

Case number: NAIH / 2019/417.

History: NAIH / 2018/6716 / V.

Subject: Termination of proceedings

and rejection of the application

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

(hereinafter referred to as the Applicant) [...] by an authorized legal representative [...]

An article containing false information, published by the Applicant), according to the Applicant,

or a request for the removal of personal data contained therein

The following decisions were initiated in the data protection authority proceedings initiated on 6 November 2018

brings:

H AT PRICE O Z AT

I.

In the decision of the Authority for the data management period after 25 May 2018

in respect of that part of the application in which the Applicant finds an infringement

asks the Authority, as the

did not comply with the request of the Applicant, as well as the part in which the article

disputes the lawfulness of the disclosure of personal data contained in the application and requests that the data be deleted

this luta

as the Applicant has not committed an infringement in connection with the application for cancellation and is contained in the

article

the disclosure of personal data is not infringing.

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

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

can be challenged. The application must be submitted to the Authority, electronically, which is the case

forward it to the court together with his documents. The request for a hearing must be indicated in the application.

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

its fee is HUF 30,000, the lawsuit is subject to the right to record material fees. In the proceedings before the Metropolitan Court

legal representation is mandatory.

## PERFORMANCE

II. In the order of the Authority, the data protection authority procedure

me gszünte ti

the part of the application for a finding of an infringement concerning data processing before 25 May 2018

as the Regulation is not yet applicable for this period and the application

also in so far as it seeks to delete the entire article, since the Authority will remove the article

has no competence in this regard.

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There is no administrative remedy against this order, but it must be lodged 30 days after notification

An action brought before the Metropolitan Court may be challenged in an administrative action within one day. THE

the application must be submitted to the Authority, electronically, together with the case file

forward it to the court. The court acts in a simplified lawsuit, in which the court a

act in accordance with the rules of out-of-court settlement. Request for a hearing in the action

to be indicated. For those who do not benefit from full personal exemption, the court

the fee for the review procedure is HUF 30,000, the lawsuit is subject to the right to record fees. The Capital

Legal proceedings are mandatory in proceedings before the General Court.

III. In view of the fact that it exceeded the administrative deadline, the Authority issued an order of HUF 10,000, ie

HUF ten thousand to the Applicant - by choice - by bank transfer or postal order

provides for the payment of

There is no place for an independent appeal against this order, it is only on the merits of the case

may be challenged in an appeal against that decision.

IND O K O L ÁS

I. Procedure and clarification of the facts

The Applicant received its application to the Authority on 5 November 2018 through its legal representative submitted that the Applicant had misrepresented an article [...] (hereinafter: Article) published in [...] there are untruths about him that adversely affect him and his business.

In their letter of 20 June 2018, the

You have been asked to delete the Article at the contact details above. As the Applicant's presentation According to the applicant, the applicant requested the Authority to provide the false information in the process of removing it and take action to ensure that the above address available Article will be removed.

The Article is related to the activities of the companies organizing the product presentation reports on the difficulties of enforcing rights and interests, which is the subject of a publication of the Article illustrates in part the example of [...] owned by the Applicant at the time: followed in detail by the Article, what shortcomings were [...], with what difficulties faced by the consumer during consumer enforcement.

The Article mentions the name of the Applicant in one paragraph, as follows: "[...]"

The Article therefore contains the following personal data regarding the Applicant: the Applicant the fact that he was the owner of [...] and [...] and that he was [...].

The request submitted by the Applicant did not contain any information related to the alleged violation the facts and evidence supporting the allegations, the content of the request was not sufficiently precise, did not meet the requirements for a definite application for a decision of the Authority, and the Applicant his representative did not attach a power of attorney to establish that

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whether or not his right of representation extended to the proceedings before the Authority, the Authority called on the Applicant to remedy its shortcomings.

In the rectification submitted by the Applicant and received by the Authority on 17 January 2019 clarified his previous request: his clarified request was then "primarily aimed at deleting the entire article,

and in the alternative, the erasure of personal data '. Furthermore, at the request of the Authority

attached the letter sent to the Debtor to remove the article. The Applicant

In a letter sent to the Applicant on 20 June 2018 by the Applicant on [...]

initiated the deletion of a published Article: "My client has learned that a [...] published

misrepresent him in their article, alleging untrue

I respectfully request that you delete your article at [...].

