the missed performance

assigns your claim to a debt collection company (i.e. the problem is already

you want to solve outside the contract). In this way, it is contractual between the data controller and the data subject

no legal relationship exists.

As part of the concession

(1) with reference to point b).

so it's just different, it's typical

data transfer

legal basis

the assignee's legitimate interest in asserting the claim for its own part

may.

Explanation attached to Act V of 2013 on the Civil Code (hereinafter: Civil Code)

according to which the transfer of claims takes place based on the same logic as the transfer of ownership,

therefore, the assignment is actually nothing more than the transfer of ownership of the claim.

With the assignment, the claim is separated from the original legal relationship from which it originates and is

assignee only acts in relation to the claim and not the basic legal relationship

instead of assignor. By assigning, the claim is separated

from the basic legal relationship and the assignee becomes the holder of the claim, the claim is assigned

its validation by, as well as the related data management, it is no longer a contract

is done in order to fulfill, from which the claim originally originated, since in this case

the assignee should enforce it not in his own favor, but in favor of the assignor

claim acquired by way of assignment. With the concession, if the consideration

is made on his behalf, the assignor's claim against the obligee depends on the purchase price

fully or partially reimbursed. The assignee is in his own interest for the purpose of collecting the claim

and acts for his own benefit, since with the assignment he becomes the rightful owner of the claim, and the claim

enforcement, the judgment of the debtor for performance, as well as the data management carried out for this purpose is his

serves its legitimate interest, not the performance of the underlying contract, as the claim is

became independent from the contract by assignment.

Respondent 1's claim against Applicant was assigned to Respondent 2

for.

Since the Respondent 2 acquired it by way of assignment against the Applicant

claims, as well as the personal data of the Applicant as an inherent part of it, and thus the

became entitled to claims, the legal basis for data processing cannot be Article 6 (1) paragraph b) of the GDPR

contractual legal basis according to point

In this round, the Authority notes that the Capital Court of First Instance […], the present one

similar to an official procedure, a claim acquired through an assignment for the purpose of claims management

in connection with its legal basis - upheld by the Court's ruling on September 14, 2020 -

in its final judgment, the Authority shared above regarding the applicability of the contractual legal basis
expressed his position. The Metropolitan Court is the European Data Protection Board, 2/2019. no
considered the interpretation appearing in his recommendation to be the guiding principle, according to which the performance
of the contract,
as a legal basis is to be interpreted narrowly and does not automatically cover those resulting from non-performance
for data management, or that only by sending the payment reminder, or that the contract is normal
data processing related to the execution of the contract may fall under the legal basis of the performance of the contract, the
original
however, none of this applies to data processing for the purpose of claims management after the termination of the contract
can be applied.
Based on the above, the Applicant treated Respondent 2 with reference to an inappropriate legal basis
your personal data, with which you violated Article 5 (2) of the GDPR. However, this is not necessarily the case
means that there is no legal basis for processing the Applicant's personal data, since a
it came within the scope of its legally performed receivables purchase activity enabled by law
to the Applicant's personal data - natural personal identification data, as well as a
claim data - and for validating legally acquired claims,
as well as his legitimate interest in the processing of the above data necessary for this
can be determined in principle due to regulation.
Therefore, the fact that the Respondent 2 previously wrongly referred to GDPR Article 6 (1) b)
point, does not establish its obligation to delete, as it is in accordance with Article 6 (1) of the GDPR
if a legal basis exists, the data processing is legal, even if it was previously done incorrectly
was not properly identified by the data controller.
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assignment related to an outstanding claim
Due to the above, Respondent 2 decided to change the legal basis, which does not conflict with the GDPR
in its provisions, considering that a previously incorrectly applied legal basis was transferred to one

on a legal basis which, in the case of a suitable consideration of interests, is in accordance with the provisions of the GDPR.

