

Case number: NAIH-718-15/2021.

History: NAIH/2020/4187.

NAIH/2019/7850.

Subject: partially granting the request

decision

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

hereinafter: Applicant I.) applicant and [...] (hereinafter: Applicant II.) applicant (the

hereinafter: Applicants)

based on his request, concerning the personal data of the Applicants

related to concession

[...]-with

(hereinafter: Applicant I.), with [...] (hereinafter: Applicant II.) and [...] (the

hereinafter: Applicant

started

makes the following decisions in official data protection proceedings.

hereinafter together: Applicants) against

with illegal data processing

regarding the

III.) (a

I.1. The Authority will decide on the Applicants' request

part space,

and states that the Applicant II. and the Applicant III. were not given adequate

information in connection with the management of the personal data of the Applicants, thereby

natural persons with regard to the processing of personal data have been violated

on the protection and free flow of such data, and outside the scope of Directive 95/46/EC

2016/679 (EU) Regulation (hereinafter: GDPR) on the placement of

I.2. The Authority ex officio finds that the Applicants have violated Article 5 of the GDPR

(2) because they did not prove the legal basis for their data management.

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

within 15 days of the divorce

I.3.1. provide information to the Applicants as described in Article 14 (1)-(2) of the GDPR

accordingly, and also certify to the Applicants if it has a legitimate interest in the assignment

to manage your personal data obtained by reference and the Applicants are interested in this

takes precedence over your fundamental rights,

I.3.2. delete the registered personal data of the Applicants (name and birth name, mother's name,

place and time of birth, address, debt data) among those for which it is appropriate

it does not prove a legal basis, nor does it prove its legitimate interest in I.3.1. as written in point

I.3.3. based on point b) of Article 14, paragraph (2) of the GDPR, inform the Applicants that

the processing of your personal data for the purpose of claim management is necessary due to the legitimate interest, on this

interest takes priority over the basic rights of the Applicant, and

inform the Applicant of his/her right to object, as well as how to do so

you can practice!

I.4. The Authority ex officio obliges the Applicant II to comply with I.3. in point

as an obligation, until then it limits the personal data of the Applicants for the purpose of claim management

treatment.

I.5. The Authority of the request to establish the illegal data transfer of the Requested I

directed part

rejects.

II. The Authority in its order to comply with the general contractual conditions of the Applicant I

the procedure in the relevant issue

full holiday.

III. In view of the fact that the administrative deadline has been exceeded, the Authority stipulates that -

HUF 10,000, i.e. ten thousand forints, to the Applicants - according to their choice to be indicated in writing - pay by bank transfer or postal order.

There is no place for an administrative appeal against the decision, but it is subject to notification

Within 30 days with a letter of claim addressed to the Capital Court in a public administrative case

can be attacked. The letter of claim must be submitted electronically to the Authority in charge of the case

forwards it to the court together with its documents. Those who do not benefit from the full personal tax exemption

for him, the fee for the administrative lawsuit is HUF 30,000, the lawsuit is subject to the right to record the fee. The capital city

Legal representation is mandatory in court proceedings.

The Authority calls the Respondent II. note that the decision is open to appeal

until the expiry of the deadline for filing an action or, in the case of an administrative lawsuit, until the final decision of the court

the data affected by the disputed data management cannot be deleted or destroyed!

I N D O C O L A S

I. Procedure of the procedure

I.1. In their application received by the Authority on November 7, 2019, the Applicants

they initiated an official procedure and requested the data management of the Applicants

investigation.

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

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

data protection at the request of the data subject before the Authority in order to enforce it

initiated an official procedure.

I.2. The Authority invited the Applicants to fill in the gaps in NAIH/2019/7850/2. and 3. in its orders,

then, based on the answers given, it rejected the private processing of the Applicants' personal data

submitted application.

I.3. Due to the rejection of the request for closed processing of personal data, the Authority

invited the Applicants to make a statement that their personal data is confidential

in view of the ruling on the rejection of their request regarding the processing of the data protection authority

whether your request for the conduct of the procedure is upheld, and if it is not upheld, in that in that case, declare the withdrawal of their application. The Authority also informed the Applicants, that if they do not declare the withdrawal of their application, that is it in this case, the procedure will be carried out without closed processing of the data. The Authority as the Applicants do not withdrew their application, therefore the procedure was continued without closed processing of the Applicants' data the procedure.

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I.4. In the official procedure, the Authority invited the Respondents to make statements regarding the facts in order to clarify.

I.5. CL of 2016 on the general administrative procedure. Act (hereinafter: Act)

Pursuant to § 76, the Authority notified the Applicants after the completion of the evidence procedure and the Respondents that - taking into account the rules for access to documents - they can see the evidence and make a motion for further evidence.

At the request of Applicant I. and the Respondents, the Authority sent the evidence in copies, after reviewing the statements and motions of the Applicant I and the Respondents they did.

II. Clarification of facts

is eligible

legal person

may." Nevertheless, the Respondent

II.1. The Applicants submitted in their application that the Respondent I. against the Applicants transferred his outstanding claim to Respondent II. The Applicant III. the Applicant II.

acts as its authorized representative. According to the Applicants, the Applicant I. illegally handed over the Applicants' personal data to Respondent II, as Respondent I.'s business rules states that "After termination of the contract, the bank may transfer the transaction to an external party for the claims management partner. The bank's partner is exclusively an agent registered with the MNB

to carry out an activity

I.

on December 5, 2018, the Magyar Nemzeti Bank (a

hereinafter: MNB) with Applicant II., who does not have a license, who authorized him

He requested III. According to the Applicants, the transfer of data referred to the authorization is also for that reason

illegal, since the Applicant III. not a legal representative or financial activity

may perform to the knowledge of the Applicants.