If we do not do so within 15 days of receiving this letter, we will do so

take the necessary legal action to protect the privacy rights of my Client. " The Applicant

moreover, it stated that no further document had been produced in the case and that it was expressly stated

stated that the Applicant had not replied to the letter sent by the Applicant on 20 June 2018

sem.

Subsequently, the Authority will issue a statement to clarify the facts

In his application submitted to the Authority on 7 March 2019, the Applicant received

clarified his request as a failure to delete his personal data, as well as personal

to challenge the lawfulness of the disclosure of your data is the subject of the request. The Applicant's request is therefore

based on this

on the basis of the latter declaration on the right to information self - determination and the

CXII of 2011 on freedom of information (hereinafter: the Information Act) § 60 (5)

within the meaning of

Based on the above, the Applicant's request was to establish that it was in the Article

the Applicant has not complied with his / her request for the deletion of his / her personal data, in addition to the Article

The applicant also challenged the lawfulness of the disclosure of his personal data

requested primarily the removal of the Article and, secondarily, the personal data contained in the Article

delete your data.

By letter dated 4 March 2019, the Applicant explained that it would be received on 25 June 2018

took the petition of the Applicant, however, it did not contain either the Infotv. or the general

data protection regulation and the data subject's request for the processing of personal data reference. On the other hand, the Applicant alleged a violation of his right to privacy, of which as a result, the Applicant also treated his letter accordingly. The Applicant further submitted that According to Infotv. and a request for cancellation under the General Data Protection Regulation under Article not received in connection.

The Applicant further made a statement that it related to the rights of the individual examines requests, but does not always respond to them. In such cases a legislation does not impose an obligation on the Applicant to respond. In his reply letter moreover, it explained in detail the reasons why it considered the publication lawful and the May 2018 For the period prior to the 25th day, that the Article is available to anyone on the Applicant's website volt.

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According to the Applicant's statement, for the period after the processing of the data - 25 May 2018 Article 6 (1) (f) of the General Data Protection Regulation, namely the right of the community to be informed and the fundamental right to freedom of expression, also referred to the 2010 Act on Freedom of the Press and Basic Rules for Media Content CIV. (hereinafter: Smtv.), according to which everyone has the right adequate information on public affairs, as well as Hungarian citizens and the Hungarian nation events of major importance to its members.

## II. Applicable legal provisions

On the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC Article 2 (1) of Regulation (EU) 2016/679 (hereinafter referred to as the General Data Protection Regulation) the general data protection regulation applies to personal data in part or fully automated processing of personal data which are part of a registration system,

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

Infotv. Pursuant to Section 2 (2), the General Data Protection Decree is indicated therein

shall apply with the additions provided for in

According to Article 4 (2) of the General Data Protection Regulation, the processing of personal data

or any operation on automated or non - automated data files, or

a set of operations such as collecting, recording, organizing, segmenting, storing, or transforming

change, query, view, use, transmit, distribute or otherwise

harmonization or interconnection, restriction, deletion,

Processing of personal data pursuant to Article 6 (1) (f) of the General Data Protection Regulation

lawful only if and to the extent that at least one of the following is met:

[...]

(f) processing is necessary for the protection of the legitimate interests of the controller or of a third party,

unless those interests take precedence over the interests or essential interests of the data subject

rights and freedoms which require the protection of personal data, in particular where

affected child.

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

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

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

In view of the complexity of the application and the number of applications, this time limit shall be extended by two additional

periods

may be extended by one month. The extension of the deadline by the data controller shall be the reasons for the delay

within one month of receipt of the request. If

the data subject has submitted the application by electronic means, preferably by electronic means

unless otherwise requested by the data subject.

Under Article 17 (1) of the General Data Protection Regulation, the data subject is entitled to:

at the request of the controller, delete the personal data concerning him without undue delay,

and the data controller is obliged to make the personal data of the data subject unjustified

delete without delay if one of the following reasons exists:

(a) personal data are no longer required and for the purpose for which they were collected or for other purposes treated;

(c) the data subject objects to the processing pursuant to Article 21 (1) and there is no priority lawful reason for the processing or the data subject objects in accordance with Article 21 (2) against data management;

(d) personal data have been processed unlawfully;

(e) personal data are required by the law of the Union or Member State applicable to the controller must be deleted in order to fulfill an obligation;

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

(a) for the purpose of exercising the right to freedom of expression and information:.