IV.7. To establish unlawful data processing due to illegality of consent,

and, with reference to this, the Applicant's personal data managed by Respondent 2

request to order its deletion

In his application, the Applicant referred to the fact that, in his opinion, Respondent 1 and a

The assignment between Respondent 2 was not legal, as it was opened without his consent

a claim referred to a credit account was sold by Respondent 1, therefore the Applicant requested that

in addition to the deletion of personal data transferred by assignment, the Authority should also order that a

Respondent 2 should notify all persons and organizations to which the Applicant

forwarded his personal data, these data controllers should delete the Applicant's personal data,

furthermore, terminate their proceedings against the Applicant based on the transfer of data.

The Authority is responsible for the data management conditions related to the opening of the credit account and the credit

account

referred to

legality as the

It did not examine the preliminary question of the data processing of Respondent 2 either.

Since neither party attached any Hungarian National Bank or court documents during the procedure

a decision that would establish the illegality of the opening of the credit account or the assignment,

therefore, it is necessary for the Respondents to collect their claim and open a credit account

may have a legitimate interest in the processing of personal data.

According to Respondent 2's statement, 01.04.2021. from the date of data processing for the purpose of claims management

it does so with reference to point f) of Article 6 (1) of the GDPR, i.e. legitimate interest, which

can also transmit personal data to third parties about credit institutions and

CCXXXVII of 2013 on financial enterprises. Act § 161, subsection (1), point c)

according to which the bank secret can be released to a third party if the financial institution

interest in selling this claim against the customer or an expired claim

makes it necessary for its validation.

Respondent 2 owes against the Applicant based on the assignment agreement

has become the rightful owner of a claim, to validate the claim, as well as the necessary for this

had a legitimate interest in the processing of personal data due to legal regulations

can be determined in principle. Therefore, this data management purpose is considered legal and with the Applicant

personal data required to assert a claim against, such as - among others - a

The applicant provides his/her name, address, natural personal identification data, supporting the claim

documents (including the contract, current account statements) GDPR Article 6 (1) Paragraph f)

on the basis of his legitimate interest according to point 2.

The Applicant also referred to the fact that Respondent 2 forwarded the

your personal data. According to the statement of Respondent 2, this was done for the purpose of claims management, for which

the legal basis according to Article 6 (1) point f) of the GDPR can be applied, so as long as it is judicial

no decision is made that the assignment was not legal, and therefore the Respondent 2-

has no claim against the Applicant, the illegal data processing is the responsibility of the Applicant 2

cannot be determined in terms of data management. Article 6 (1) point f) of the GDPR

its application is also conditioned by the priority of its legitimate interest by the Respondent 2

it is justified by a consideration of interests. However, Respondent 2 did not forward his consideration of interests to the

For the authority with which you violated Article 5 (2) of the GDPR, i.e. "accountability"

principle.

The right to erasure pursuant to Article 17(3)(e) GDPR Article 17(1) and (2) GDPR

the cases listed in paragraph 1 are not applicable if the data management is a legal requirement

necessary for its presentation, validation and protection.

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In view of the above, the Authority rejected the Applicant's request to instruct

the Respondent 2 to delete the Applicant's personal data, as he was primarily obliged to do so by a

Requested 2, that in connection with the management of these personal data, with consideration of interests
prove the priority of the legitimate interests of the Applicant 2, in the absence of this, delete this personal
data, and also obliged Respondent 2 to provide this personal data for this period
limits its data processing for claims management purposes.

ARC. 8. Responding to the affected request by Respondent 1

IV.8.1. Deadline and order of the response procedure (the person writing the response and the person concerned
treatment as a request)

IV.8.1.1. On the basis of Article 12 (3) of the GDPR, the data controller is unjustified to the data subject
without delay, but in any case within one month of receipt of the request
he must inform you about the measures taken following your request. If necessary, this deadline is extended
can be extended by two months.

Based on Article 12 (1) of the GDPR, the data controller must take appropriate measures
in order to provide concise, transparent, understandable and
provide it in an easily accessible form, clearly and comprehensibly worded. The
information in writing or in another way, including, where applicable, the electronic way
to give

The Applicant, according to the attached attachments and the Applicant's and Respondent 1's statements
On May 27, 2021, he turned to Respondent 1 with a stakeholder request, to which Respondent 1
He replied in his letter dated June 9, 2021, i.e. the one-month deadline required by the GDPR
complied with.