According to the application, the Applicants complained that the documents containing their personal data

they did not receive notification of its handover, and that the Respondent I. is not in claims management

transferred his claim to a licensed external partner, and thus the Applicants are personal

data, and they also complained that the private individual who bought the claim, the Respondent II. the

forwarded his personal data to the Respondent III., furthermore, according to their point of view, the Respondent

III. continues to manage their personal data. Their latter claim was not supported by anything

under the Applicants.

In connection with the above, the Applicants requested the establishment of illegal data processing, a

Condemnation of the Applicants, they requested that the Authority call the Applicants a

to eliminate infringement.

As written in the application, in the decision of the MNB (issued on June 20, 2018 No. [...])

prohibited with immediate effect that the Applicant III. purchase receivables without the permission of the MNB

and carry out financial activities.

The Applicants are supporting their claims with the documents related to the assignment

copies are attached:

- the Applicant

"Declaration of Succession" dated 05.02.2018 issued by I.

Applicant I. and Applicant II. between,

- to the Applicant I. to the Respondent I. dated February 22, 2019 "Objection discounted

letter with the subject "against the contract".

II.2. In the official procedure, the Authority invited the Respondents to make a statement regarding the facts in order to clarify, to which the Applicants stated as follows:

II.3.1. Statement of the Respondent I:

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It can be established from the statement of Respondent I and the documents attached in the copy that a Respondent I.'s claim against the Applicants - "arising from a loan dated 02.07.2003" - was

It was sold by the Applicant II within the framework of the assignment contract concluded on 05.12.2018.

for which the Applicants were notified on 07.12.2018. in his letter dated the "notification

on claim notification" in his letters.

The Applicants submitted complaints on several occasions, to which the Respondent I. responded and explained his position on the concession. In this regard, the Applicant I.

attached the information sent to Applicant I - March 25, 2019 and December 2019

letter, in which he submitted that the assignment objected to by the Applicants was the Applicant I.

on his part, it was carried out in a regular manner, since the Applicant I. is not a business-like financial

purchased the claim from the Respondent I. as part of the service, so it does not belong to the

its activities are regulated by CCXXVII of 2013 on credit institutions and financial enterprises. law

Under the scope of Section 3 (1) point I). The Hungarian National Bank referred to the Applicant I

recommendation, which details in which cases the purchase of receivables is business-like. The Applicant

In this letter, I. also explains that it falls within the scope and discretion of Respondent I.'s business decision

is to decide how to enforce the claims related to the canceled loans,

i.e. commissions a debt collection company or assigns it.

Based on the above, Applicant I. and Applicant II. assignment agreement between

is valid and has been entered into in accordance with the laws in force and to have legal effect

suitable. With reference to this contract, Respondent I handed over to Respondent II. for the

documents created in relation to the claim. The Respondent I. informed the Applicant I.

that if you have objections regarding the legality of the assignment, then a

You can file a complaint with the Hungarian National Bank. Hereafter, in relation to the debt

Applicants can receive information from the new holder, therefore, with their questions a

Look for applicant II.

The Applicant I. joined the Applicant II. 05.12.2018 a copy of your statement dated

also, in which the Applicant II. stated that it does not carry out business-like purchase of receivables activity.

The Respondent I. initiated by the Applicants - the assignment contract -

in connection with the litigation related to its invalidity, submitted that the Applicants

his first claim in this regard was rejected by the Central Court of Pest, which was appealed

the Applicants appealed, but the second instance court upheld the first instance

the court's decision rejecting the claim After that, the Applicants filed a claim again,

which was rejected by the Metropolitan Court with its order [...], however, the Applicants again

a lawsuit was filed.

The Authority NAIH/2020/4187/4. in its order no. specifically called on the Respondent I.

to declare that the Applicant II. for which legal basis was it referred to

data transfer during assignment. In this regard, Respondent I submitted that

A business-like purchase of receivables did not take place, the receivable was assigned to a private individual

concession. The Applicant I., as a financial institution providing credit, has a legitimate interest

is attached to the enforcement of his claim, his claim is governed by the provisions of Act V of 2013

are verified, especially with regard to the Civil Code § 6:1, paragraph (1), "the obligation

service is an obligation

of its fulfillment

to demand."

II.3.2. The Applicant II. statement:

The Applicant II. According to his statement of November 10, 2020, there are no complaints from the Applicants

the Applicant II arrived. for, the Respondent II.'s obligation to register complaints

there is none. In 2019, the Applicants only approached the Respondent II with such inquiries.

on September 28 and November 10, in which the settlement related to the loan transaction and

documents were requested from the Applicant II., with which the Applicant II. According to the

entitlement to the service

to fulfill and

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Applicants had to have, and which the Applicant II. requested from Respondent I. and a

Made available to applicants on December 12, 2019.

The Applicant II. manages the personal data of the Applicants below:

- Name and birth name of applicants,
- Applicants' mother's name,
- Place and time of birth of applicants,
- Address of applicants,
- Data on applicants' debts.

The Applicant II. The source of the aforementioned personal data managed by the Applicant I., of this

in support of the Applicant II. attached on 05.12.2018. "Declaration of Succession" dated

copy.

The Authority NAIH/2020/4187/5. in order no., he also specifically called on the Respondent II.

to declare on which legal basis the Applicants treat personal

your data. In response to this, Respondent II. stated that "on the legal basis of concession"

the transfer of data took place and referred to the Civil Code. 6:193. § - 6:198. to the provisions of §, the Respondent II.

you did not indicate the legal basis of your data processing according to the GDPR.