Pursuant to Article 77 (1) of the General Data Protection Regulation, other administrative or without prejudice to judicial remedies, any person concerned shall have the right to lodge a complaint with a supervisory authority, in particular where he has his habitual residence, place of employment or presumption in the Member State of the offense, if the person concerned considers that his or her personal processing of data in breach of this Regulation.

Pursuant to Article 85 (1) of the General Data Protection Regulation, Member States shall legislate reconcile the right to the protection of personal data under this Regulation the right to freedom of expression and information, including personal data for journalistic, scientific, artistic or literary purposes.

Personal data within the meaning of Article 85 (2) of the General Data Protection Regulation for journalistic purposes or for scientific, artistic or literary expression

Member States shall provide for exceptions or derogations from Chapter III (Principles);

Chapter IV (rights of the data subject); Chapter V (the controller and the processor), Chapter V (the transfer of personal data to third countries or international organizations), and VI. Chapter VII (independent supervisory authorities); Chapter I (Cooperation and Unity) and IX. (specific cases of data processing) if these exceptions or derogations are necessary in order to so that the right to the protection of personal data can be reconciled with the expression of opinion freedom of movement and information.

General Data Protection Regulation Recital 65 [...] However, personal data further retention is considered lawful if it is an expression of opinion and information the exercise of the right to liberty, the fulfillment of a legal obligation, or the performance of a task carried out in the public interest or the public authority conferred on the controller or in the public interest in the field of public health, archiving in the public interest for scientific and historical research or statistical purposes, or for legal purposes necessary for the submission, validation or protection of

Infotv. Pursuant to Section 3 (6), public data in the public interest do not fall within the definition of data of public interest any information relating to which the disclosure, disclosure or making it available in the public interest

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Infotv. Pursuant to Section 38 (2), the Authority is responsible for the protection of personal data, and the right of access to data in the public interest and in the public interest

to monitor and facilitate the enforcement, the tasks and powers of the Authority shall be general

Article 57 (1), Article 58 (1) to (3) of the Data Protection Regulation and Infotv. Section 38 (2) - (4) detailed in paragraph

The right to the protection of personal data pursuant to Section 60 (1) and (2) of the Information Act the Authority shall, at the request of the data subject,

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

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



It may be submitted in the case specified in Section 22 (b).

Unless otherwise provided in the General Data Protection Regulation, data protection was initiated upon request

CL of the General Administrative Procedure Act 2016 CL. law

shall apply with the exceptions specified in the Information Act.

Infotv. Pursuant to Section 61 (1) (a), in the data protection authority proceedings

decision of the Authority

a) in connection with the data processing operations specified in Section 2 (2) and (4), a

may apply the legal consequences set out in the General Data Protection Regulation.

Ákr. Under Section 17, the authority has the powers and competencies at all stages of the proceedings

ex officio. If you notice a deficiency in any of them and your doubts can be established beyond a reasonable doubt

competent authority shall transfer the case, failing which the application shall be rejected

or terminate the proceedings.

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

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

has no legal effect.

Pursuant to Section 47 (1) (a) of the Act, the authority shall terminate the proceedings if the application

should have been rejected, but the reason for that was after the initiation of the procedure

authority.

Ákr. § 112, § 16 (1) and § 114 (1) against the decision

there is a right of appeal through an administrative lawsuit.

CIV of 2010 on Freedom of the Press and Basic Rules of Media Content. Act (a

hereinafter: Smtv.), everyone has the right to be properly informed

on local, national and European public affairs, as well as the citizens of Hungary and the Hungarian

events of major importance to the members of the nation. The task of the media system as a whole is

authentic, prompt, accurate information on these matters and events.

Act V of 2006 on Company Disclosure, Company Litigation and Liquidation

hereinafter: Ctv.), the register of companies from the register of companies, as well as the

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from the annexes or other documents certifying the information in the register of companies

for the submission of which the company is in the public interest or for the safety of traffic, and

in order to protect the interests of creditors, it is required by law (hereinafter together: company documents).

Ctv. Pursuant to Section 10 (2), existing or deleted data in the register of companies, as well as company documents, including company documents submitted electronically or converted into electronic documents, shall be fully public. Tax registration procedure under the Taxation Act

shall also be made fully public after the successful completion of the proceedings submitted but not yet completed

also a registered application for registration and its annexes with the application for registration (change registration)

the business register must indicate the existence of an ongoing assessment. The legality of supervision

The documents of the proceedings shall be public in accordance with the provisions of this Act.