IV.8.1.2. The Applicant objected that the data protection officer of the Applicant 1, respectively
He sent his letter to the Data Protection Department, but not to the Applicant
an official or the Data Protection Department answered, but a complaint management consultant answered
that. The reply letter attached by the Applicant was sent by the customer service lead consultant [….] and a
signed by a complaints handling consultant. According to the company extract of the Applicant 1 […] for registration
entitled in the affairs of Respondent 1.

The GDPR does not stipulate that data protection requests from data subjects sent to data controllers
must be answered as an official, and not even that it is only a so-called data protection
class is eligible. The fulfillment of this task is part of the data controller's internal procedures, which
is entitled to decide. If you provide an answer that is appropriate in terms of content, you will be asked to sign on behalf of the
data controller
is entitled in connection with the data subject request, in which case this procedure is not
objectionable, since the internal procedure of the data controller determines that it is affected
which organizational unit of the data controller, requests, and possibly some requests from stakeholders
answer and the person authorized to sign signs it.
IV.8.1.3. The Applicant objected to the fact that his application was not considered a request, but
treated as a complaint.
As in IV.8.1.2. to the internal procedures of the Authority, the data controller, also established in point
belongs, on which it is entitled to decide that the requests of the affected parties, where appropriate, the complaint
it will be answered by your organizational unit that also deals with notifications, or by your administrator, or that's all
and belongs exclusively to the remit of the data protection department. However, in any case
the request must be answered based on the provisions of the GDPR,
so
regardless of which internal organizational unit drafts the response letter.
According to the reply letter sent on June 9, 2021, the request is personal data,
it was judged as a request for the retroactive deletion of documents by Respondent 1 and 12 of the GDPR.
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in accordance with Article (4), informed the Applicant about the legal remedies.
Due to the above, it can be established that the Applicant's May 27, 2021, application was treated as a stakeholder request.
dated "Reporting a data protection incident"
IV.8.1. The contract signed by the Applicant on the opening of the account No. [….] of the Applicant
request for access

In the request of the affected person, the Applicant stated that the

A copy of the contract signed by the Applicant on the opening of account No. […], "if

yet this happened".

In his response to the access request, Respondent 1 referred to his previous information,

which he sent to the Applicant and in which he notified that at [...]

registered claim did not cease, only its currency changed, and this is a new one

account number, i.e. [….], is further managed by Respondent 1 and informed the Applicant,

that "your consent, personal appearance and identification, consent

without a new bank account agreement was not concluded." As a result, the Applicant 1

did not violate the Applicant's right of access pursuant to Article 15 (3) of the GDPR because it did not

a document was prepared, a copy of which could have been provided.

IV.8.2. To delete the Applicant's personal data managed by Respondent 1

request

Personal data may only be used for a specific purpose, to the extent and for the time required for that purpose

therefore they must be deleted when they no longer need to be collected or processed

for the purpose of If the data management was based on consent and this was withdrawn by the data subject,

in that case, based on Article 17 (1) point b) of the GDPR, the data controller must delete a

personal data, if there is no other legal basis for data processing.

Based on Article 17 (3) point b of the GDPR, paragraphs (1) and (2) do not apply,

if the data management is necessary, to the data manager who prescribes the management of personal data

fulfillment of an obligation under applicable EU or member state law, or you are in the public interest

public authority entrusted to the data controller

task

for the purpose of execution.

Similar to the withdrawal of consent, it is for the affected person to object according to Article 21 of the GDPR

exercising your right also results in a deletion obligation. In such a case, the data controller only

may continue to process personal data based on compelling legitimate reasons.

It is stored in connection with the credit account number [….] in the stakeholder application attached by the Applicant

the Applicant requested the deletion of personal data from Respondent 1, and that a

Applicant 2 should also be notified by Applicant 1 as an assignee and instructed to delete it.