The Applicant III. the Applicant II. acted on the basis of his authorization, on the basis of which he notified the

Applicants in connection with the concession, later this authorization by the Applicant

II. withdrew it because the Respondent

outstanding claim

was not successful in its enforcement. The Respondent II also concluded a data processing contract.

and the Respondent III., which he did not send, only its termination, in a copy

To authority. The Applicant III. did not buy the claim against the Applicants, so this a

Applicants make false claims in their lawsuit.

To support his claims, the Respondent II. joined with Respondent III on December 13, 2018

signed assignment contract, as well as a copy of the related power of attorney, which

on the basis of which the Respondent III. was entitled to the following:

III. against the Applicants

- you can look into the documents related to the claim and learn about it

-

-

-

-

documents,

you can visit those concerned in person and in writing,

can contribute to the preparation of agreements concluded in order to settle the debt,

in binding,

can contribute to the sale of real estate used to cover the debt,

the agreements may contribute to enforcement proceedings against debtors

creation, movable and immovable auctions.

The Applicant II. termination of the data processing contract referred to by December 13, 2018

refers to the data processing contract established on

is obliged to hand over documents related to "entrusted data" to the Respondent II.

The enforcement procedure initiated to enforce the claim was suspended, as a

Applicants at the Central District Court of Pest, the invalidity of the assignment contract

on 19.06.2020, a lawsuit was filed again with the Respondent I. and the
Against Respondent II., after on December 4, 2019, the court had already rejected the
their claim with the decision of [...], against which they also filed an appeal. THE
in their claim, they claimed that the contract of assignment was sham and null and void, furthermore
contrary to good morals.

II.3.3. The Applicant III. Statement dated November 20, 2020:

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The Applicants did not file a complaint with the Respondent III in connection with the case.

The Applicant III. concluded a contract with Respondent II on December 13, 2018, on the basis of which
was instructed to contact the Applicants. The purpose of the contact is
was that "the necessary related to the concession
information and circumstances
be presented with appropriate professionalism."

The Applicant III. the Applicant II. acted on its behalf in the capacity of data processor. For this
in support of this, he attached the data processors sent with the Applicant II on December 13, 2018
a copy of the contract, according to which its 1. can perform the tasks listed in its annex.

No. 1 attachment is the assignment contract concluded on December 13, 2018, and the
related power of attorney, on the basis of which the Respondent III was entitled to the following:

- you can look into the documents related to the claim and learn about it

-

-

-

-

documents,

you can visit those concerned in person and in writing,

can contribute to the preparation of agreements concluded in order to settle the debt,

in binding,

can contribute to the sale of real estate used to cover the debt,

the agreements may contribute to enforcement proceedings against debtors

creation, movable and immovable auctions.

The claim of the Applicants is correct that the Applicant III. not a legal representative, but not in this either

he acted in a role, and he is also not entitled to perform financial activities, but he did not graduate either

financial activity. The Applicant III. task was to inform the Applicants,

what the concession means in relation to their real estate, and also if they do not fulfill the

their outstanding debt.

The Applicant III. a copy of the notification sent to the Applicants about the assignment

also sent to the Authority. It was informed by the Respondent III. the Applicants that

the outstanding debt to the Respondent III. as an authorized representative, they can also pay with him

they can enter into an agreement for debt settlement. The letter also contained information that

if the Applicants do not cooperate with the Respondent III., in that case a

the debt is enforced through a court enforcement procedure.

During a personal consultation, the Respondent informed III. the Applicants by managing their data

in context.

II.4. Copies of documents made available to the Applicants after the completion of the proof procedure

on the basis of the Applicant I. made the following observations, repeated in the Applicants' application and a

as well as those presented to make up for gaps:

In the response letters sent to the Respondent I. Authority, you will not find any reference to the following:

-

how could you hand over their personal data to an individual who does not have

"with any MNB receivables purchase permit", while the Applicant I. is bound

bank secrecy in relation to the loan agreement concluded with him, and the following on his website

readable:

"After the termination of the contract, the bank can transfer the transaction to an external claims manager for partner. The bank's partner is exclusively an agent activity notified to the MNB can be a person authorized to do so."

- Respondent I signed a confidentiality statement with Respondent II, who

"kicked up" he concluded an assignment contract with the Respondent III. and handed it over to the Applicants your personal data.

The Applicant

when purchasing receivables, businesslikeness was realized.

I.

again referred to the fact that, in his opinion, the Respondent

II.

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The Applicant I. referred to the fact that he came into possession of the documents of a foreign currency credit, from which

found that the Respondents acted in the same way in his case, so they are the same

the claim was purchased by a private individual, who is also a contract holder with Respondent III

contract. Applicant I. also objects that Respondent III. is contradictory.

statement, because their personal data is not only in connection with the sale of the property

managed, the attached documents also contain the fact that the debt must also be settled.

Applicant I asked the following questions:

- The Applicant III. "on what legal title, on what basis did you participate in the purchase of receivables?"

- What kind of representation did the Respondent III. during receivables shopping? How is this

III. the

became known to the Applicant

did you see it? What data

consideration

prior to receivables purchase?

in his head

Applicant I objected that the Authority did not investigate the

Objected data management of the applicants.

II.5. Copies of documents provided to the Applicants after the completion of the evidence procedure

Based on this, the Respondents made the following observations, repeating the previously presented ones:

II.5.1. Applicant II.:

He maintained the statements made earlier.