The Ctv. Pursuant to Section 15, the company information service is existing or deleted from the company register

data and the application for registration (change registration) have been recorded electronically but have not yet been submitted

access to your listed data free of charge and without restriction for anyone

ensure. In order to protect creditors, the company information service website provides some

access to business register data free of charge.

The Ctv. Pursuant to Section 24 (1) Section 24 (1) The register of companies contains all companies

b) the name of the company,

(c) the registered office of the company and, if the registered office is not the same as the central administration,

the place of central administration,

h) the name and tax identification number of the company's senior executive or the person authorized to represent the company,

in the case of a natural person, place of residence, date of birth, birth name of the mother, in the case of a legal person

registered office and registration number or registration number and the right of representation

office, the date on which their legal relationship arose, in the case of fixed-term representation a the date of termination of the legal relationship, or if the legal relationship is terminated in the register of companies earlier than the date indicated, the actual date of termination and the fact that the if you have a notarized copy of the address of the company's representative or a lawyer or a specimen signature countersigned by the Bar Counsel was submitted.

### III. Decision:

#### III.1. Request to delete a Published Article

III.1.1. The Authority Under Section 17, the powers and responsibilities of the proceedings are all stage. Infotv. According to Section 38 (2), the task of the Authority is personal data protection and access to data of public and public interest to monitor and facilitate the enforcement of the law, the Authority is responsible for general data protection Article 57 (1), Article 58 (1) to (3) and Article Section 38 (2) - (4) defined in paragraph The Authority is therefore committed to honor and reputation, and has no jurisdiction over the exercise of other personal rights.

In view of the above, Ákr. Section 46 (1) (a) and Section 47 (1) (a) the Authority will terminate the proceedings on the basis of the applicant 's request for rectification and the During the clarification of the facts, the application did not comply with the provisions of the Infotv. Section 60 (2)

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that the Authority has a printed or electronic form for the honor and reputation of all or part of the content of an article appearing in a press release has no jurisdiction in matters relating to the annulment of a related right The Authority may not submit a request for an official data protection procedure.

III.1.2. Based on the above, the Authority can only decide on the deletion of personal data, in this regard, however, it can be stated that on 20 June 2018 the The letter sent to your requested editorial office did not contain any items that suggested it would have the Applicant's right under the General Data Protection Regulation, specifically the General

wanted to exercise its right of cancellation under Article 17 (1) of the Data Protection Regulation:

this application merely stated that the Article misrepresents the Applicant,

it alleges untruths about it and thus adversely affects its judgment. That is, the above letter from the Applicant shall not be considered as a request for deletion of personal data.

It follows from the above that, in the Authority's view, the Applicant did not breach data protection

infringement when it did not apply the relevant provisions of the General Data Protection Regulation and did not replied to the Applicant. No such deletion has been communicated to the controller

a request that should have been made in the general data protection regulation

the Applicant did not infringe Article 12 (3) of the General Data Protection Regulation.

and its obligations under Article 17 (1), and the Authority therefore rejects the

an application for a declaration of non-compliance with a request for cancellation.

### III.2. Disclosure of Applicant's Personal Data

The Article names the Applicant in one place and contains the following: "[...]" It can be stated that

the name and administrative position of the Applicant, the position of ownership in the public interest as public data shall be deemed to be due to:

The Ctv. Pursuant to Section 10 (2), the existing or deleted data of the company register are complete

are public. Thus, the data in the company records - including the personal data that

during registration in the register of companies, in accordance with the purpose of the register of companies

data subjects provide their personal data with the knowledge of disclosure - to anyone

available. Existing or deleted data in the company register and personal data in company documents

data is public data in the public interest, which is personal data and at the same time public in the public interest

also constitute data. When handling and using personal data in the company register

the general data protection regulation and the Infotv. provisions, so the general

the principle of purposeful data processing under Article 5 (1) (b) of the Data Protection Regulation.

On the mandatory content of the company register, the Ctv. Section 24 (1) provides in point h)

it includes, among other things, the name of the company's chief executive officer and the person authorized to represent the

company.

The disclosure of the information contained in the register of companies serves purposes of public interest, the legislator considered

that traffic safety, which is a key element of a market economy, is an important interest that outweighs the interests of data subjects.