Respondent 1 did not adequately justify the rejection of the cancellation request, because only that

referred to in his response to the Applicant that the transfer of personal data is a law

was made on the basis of his authority, and listed as an example the law prescribing such an obligation. THE

Applicant 1

informed by

The applicant, however, about what personal data is currently stored, for what purpose,

with reference to which legal basis, how long it will be kept, nor did it provide any information

despite the fact that he listed the personal in a table in his statement sent to the Authority

data that is currently stored by Pmt. Section 56 (2), Section 57 (1) and Accounting

based on Section 169 (2) of the Act, and the Civil Code. 6:22 a.m. Based on paragraph (1) of §

The Authority does not agree with Respondent 1's claim that it provides adequate information

provided that he referred to the data management information sheet and its location in his letter. The Applicant 1

according to his opinion, these brochures provide detailed information, including - a

graduated as part of exercising a driver's license

so it is only related to data transfer

legislation

on legislation requiring mandatory preservation. He is obliged to justify the rejection of the cancellation request

data controller pursuant to Article 12 (4) of the GDPR. This justification means that a

stipulating the processing of personal data processed at the time of submission of the cancellation request

legislation must be indicated together with the processed personal data, and a published one is not sufficient

refer to the data management information sheet, as it is personalized and transparent for the Applicant

does not meet the information requirement.

According to the Authority's findings, Respondent 1 cannot delete the data currently stored on it by the Applicant

personal data due to Article 17 (3) point b) of the GDPR, which personal data a

Section 169 (2) of the Accounting Act, and the old Pmt. Based on Section 7 and Section 28 (1).

has a statutory retention obligation.

Contrary to the statement sent by the Respondent 1 to the Authority, therefore, not to the Pmt., but to the

old Pmt. must be referred to for the retention obligation related to customer due diligence

in connection with the relevant data management,

given that the loan agreement

31.08.2005 was tied on the day of and the old Pmt. Section 6 (1) effective from December 14, 2007

based on paragraph 1, customer due diligence must be carried out in the cases specified therein. With this

opposite Pmt. rules requiring customer due diligence entered into force on June 26, 2017, so

after Respondent 1 filed its claim against the Applicant on 08.03.2016.

assigned to Respondent 2 on

The old Pmt. § 7 and § 28, paragraph (1) for the Applicant 1, the following personal information of the Applicant

requires the retention of your data for a period of 8 years:

your family and first name (birth name),

your address,

-

-

- your nationality,

- the type and number of your identification document.

Act § 169

In addition to the above, data retention after assignment (including personal data

regarding document retention) obligation, the Accounting

contain

provisions according to which Respondent 1, as an entrepreneur according to the Accounting Act, is
a report prepared for the business year, the business report, as well as the inventory supporting them,
assessment, ledger extract, and the logbook, or other requirements of the law
must keep appropriate records in legible form for at least 8 years. Based on this, the
Respondent 1 is obliged to submit documents supporting the claim in connection with the assignment
keep for 8 years from March 8, 2016, based on the provisions of the Accounting Act.
However, Respondent 1 in the table showing the management of the Applicant's personal data
in the case of two personal data (mobile phone number and email address), Ptk. 6:22 a.m. § to paragraph (1).
referred to as a law requiring data retention, and based on this, it retains these data for 8 years
personal data. The Civil Code however, the referenced provision does not require data retention
obligation. The personal data referred to after assignment is only in that
they can be kept if required in the Accounting Act detailed above and in the Pmt
parts of documents subject to data retention obligations, parts of documents that are legal claims
may be necessary for its enforcement (possible legal dispute related to assignment
case), and the Respondent can support it, however, Respondent 1 does not
did not refer to any of these, and therefore violated the
Article 6 (1) GDPR.
Pursuant to Article 17 (1) of the GDPR, the data controller is unjustified at the request of the data subject
is obliged to delete the personal data relating to him without delay if the data subject withdraws the
consent and there is no other legal basis for data processing. Article 17 (3) of the GDPR
list the cases in which consent cannot be deleted even if the consent is revoked
personal data. Among them, in this case, point e) of Article 17 (3) of the GDPR
applies, according to which the right to erasure according to Article 17 (1)-(2) of the GDPR is not
applies if the personal data is used to present or enforce legal claims, or

necessary for its protection.