The Applicant II. handled only such personal data regarding the Applicants that the

Applicants provided in connection with the loan transaction,

and which data it is

assignor of the Civil Code 6:148. Section (1) and Civil Code. 6:196. was obliged to hand over the

To Respondent II., as assignee. These are the following:

- Applicants' identification data (name, date of birth, mother's name, address),

-

documents prepared by a notary public.

II.5.2. Applicant III.:

The Applicants misrepresent the Applicant III, as the MNB published in 2018

decision is the result of a 2014 investigation, but the Applicants refer to it as if

Respondent III would continuously commit a violation of law.

The approach that the power of attorney can only be limited to the provision of legal representation is wrong. THE

on the basis of a power of attorney, the Applicant III. his job was to help customers which

activity can also be found on its website. The power of attorney did not include legal representation

and financial activities.

The data processing contract precisely defined which tasks could be performed by the

Applicant III., and based on this, it is clearly defined which personal data

treated.

III. Applicable legal regulations

Based on Article 2 (1) of the GDPR, the GDPR is required for data management in this case apply.

For data management under the scope of the GDPR, Infotv. According to Section 2 (2) of the GDPR, there shall be applied with the additions contained in the specified provisions.

Pursuant 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,

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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;

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;

Pursuant to GDPR Article 4, Point 8, "data processor": the natural or legal person, public authority body, agency or any other body that processes personal data on behalf of the data controller manage;

Based on GDPR Article 4, point 11, "data subject's consent": voluntary of the data subject's will, specific and clear declaration based on adequate information by the data subject statement or confirmation indicates that gives his consent to the processing of his personal data; through an unmistakably expressive act

Based on recital (47) of the GDPR, if the legal basis for data management is legitimate interest, then a preliminary assessment of interests must be carried out, in the framework of which, among other things, to determine the legitimate interest, the impact on the data subject, and that the data management whether it is necessary or proportionate, and it must be considered whether it is the legitimate interest or that of the data subject is the right of the superior.

Pursuant to Article 5 (1) point a) of the GDPR, the processing of personal data is lawful and must be carried out fairly and in a transparent manner for the data subject ('legality, fair procedure 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').

On the basis of Article 6 (1) of the GDPR, personal data is processed only when and to the extent that it is legal if at least one of the following is met:

- a) the data subject has given his consent to the processing of his personal data for one or more specific purposes for its treatment;
- b) data management is necessary for the performance of a contract in which the data subject is one of the parties, or to take steps at the request of the data subject prior to the conclusion of the contract required;
- c) data management is necessary to fulfill the legal obligation of the data controller;
- f) data management to enforce the legitimate interests of the data controller or a third party necessary, unless the interests of the data subject take precedence over these interests or fundamental rights and freedoms that require the protection of personal data, especially if a child is involved.

Based on Article 7 (1) of the GDPR, if the data management is based on consent, to the data controller must be able to prove that for the processing of the data subject's personal data contributed.

On the basis of Article 12 (1) of the GDPR, the data controller takes appropriate measures in order to comply with the provisions of Articles 13 and 14 concerning the processing of personal data for the data subject all the information mentioned in Article 15-22. and each according to Article 34 information in a concise, transparent, understandable and easily accessible form, clearly and provide any information addressed to children in an understandable way case. Information in writing or by other means - including, where appropriate, electronic road must also be given. Verbal information can also be provided at the request of the data subject, provided that otherwise

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verified the identity of the person concerned.

Based on Article 14 (1) – (2) of the GDPR:

(1) If the personal data were not obtained from the data subject, the data controller is the data subject provides the following information:

- a) the identity and contact details of the data controller and, if any, the representative of the data controller;
- b) contact details of the data protection officer, if any;
- c) the purpose of the planned processing of personal data and the legal basis of data processing;
- d) categories of personal data concerned;
- e) recipients of personal data, or categories of recipients, if any;
- f) where appropriate, the fact that the data controller is a recipient from a third country wishes to forward personal data to an international organization, and a

The existence or absence of a Commission compliance decision, or in Article 46, 47.

data transfer referred to in Article or the second subparagraph of Article 49 (1).

indication of the appropriate and suitable guarantees, as well as a copy of them

reference to the means of obtaining it or their availability.

(2) In addition to the information mentioned in paragraph (1), the data controller makes available to the data subject is necessary to ensure fair and transparent data management for the data subject following additional information:

a) the period of storage of personal data, or if this is not possible, this period

aspects of its definition;

b) if the data management is based on point f) of paragraph (1) of Article 6, the data controller or a third party's legitimate interests;

c) the data subject's right to request the personal data relating to him from the data controller access, their correction, deletion or restriction of processing, and may object to against the processing of personal data, as well as the data subject's right to data portability;

d) based on point a) of Article 6 (1) or point a) of Article 9 (2)

in the case of data management, the right to withdraw consent at any time, which

it does not affect the legality of data processing carried out on the basis of consent before the withdrawal;

e) the right to submit a complaint addressed to a supervisory authority;

f) the source of the personal data and, where applicable, whether the data is publicly available whether they come from sources; and

g) the fact of automated decision-making referred to in paragraphs (1) and (4) of Article 22, including also profiling, and at least in these cases to the applied logic and that comprehensible information regarding the significance of such data management and the data subject looking at the expected consequences.

(3) The data controller provides the information according to paragraphs (1) and (2) as follows:

a) taking into account the specific circumstances of personal data management, personal data within a reasonable time from its acquisition, but within one month at the latest;

b) if the personal data is used for the purpose of contacting the data subject, at least during the first contact with the data subject; obsession

c) if it is expected that the data will be communicated to other recipients, the personal data will come first at the latest at the time of notification.