As the Article published by the Applicant is available to anyone from the Applicant Company Register

- public information in the public interest: his name and the status of [...] as a member, senior official

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their publication has not infringed and does not currently infringe the general rule

nor does the provisions of the Data Protection Regulation on purposeful data processing.

The legal basis for the publication of the Article is Article 6 (1) of the General Data Protection Regulation.

the legitimate interest of the controller or of a third party, namely the Community

the right to information and the fundamental right to be heard,

also referred to Smtv. § 10 as well. Subject to the General Data Protection Regulation (153)

and Smtv. § 10, in the Authority's view, the contested data

there is an appropriate legal basis for its publication and no unlawful data processing can be established.

In the alternative, the Applicant's application to the Authority shall contain the personal information contained in the Article

requested the removal of his data. Exceptions to the enforceability of the data subject's right of cancellation

regulated by Article 17 (3) of the General Data Protection Regulation. Point (a) of this paragraph

freedom of expression and the right to information

may be a legitimate means of refusing a request for cancellation, ie personal data

further retention shall be considered lawful if, inter alia, the expression of opinion and the

necessary for the exercise of the right to freedom of information. So the general

Article 17 (3) (a) of the Data Protection Regulation is intended to strike a balance between the data subject

the right to erasure and the exercise of the right to freedom of expression and information

thereby ensuring, inter alia, freedom of the press and freedom of the internet. THE

In view of the cited source of law, the Authority rejects the Applicant's request that the  
You have initiated the deletion of your personal information contained in this article, as this information  
its removal would restrict individuals' freedom of expression and access to information  
right.

### III.3. Data management before May 25, 2018

The Applicant also objected to the data processing for the period after 13 July 2015  
legality. This part of the application concerns data processing for which, before 25 May 2018,  
took place before the date of application of the General Data Protection Regulation, to which the  
the rules of this Regulation shall not apply. This circumstance only applies after the receipt of the request  
the Authority received a request for clarification of the deficiencies and clarification of the facts  
note. In view of this, Ákr. Section 46 (1) (a) and Section 47 (1) (a)

Pursuant to paragraph 1, the Authority shall close the proceedings as it has become aware of the facts

According to the statements, the application did not comply with Infotv. Section 60 (2)  
conditions, as the general data protection regulation is still in force during the infringed data processing period  
was not applicable. For this reason, it is the Authority's data protection authority procedure

No application may be made, nor may an ex officio investigative or official procedure be conducted by the Authority  
nor does it initiate the initiation.

### ARC. Other issues

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

The Ákr. Pursuant to Section 112 and Section 116 (1) and Section 114 (1), the operative part

An appeal against a decision under point I shall be subject to administrative review.

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The operative part II. The right of independent legal remedy against the orders contained in Art. Section 112, 114.

§ (1) and § 116 (1) and § 116 (3) (d).

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The rules of administrative litigation are laid down in Act I of 2017 on the Procedure of Administrative Litigation (a hereinafter: Kp.). A Kp. Pursuant to Section 12 (2) (a) by decision of the Authority

The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (11)

the Metropolitan Court has exclusive jurisdiction. 2016 on Civil Procedure

CXXX. Act (hereinafter: Pp.) - the Kp. Applicable pursuant to Section 26 (1) - Section 72 provides for legal representation in a case falling within the jurisdiction of the Tribunal. Kp. Section 39 (6)

unless otherwise provided by law, the date of filing of the application

has no suspensory effect on the entry into force of an administrative act.

A Kp. Section 29 (1) and with this regard Pp. Applicable in accordance with § 604, electronic

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

hereinafter referred to as the Customer's legal representative pursuant to Section 9 (1) (b) of the E-Administration Act

obliged to communicate electronically.

Contrary to the decision of the Authority, the time and place of filing the application shall be determined by the Kp. Section 39 (1)

defined in paragraph Application for a simplified procedure or for a hearing

information on the possibility of the Kp. Section 77 (1) - (2) and Section 124 (1) and (2)

based on paragraph 5 (c) and paragraph 5 respectively. The amount of the fee for an administrative lawsuit is

XCIII of 1990 on levies. Act (hereinafter: Itv.) 45 / A. § (1).

From the advance payment of the fee, the Itv. Section 59 (1) and Section 62 (1) (h)

release the party initiating the proceedings.

In the course of the procedure, the Authority exceeded the Infotv. 60 / A. § (1) is one hundred and twenty days

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

Budapest, July 31, 2019

Dr. Attila Péterfalvi

President

c. professor