In view of the above, the Authority rejected the Applicant's request to instruct

the Applicant 1 to delete the Applicant's personal data, the Applicant 1 the phone number data

and in the case of the mailing address data, it conditionally rejected the request for deletion, because

ordered the deletion of these personal data in the event that Respondent 1 does not know about it

prove that they are processed on the basis of the appropriate legal basis according to Article 6 (1) of the GDPR.

The Authority also established ex officio that Respondent 1 is not the Applicant

properly informed you about your currently managed and non-deletable personal data, and with this

violated Article 12 (1) of the GDPR and Article 5 (1) (a) of the GDPR.

At the same time, Respondent 1 did not commit a GDPR-related violation by a

He did not instruct Respondent 2 to delete the Applicant's personal data and did not inform a

On the applicant's request, since the Applicant 1 and the Applicant 2 are separate data controllers, which are not

they can give each other instructions, and also in connection with submitted stakeholder applications

neither do they have an obligation to provide information to each other, as they are independent data controllers

qualify. If the Applicant with personal data stored by Respondent 2

also wanted to submit a stakeholder request, in that case separately to Respondent 2

should also have sent a letter about this.

IV.9. The evidentiary motion submitted by the Applicant, according to which the Authority is investigating a

Requested 2 data transmissions after May 25, 2018

The Akr. Based on § 62, subsection (4), the authority freely chooses the method of proof, and a

evaluates the available evidence according to his free conviction, therefore the relevant

fact

justified, since the Applicant in this round only

in general, it suggested the illegal data processing of the Respondent 2, nothing specific

did not attach any evidence in this regard.

no clarification

saw

This would actually mean examining the practices of Respondent 2, considering that a

The applicant did not indicate any specific data transfer that took place after May 25, 2018.

would have harmed in such a way as to make the related illegality likely. The Applicant

because he listed it in his application and then in his statement received on December 13, 2021

data controllers to whom you forwarded personal data. Among the data controllers listed

notaries, enforcement offices, Land Registry Department of [….], and […] can be read. The

bodies affected by data transfer received data transfer during the ongoing legal proceedings

(notary public, executor, land office registering the enforcement right). These data controllers have the

its activity is also part of the legal process.

The notary issues the payment order and the executor the enforcement actions

during its implementation and the application of enforcement coercion, it exercises public power, on this

carried out during the performance of their duties in the exercise of public authority

data management, as well as the execution ordered by the executor during the execution of the execution

data processing carried out during implementing measures pursuant to Article 6 (1) paragraph (e) and (c) of the GDPR

are considered mandatory data management according to point

Taking into account that the Authority is the decision IV.7. rejected by Respondent 2

data processing for claim purposes

establishing its illegality, therefore the Respondent 2

data transmissions carried out in the context of data management for claims purposes, therefore in connection with this

for notaries, bailiffs, authorities, and for the central credit information system

are also legal, therefore the Authority rejected the Applicant's evidentiary motion aimed at examining them

rejected.

IV.10. Legal consequences

IV.10.1. The Authority partially granted the Applicant's request, and GDPR Article 58 (2)

shall be convicted on the basis of point b).

the Respondent 1, because he violated the GDPR

- Article 5, paragraph (1), point a),

- paragraph 1 of Article 6,

- Paragraph (1) of Article 12, furthermore

the Respondent 2, because it violated Article 5 (2) of the GDPR.

IV.10.2. The Authority instructs Respondent 1 based on GDPR Article 58 (2) point c)

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inform the Applicant in connection with his data subject request, in relation to which

Respondent 1 did not comply with the requirement of transparent information,

confirm to the Applicant the personal data of his telephone number and mailing address

the legal basis of its treatment,

delete the Applicant I.3.2. personal data according to point, for which there is an appropriate legal basis

not verified.