(4) If the data controller uses the personal data for a purpose other than the purpose of their acquisition wishes to carry out data processing, you must inform the data subject before further data processing

about this different purpose and about any relevant additional information mentioned in paragraph (2).

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(5) Paragraphs (1)–(4) shall not be applied if and to the extent that:

a) the data subject already has the information;

b) the provision of the information in question proves to be impossible or disproportionate

would require a great effort, especially for the purpose of archiving in the public interest, scientific and

for historical research purposes or for statistical purposes, the conditions contained in Article 89 (1).

and guarantees, or in the case of this article

The obligation referred to in paragraph (1) would probably make it impossible or seriously

would jeopardize the achievement of the goals of this data management. In such cases, the data controller

must take appropriate measures – including making the information publicly available

– to protect the rights, freedoms and legitimate interests of the data subject;

c) the acquisition or disclosure of the data is expressly required by the EU law applicable to the data controller

suitable for the protection of your legitimate interests

right that is affected

member state

obsession

provides for measures; obsession

d) professional confidentiality of personal data prescribed by an EU or member state law

also

obligation of confidentiality

based on legislation

including the

based on obligation,

must remain confidential.

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.

Pursuant to Article 21 (4) of the GDPR, the right referred to in paragraphs (1) and (2) shall be exercised no later than

during the first contact with the data subject, the attention of the data subject must be specifically drawn to this

relevant information must be displayed clearly and separately from all other information.

According to Article 77 (1) of the GDPR, all data subjects have the right to file a complaint

with a supervisory authority, if, in the opinion of the data subject, the personal data relating to him/her

handling violates the GDPR.

Article 58(2)(b), (d) and (i) 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;

d) instructs the data manager or the data processor that its data management operations - where applicable

in a specified manner and specified

within a period of time - harmonized by this regulation

with its provisions;

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;

Infotv. According to § 38, paragraph (2), the Authority is responsible for the protection of personal data,

as well as for learning data of public interest and public in the public interest

law

control and promotion of its validity, as well as personal data within the European Union

facilitating its free flow. According to paragraph (2a) of the same § in the GDPR, the supervisory tasks and powers established for the authority under the jurisdiction of Hungary in terms of legal entities, as defined in the GDPR and this law, the Authority practice.

Infotv. According to Section 60 (1), enforcement of the right to the protection of personal data in order to do so, the Authority may initiate an official data protection procedure ex officio.

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Infotv. According to § 60, paragraph (2), request to initiate the official data protection procedure it can be submitted in the case specified in Article 77 (1) of the GDPR.

Infotv. According to § 61, paragraph (1), point a), it was made in the official data protection procedure in its decision, the Authority issued Infotv. Data management defined in paragraph (2) of § 2 in connection with operations, you can apply the legal consequences defined in the GDPR.

According to Article 58 (2) point b) of the GDPR, the supervisory authority shall condemn the data manager or the data processor, if its data management activities have violated this regulation provisions, and pursuant to point d) of the same paragraph, the supervisory authority is corrective acting within its powers, instructs the data controller to perform its data management operations - where applicable in a specified manner and specified within a period of time - harmonized by this regulation with its provisions.

Infotv. the applicant in the official data protection procedure based on § 61, subsection (6). is entitled to an exemption from costs, the Authority shall advance the procedural costs for which its advance payment would be charged to the applicant.

In the absence of a different provision of the GDPR, the data protection authority procedure initiated upon the request is Acr. provisions shall be applied with the deviations specified in Infotv.

The Acr. Based on Section 10 (1), the customer is a natural or legal person, other organization whose right or legitimate interest is directly affected by the case, to whom

the official register contains data, or who (which) is subject to official control

pulled

The Akr. Pursuant to § 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.

The Akr. According to § 36, the request is submitted by the customer in writing or in person statement, with which you request the conduct of an official procedure or the decision of the authority of your rights or in order to enforce its legitimate interest.

The Akr. Section 47, subsection (1), point a) states that the authority shall terminate the procedure if the the request would have been rejected, but the reason for that was the initiation of the procedure came to the attention of the authorities.

The Akr. Pursuant to Section 51 (1) point b) if the authority exceeds the administrative deadline, the of a fee payable for the conduct of a procedure or administrative according to the Act on Fees administrative fees paid for official procedures or for the use of administrative services an amount corresponding to the service fee (hereinafter: fee), failing which, HUF ten thousand pays the requesting client, who is also exempt from paying the procedural costs.

The Akr. Based on § 62, paragraph (4), the authority freely chooses the method of proof, and a evaluates the available evidence according to his free conviction.

Infotv. 75/A. On the basis of §, the Authority exercises its powers contained in paragraphs (2)-(6) of Article 83 of the GDPR practices taking into account the principle of proportionality, especially with the fact that personal data regarding treatment -

in its legal act

in the event of the first violation of specified regulations, to remedy the violation

in accordance with Article 58 of the GDPR - primarily the data controller or data processor

takes action with his warning.

Infotv. On the basis of § 71, paragraph (2), the Authority legally obtained a document during its procedures, data or other means of proof can be used in other proceedings.

by law or the European Union is mandatory

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to his duties

concerning its activities, a

CXXXIX of 2013 on the Hungarian National Bank. Act (hereinafter: MNB act.) Section 39 (1)

on the basis of paragraph c), unless the law provides otherwise, the MNB shall, pursuant to Section 4 (9)

defined in paragraph

in his responsibilities, he covers credit institutions and finance

organizations, persons and activities covered by the Law on Enterprises

supervision.

MNB TV. According to point d) of § 42, the MNB is defined in subsection (9) of § 4

inspects the persons covered by the laws defined in § 39 and

for the operation of organizations and

belonging domestic

compliance with legal provisions and European Union legal acts and issued by the MNB

implementation of decisions.

CCXXVII of 2013 on credit institutions and financial enterprises. law (a

hereinafter: Hpt.) Pursuant to Section 161. Paragraph (1) point c) a bank secret can only be issued to a third party

to a person, if the financial institution's interest is in the claim against the customer

makes it necessary for the sale or enforcement of an expired claim.

Act V of 2013 on the Civil Code (hereinafter: Civil Code) 6:193. (1) of §

according to which the right holder can transfer his claim against the obligee to another. § (2) of the same

assignment based on paragraph 2 is a contract between the assignor and the assignee,

whereby the assignee takes the place of the assignor.

The Civil Code 6:196. According to §, the assignor is obliged to the assignee to the claim to provide the information necessary for its enforcement, and the holder of the claim is obliged to hand over documents proving its existence to the assignee.

ARC. Decision of the Authority

IV.1. Concession and the activity and purchase of receivables of the Applicants

legality

IV.1.1. The Applicants dispute the legality of the assignment, and in this connection

objected to the fact that the Respondent assigned their debt to private individual I. and

by referring to this, he violated bank secrecy, as well as the provisions of Article 6 (1) of the GDPR

violated, and it was objected that the Respondent II. requires a permit without a permit

business-like receivables purchase

III. it's like that

engages in receivables management activities for which he is not licensed.

In the present procedure, the Authority is the Applicant I. and Applicant II. in relation to data management

assignment, and also the legality of their activities and purchase of receivables

examined, as well as the Applicant

deed

findings, because they are judged by Infotv. Based on paragraphs (2)-(2a) of § 38, it does not belong to

Under the jurisdiction of the authority. Judging the legality of the assignment is a judicial competence, a

Regarding the license requirement for the activities of the applicants, possible bank secrecy committed by them

the procedure related to the investigation regarding the violation is not within the competence of the Authority, but the

It falls under the jurisdiction of the Hungarian National Bank.

IV.1.2. The Applicant I. and the Applicant II. from his statement it can be concluded that he is

claim is registered by the Respondent II. against the Applicants in respect of which it is

during the procedure, neither party attached a court decision that would establish that it does not stand

above, moreover, the assignment was illegal, therefore the Respondent II. is entitled in principle

may have an interest in the processing of the personal data of the Applicants, and may also be enforced on the basis of his document, an enforcement procedure is underway for the Applicant II. at the request of the Applicant. In addition to the above, the Authority did not come to the attention of any decision in which the Hungarian National Bank established that the Respondents with the data management objected to by the Applicants Nor to the violation of bank secrets committed by I continues, as well as the Respondent activity

12 in connection with them, they would engage in illegal financial activity and purchase receivables. The assignment of the Applicants' debt took place on December 13, 2018, and the Applicants for the related data transfer, violation of the obligation to provide information objected to. The Hungarian National Bank referred to by the Applicants is dated June 1, 2018 decision ([...]), which condemned Respondent III. in connection with his activities, no related to this period.

ARC. 2. Data management and transfer of data related to the assignment of the Applicants its legal basis and the fulfillment of their obligation to provide information

IV.2.1. Legal basis for data transfer

The Citizen cited Respondent I as the legal basis for forwarding the personal data of the Applicants 6:193 of Act V of 2013 on the Code of Civil Procedure (hereinafter: the Civil Code) and the Civil Code. § 6:196 too.

The Civil Code 6:193 referred to by Respondent I. § contains the concept of assignment, which it cannot be interpreted as a legal basis for data transfer. The Civil Code 6:196. However, according to § the assignor is obliged to possess the proof of the existence of the claim - the debtor is personal to hand over documents containing his data to the Applicant II. However, this is not considered legal obligation, which would create an independent legal basis, since Infotv. § 5, paragraph (3).

given that the legislation should also regulate the conditions of data management. Of all this

therefore, the legal provisions referred to by Respondent I do not qualify as a

The appropriate legal basis for the transfer of applicants' personal data.

However, this does not mean that the evidence of the Applicants' debt is personal

The Applicant I. did not have any legal basis for the transfer of data, since the Civil Code. made possible by

in addition to the concession made, the 2013 Act on credit institutions and financial enterprises

CCXXVII. Act (hereinafter: Hpt.) § 161. paragraph (1) point c) also provides an opportunity a

financial institution to release the bank secret to a third party, if it is in their interest to do so

to sell a claim against the customer or to enforce an expired claim

makes it necessary. So, in addition to declaring the legitimate interest, the legislator is also responsible for the transfer of data

and documents

also acknowledged its necessity.

The Civil Code 6:193. Pursuant to paragraph (1) of §

can transfer. Based on paragraph (2) of the same §, an assignment is made by the assignor and the

assignment contract, with which the assignee takes the place of the assignor.

In view of the above, the transfer of data instead of the wrongly indicated legal basis of the Respondent I

its legal basis should have been the legal basis of legitimate interest according to Article 6 (1) point f) of the GDPR

refer to. However, to support this, he should have carried out the interest assessment, i.e

you should have precisely named the purpose of the data transmission, the transmitted personal data, that

which personal data is necessary to transfer and to what extent. Furthermore, to the Respondent I

he should have compared his own interest realized through his own data management and data transmission

with the rights and interests of stakeholders, debtors, guarantors, the weighting between them should also have been done

to carry out, and the priority of his own interest over the rights and interests of the affected parties

should have verified.