IV.10.3. The Authority instructs Respondent 2 on the basis of GDPR Article 58 (2) point c)

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certify to the Authority if it has a legitimate interest in the Applicant's personal data

for claims management purposes and this interest with the fundamental rights of the Applicant

takes precedence over and

in the absence of a certificate, delete the Applicant's personal data for which it is appropriate

no legal basis was proven, furthermore

- until he fulfills the above obligation, the Applicant will be limited to the above circle

the processing of your personal data for claim management purposes.

IV.10.4. The Authority ex officio examined whether Respondent 1's violation was justified

imposing a data protection fine. In this context, the Authority is Article 83 (2) of the GDPR and

Infotv.75/A. based on §, he ex officio considered all the circumstances of the case and found that

in the case of the violation discovered during this procedure, the warning is neither proportionate nor not

is a deterrent sanction, therefore a fine must be imposed.

When imposing the fine, the Authority considered the following factors as aggravating circumstances

taking into account:

- The violation is serious, because Respondent 1 is affected by the Applicant's data management

violated his right, as he did not provide transparent information at the request of the data subject

in connection with the reason for refusal, i.e. the purpose and legal basis of the current data processing.

(GDPR Article 83 (2) point a)

- The unlawful data management of the Respondent 1 is intentional, from its data management practice

arises as no administrative error was referred to in Article 12 (1) of the GDPR

in connection with his paragraph, but specifically emphasized that it is appropriate

provided information to the Applicant (GDPR Article 83 (2) point (b)).

- To convict Respondent 1 for violating the general data protection regulation

NAIH/2020/687/2 has already taken place. in decision no. in which the Authority

found, among other things, the violation of Article 5 (1) point a) of the GDPR.

In this decision, the Authority fined Applicant 1 HUF 2,000,000, i.e. two million forints

obliged to pay a data protection fine. (GDPR Article 83 (2) e) and i)

point)

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When imposing the fine, the Authority took into account the fact that the Authority is a mitigating factor

was exceeded by Infotv during the procedure. One hundred and fifty days of administration pursuant to § 60/A. (1).

deadline. (GDPR Article 83 (2) point k)

Based on the nature of the violation - the violation of the principles of data management and the right of the data subject - the

penalty can be imposed

the upper limit of the fine is 20 based on Article 83 (5) point a) of the General Data Protection Regulation

000,000 EUR, or a maximum of 4% of the total world market turnover of the previous financial year. (GDPR

Article 83 (5) point a)

Based on the income statement of Respondent 1, its pre-tax profit was HUF [....] million.

(GDPR Article 83 (5) point a) The imposed fine does not reach the maximum fine,

falls significantly behind.

The Authority follows the provisions of Article 83 (2) of the GDPR regarding the imposition of fines

did not take its provisions into account because, according to his judgment, they were not in the subject matter

are relevant: point c), point d), point f), point g), point h), point j).

IV.10.5. The Authority ex officio examined whether Respondent 2's violation was justified

imposing a data protection fine. In this context, the Authority is Article 83 (2) of the GDPR and

Infotv.75/A. based on §, he ex officio considered all the circumstances of the case and found that

in the case of the violation discovered during this procedure, the warning is neither proportionate nor not

is a deterrent sanction, therefore a fine must be imposed.

When imposing the fine, the Authority considered the following factors as aggravating circumstances

taking into account:

- The violation is serious because the Respondent 2 did not prove the legal basis for its data processing

To the authority (GDPR Article 83 (2) point a)

First of all, the Authority took into account that the violation committed by Respondent 2 was

according to Article 83 (5) point a) of the General Data Protection Regulation, the higher amount

are considered violations of the fine category.