Based on the principle of accountability, the data controllers during the entire process of data management must:

they must implement data management operations to be able to protect data

to prove compliance with the rules. The principle of accountability, so not only generally, it can be interpreted at the process level, all specific data management activities, one also applies to the personal data of the specific data subject.

In this case, the data management and the transmission of the personal data of the Applicants are appropriate

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Provided to I. Applicant

indication of the legal basis and the need for data transmission based on it, the Applicants in the absence of a verifiable comparison with his interests, the Respondent I did not comply with Article 5 of the GDPR. of the principle of accountability according to paragraph (2) of Article

IV.2.2. The Applicants also objected that for the Respondent I. private individual assigned the claim against them and is not dealing with claims management handed it over to the company.

The Applicants referred to the fact that the Applicant II. on its website it can be read that only transfers debtors' claims to partners licensed for claims management. This information to the Applicant according to your information, neither referred to an assignment, but in the event that the claim is not transferred by the Respondent I., entrusts another company only with its management, and Respondent I also emphasized that In the information sent to the applicant that it is part of his business consideration question his decision on assignment.

The Authority has IV.1. on the basis of what is written in point does it comply with the terms and conditions of the contract, therefore it did not examine this issue in its procedure, that is why in this context, the procedure of the Acr. It was terminated on the basis of point a) of § 47, paragraph (1).

ARC. 2.3. The Applicant II. legal basis for data management

From the attached documents, it can be established that the Applicant II. manages on the basis of a concession Personal data of applicants, so it acts as a data controller.

The Applicant II. despite the Authority's call, it did not clearly indicate which GDPR currently manages the personal data of the Applicants based on its legal basis. However, this is not necessarily the case means that there is no legal basis for processing the personal data of the Applicants, since a

In the framework of a concession allowed by law, the Applicants obtained personal to your data - natural personal identification data and data relating to the claim - and the

to enforce a legally acquired claim, as well as the necessary, a

Applicant II. data referred to (in point I.5.1) (Applicants' personal data, notary documents prepared by) existed due to the legal regulations

in principle, it can be determined, however, the existence of the legal basis of legitimate interest must be verified by weighing the interests

based on recital (47) of the GDPR. Considering that despite the call of the Authority he did not prove this, therefore the Respondent II. violated Article 5 (2) of the GDPR.

IV.2.4. Obligation to provide information

From the attached documents, it can also be established that the Applicants were informed about the assignment from the Applicant I., then from the Applicant III., as the Applicant II. from his agent, however, this information is not liable under the GDPR for information.

Based on Article 12 (1) of the GDPR, data processing according to Article 14 (1)-(2) of the GDPR about the circumstances after obtaining the personal data, the Applicants to the Respondent II the Applicants should have provided information when obtaining their personal data about the circumstances of handling your personal data.

However, it can be established from the attached documents that the Respondent II. even through his agent did not provide GDPR-compliant information on the processing of the Applicants' personal data, because the Applicant II. the letter referred to by, which was sent by the Respondent III., as agent, to It did not contain data management information for applicants.

Based on the above, the Authority established that the Respondent II. violated Article 12 of the GDPR

(1) because it was not given

information to the Applicants for the assignment

on the conditions for handling personal data obtained by reference.

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IV.3. The Applicant III. data management

IV.3.1. The Applicant III. quality of data management

The Applicant II. and the Applicant III. according to his statements, the Respondent III. the Applicant II.

handled the personal data of the Applicants as his agent, and based on this mandate

qualified as a data processor.

The Applicant III. in Annex No. 1 of the data processing contract sent by

is used by the Applicant II. the Applicant III. The contract no. 1

its attachment is actually in the "Description of Data Processing" attachment. It states that it is

purpose of data management "Data Processor for the Client in the framework of an authorization transaction

data management.", as well as indicating the personal data handled ([...] and [...] for the loan agreement

personal data included in the related assignment document).

The Applicant III. The authorization ("mandate") document attached by

Requested

[...]

In proceedings for the enforcement of claims related to the loan agreement, the Respondent II.

act in its name and on its behalf, make necessary legal declarations and conclude contracts,

in this context

II. authorizes that a

to III. the Applicant

[...] and

- you can look into the documents related to the claim and learn about it

-
-
-
-

documents,

you can visit those concerned in person and in writing,

can contribute to the preparation of agreements concluded in order to settle the debt,

in binding,

can contribute to the sale of real estate used to cover the debt,

the agreements may contribute to enforcement proceedings against debtors

creation, movable and immovable auctions.

III. he was free to choose which one

The data management contract therefore did not contain a detailed description of whether a

Applicant III. exactly what tools to use during the fulfillment of the assignment, and also

the above list in the power of attorney cannot be considered as detailed instructions as they

of the Applicant

holds

expedient, so you could freely choose the means of data management, and the individual

he could also decide independently in the performance of his duties, so according to the Authority's position, the Respondent

III. in connection with the processing of personal data of the Applicants, there was no GDPR Article 4 8.

can be considered a data processor according to point This would require that the Applicant II.

determine step by step the content of letters you can send to Applicants, respectively

what you can discuss with them.

The Authority - Respondent III. supports its position regarding its independent data controller quality

the fact that the Applicant III. the letter written to the Applicants also contained the information

that you can pay, settle the debt with the Respondent III., or take the initiative with him

based on agreement

debt settlement. Neither the data processing contract nor the

assignment-related documents do not specify whether the Applicant III. how

prepare the possible debt settlement, for which personal data is available

request its release (income data, etc.), and after the initiation of enforcement proceedings a

during the conclusion of agreements, in relation to his duties during the auctions

entitled to manage personal data and what data management operations to perform on them.

The Applicant II. and the Applicant III. in the assignment relationship established between the Respondent

too general wording of his tasks, the Applicant III. procedure to be followed by (and

closely related data management circumstances) due to the lack of a detailed definition

the Applicant III. can be considered a data controller.

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With reference to the above, based on the definition according to Article 4, point 7 of the GDPR, the Respondent

III. can be considered an independent data controller because it is relevant to the data management conditions

he determines decisions himself, he did not receive any prior information regarding this from the Respondent II

detailed instruction according to the testimony of the attached documents, considering that the "claims

procedure for validation" as a very broad definition of data management purpose, and its implementation

covers a lot of alternative solutions.

IV.3.2. The Applicant III. legal basis for data processing and obligation to provide information

The legal basis for data collection by individual debt collection companies may be different

depending on whether the holder of the basic claim tries to enforce it himself or through a legal representative

the claim or assigns the claim.

The essential difference between the assignment title and the assignment title is that while a

in the case of an assignment, the claim is collected in the name of the principal, until then in the case of an assignment

the collection company or law firm calls on the consumer/customer to comply in its own name.

The Applicant III. according to his statement, he did not deal with debt collection, as for this the

does not have the appropriate license for the activity. The Authority in accordance with IV.1. explained in point that judging this is not his competence, as the Magyar Nemzeti Bank has the competence to do so, however, given that IV.3.1. due to those explained in point III. cannot be considered data processor, and therefore had to have a suitable legal basis for the personal data of the Applicants when handling your data. Similarly, the Applicant II. only Article 6 of the GDPR applies to data management here. The legal basis according to point f) of paragraph (1) would be applicable, however, it is not regulated by the GDPR (47) in accordance with its preamble, it should have been supported by a consideration of interests. Of this Applicant III. did not comply, thereby violating Article 5 (2) of the GDPR principle of accountability.

Considering that the Applicant III. the Applicants' personal was classified as a data controller in connection with the management of his data, therefore the Respondent III. Article 14 of the GDPR also existed. Information obligation related to paragraphs (1)-(2).

Pursuant to Article 12 (1) of the GDPR, the data controller shall, pursuant to Article 14 (1)-(2) on data management conditions after obtaining the personal data, the Respondent II. the When obtaining the applicants' personal data, he should have provided information to the About the circumstances of handling applicants' personal data.

However, it can be established from the attached documents that the Applicant III. not given to GDPR adequate information about the management of the Applicants' personal data, because the Applicant II. referred to by the letter, which was sent by the Applicant III., as an agent, to the Applicants no contained data management information.

Based on the above, the Authority established that the Respondent III. also violated Article 12 of the GDPR. (1) of Article, because he did not inform the Applicants of his commission activity on the conditions of handling personal data obtained with reference to its order.

IV.4. Legal consequences

IV.4.1. Based on Article 58 (2) point b) of the GDPR, the Authority condemns the Respondents, because they violated Article 5 (2) of the GDPR, as well as Respondent II.

and Respondent III., as they violated Article 12 (1) of the GDPR.

IV.4.2. In accordance with GDPR Article 58 (2) point g) the Authority ex officio ordered:

- the restriction of the processing of the personal data of the Applicants while they are Applicants

II.

the Applicants do not prove the primacy of their legitimate interest in data management

against his rights and interests, since during the procedure he did not prove to the Authority that

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weighed and balanced the above interests,

- the deletion of the personal data of the Applicants, in relation to which GDPR Article 6.

Article (1) point f) can be established as a legal basis, however, the Respondent II. with this

in connection with data management, the legitimate interest is not considered

supported by

- that based on Article 14 (1) - (2) of the GDPR, and in particular Article 14 (2) of the GDPR

on the basis of point b) of paragraph 2, inform the Applicant II. the Applicants that

for what legitimate interest is the processing of their personal data necessary, this interest a

Applicants are essential

on the basis of which it enjoys priority over its rights, as well as

inform the Applicants of their right to object and that

how it can be exercised, in order for the Applicants to control their data

to practice properly.

During the procedure, the Authority exceeded Infotv. 60/A. One hundred and twenty days according to paragraph (1) of § administrative deadline, therefore the Ákr. On the basis of point b) of § 51, ten thousand forints shall be paid separately by a

For applicants - according to the applicants' choice to be indicated in writing - by transfer to a bank account

or by postal order.

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 whole country.

The Akr. § 112, § 116, paragraph (1) and § 114, paragraph (1)

there is room for legal remedy against the decision and the order through a public administrative lawsuit.

* * *

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, it is applicable

of 2015 on the general rules of electronic administration and trust services

CCXXII. Act (hereinafter: E-Administration Act) according to Section 9 (1) point b) the customer
legal representative is obliged to maintain electronic contact.

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

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 Respondent does not adequately certify the fulfillment of the prescribed obligation, the Authority
considers that the obligation has not been fulfilled within the deadline. The Akr. According to § 132, if a
the obligee has not complied with the obligation contained in the final decision of the authority, it can be enforced.

The Authority's decision in Art. According to § 82, paragraph (1), it becomes final with the communication. The Akr.
Pursuant to § 133, enforcement - unless otherwise provided by law or government decree

- 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 otherwise

does not have - the state tax authority undertakes. Infotv. Based on § 60, paragraph (7) a

In the authority's decision

reserved, to perform a specific act, defined

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the decision regarding the obligation to conduct, tolerate or stop

its implementation is undertaken by the Authority.

Budapest, May 18, 2021

Dr. Attila Péterfalvi

president

c. professor

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