When imposing the fine, the Authority took into account the fact that the Authority is a mitigating factor

was exceeded by Infotv during the procedure. One hundred and fifty days of administration pursuant to § 60/A. (1).

deadline. (GDPR Article 83 (2) point k)

The Authority follows the provisions of Article 83 (2) of the GDPR regarding the imposition of fines

did not take its provisions into account because, according to his judgment, they were not in the subject matter

are relevant: point a), point c), point d), point f), point g), point h), point i), point j)

Based on the 2020 report of Respondent 2, its pre-tax profit was HUF […]. THE

the imposed data protection fine does not exceed the maximum fine that can be imposed. (GDPR Article 83 (5)

paragraph point a)

IV.10.6. The Authority, in view of the fact that Infotv exceeded According to paragraph (1) of § 60/A

administration deadline, therefore HUF 10,000, i.e. ten thousand forints, for the Applicant - his choice

according to - pay the Ákr. by bank transfer or postal order. Section 51, subsection (1) b)

based on point

A. Other questions:

The competence of the Authority is set by Infotv. Paragraphs (2) and (2a) of § 38 define it, and its competence is

covers the entire territory of the country.

22

The decision is in Art. 80-81 § and Infotv. It is based on paragraph (1) of § 61. The decision is in Art. 82.

Based on paragraph (1) of § §, it becomes final upon its communication. The Akr. § 112 and § 116 (1)

paragraph or § 114, paragraph (1) against the decision by means of an administrative lawsuit

there is room for a legal remedy.

* * *

The rules of the administrative trial are set out in Act I of 2017 on the Administrative Procedure

hereinafter: Kp.) is defined. The Kp. Based on § 12, paragraph (1), by decision of the Authority

the administrative lawsuit against falls within the jurisdiction of the court, the lawsuit is referred to in the Kp. § 13, subsection

(3) a)

Based on point aa), the Metropolitan Court is exclusively competent. The Kp. Section 27 (1)

legal representation is mandatory in a lawsuit falling within the jurisdiction of the court based on paragraph b).

The Kp. According to paragraph (6) of § 39, the submission of a claim is an administrative act

does not have the effect of postponing its entry into force.

The Kp. Paragraph (1) of § 29 and, in view of this, Pp. According to § 604, the electronic one is applicable

CCXXII of 2015 on the general rules of administration and trust services. law (a

hereinafter: E-administration act) according to § 9, paragraph (1), point b) of the customer's legal representative

obliged to maintain electronic contact.

The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). THE

information on the possibility of a request to hold a hearing in Kp. Paragraphs (1)-(2) of § 77

is based on. The amount of the fee for the administrative lawsuit is determined by Act XCIII of 1990 on fees. law

(hereinafter: Itv.) 45/A. Section (1) defines. It is from the advance payment of the fee

Itv. Paragraph (1) of § 59 and point h) of § 62 (1) exempt the party initiating the procedure.

If the Applicants do not adequately certify the fulfillment of their required obligations, a

The authority considers that the obligation was not fulfilled within the deadline. The Akr. § 132

according to, if the obligee did not comply with the obligation contained in the final decision of the authority, that

can be executed. The Authority's decision in Art. According to § 82, paragraph (1), it becomes final with the communication

becomes The Akr. Pursuant to § 133, the execution - if otherwise by law or government decree

does not have - it is ordered by the decision-making authority. The Akr. Pursuant to § 134, the execution -

if it is a law, government decree or, in the case of municipal authority, a local government decree

does not provide otherwise - it is undertaken by the state tax authority. Infotv. § 60, paragraph (7).

on the basis of a specific act included in the Authority's decision, specified

the decision regarding the obligation to conduct, tolerate or stop

its implementation is undertaken by the Authority.

During the procedure, the Authority exceeded Infotv. One hundred and fifty days according to paragraph (1) of § 60/A

administrative deadline, therefore the Ákr. On the basis of point b) of § 51, he pays HUF ten thousand to the Applicant.

dated: Budapest, according to the electronic signature

In the absence of President Dr. Attila Péterfalvi:

Dr. Győző Endre Szabó

vice president