

Case number: NAIH-4667-10/2022

(Previous: NAIH-7922/2021)

Object:

decision

request

dismissive

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

represented by ([...]; hereinafter: Representative) minor [...] (hereinafter: Applicant) a

[...] Primary School, High School and [...] Vocational High School ([...]; hereinafter:

Applicant) against the Applicant's personal data in the eKRÉTA system

in the data protection authority procedure initiated on the request submitted regarding access

makes the following decision:

The Authority rejects the Applicant's request.

There is no place for administrative appeal against this decision, but from the announcement

within 30 days from the date of issue, with a letter of claim addressed to the Capital Tribunal

can be challenged in a lawsuit. The claim must be submitted to the Authority electronically<sup>1</sup>, which

forwards it to the court together with the case documents. Not in the full personal tax exemption

for beneficiaries, the fee for the administrative lawsuit is HUF 30,000, subject to the right to record the fee subject to the lawsuit

it's raining Legal representation is mandatory in proceedings before the Metropolitan Court.

I N D O C O L A S

I. Procedure of the procedure

I.1. On October 22, 2021, the Representative submitted an application on behalf of the Applicant to the

To the authority in which the data protection authority initiated against the Application

procedure. According to the request, the institution as a data controller does not know the information

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

hereinafter: Infotv.) to provide the right of access according to Section 14 (b) to the personal

in terms of data, the eKRÉTA (Public Education Registration and Study Basic System)

accessible by parents, nor can it be tracked on the administration interface

overwriting and deleting grades.

The Representative asked the Authority about the protection of personal data

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

Regulation (EU) 2016/679 (hereinafter: General Data Protection Regulation)

for measures according to points b), d), h) of paragraph (2) of Article 58.

In response to the request submitted by the Representative on the right to self-determination of information and the

CXII of 2011 on freedom of information. Act (hereinafter: Infotv.) Section 60 (1)

based on paragraph NAIH-7922/2021. case number on October 13, 2021, data protection authorities

proceedings have been initiated.

1 The NAIH\_K01 form is used to initiate the administrative lawsuit: NAIH\_K01 form (16.09.2019)

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

<https://www.naih.hu/kozig-hatarozat-birosagi-felulvizsgalata>

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I.2. For the order of the Authority calling for the filling of deficiencies, the Representative on NAIH-7922-4/2021.

filed, he replied in his letter received on November 26, 2021, in which he confirmed that the minor

The applicant's rights as a representative for the child and clarified the request.

I.3. The Authority NAIH-7922-5/2021. number, in the order issued on December 7, 2021 a

to answer questions asked in order to clarify the facts and to verify your answers

called the Applicant.

I.4. The Respondent's response was received on December 14, 2021 and is NAIH-7922-6/2021. number was filed.

I.5. On April 8, 2022, the Authority issued the Applicant NAIH-7922-6/2021. referred to in letter no called on the Applicant to send a certificate or statement (NAIH-4667-1/2022).

I.6. The Respondent responded to the order in a letter received on April 21, 2022 (NAIH-4667-2/2022).

I.7. In the order of the Authority dated May 23, 2022, for sending documents and making statements called the Application (NAIH-4667-3/2022)

I.8. The Respondent's response was received electronically on June 1, 2022 (NAIH-4667-4/2022), then it was also sent by post with an arrival date of June 7, 2022

I.9. The Authority notified the clients of the completion of the proof procedure on July 22, 2022.

I.10. The Applicant exercised his right to inspect the documents on August 30, 2022, the learned did not comment on the documents.

## II. Clarification of the facts:

II.1 The Representative submitted in the application that the eKRÉTA system is accessible by parents, and the overwriting and deletion of grades cannot be tracked on the administration interface either. history

a ticket was included, which a

Documents attached to the application - Education Office Central Customer Service Information

The letter addressed to the Department by the Representative on July 6, 2021 - according to the Applicant

In the 2020/2021 academic year semester notice dated January 27, 2021, marked as a history subject

featured. At the end of the year, he received a good grade with an average of 4.6. The class teacher is verbal after contacting them, they found out that it was a mistake in the half-year notice

semester

before the semi-annual classification meeting

for printing, while the ticket was amended after the half-yearly classification meeting, it

Revised on January 20, 2021. They were not notified of the amendment, of the fact of the amendment

no protocol was made. Neither are tickets received by the Applicant in the second semester

were featured in eKRÉTA.

In order to investigate the case, the Respondent was contacted orally

deputy director, and the dialogue also took place electronically. In doing so, they asked

the examination of the date on which the tickets were entered, namely from the KRÉTA system

the screenshot obtained shows the date on which the mid-term evaluation was entered, not the

the day it was entered. During the consultation, they received a screen shot in which

now include not only the entry (on which day it was entered), but also the recording (the actual

entry) dates as well. Then they missed that the answer did not show whether a ticket had been overwritten,

or whether a ticket was deleted from the system and it was communicated that eKRÉTA is not considered closed

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or requested

independent expert committee

their suspicion of manipulation,

compilation.

The Respondent's reply letter informed them that the Respondent had made use of the inquiry

In the direction of eKRÉTA Informatikai Zrt. (1111 Budapest Budafoki u. 59.), which operates eKRÉTA. THE

According to the applicant, no further information can be obtained apart from the previously sent data

out of the system. The parents answered no to their question about the possible cancellation of grades

received an answer, according to the Respondent's answer, "about the modification of grades, that

no information about the date can be extracted from the system." The Representative requested it from the Respondent

sending the error ticket sent to the eKRÉTA operator. According to this, to the question

whether "it is possible to see somewhere how many times a ticket is overwritten by a teacher, since at the moment that's all

it shows when it was last entered", eKRÉTA's customer service gave the above answer, so that no information can be obtained about the modification of grades and its date a from system.

In parallel with all of this, on June 30, 2021, the Representative also made an inquiry eKRÉTA Informatikai Zrt.'s customer service, where chronologically (date of registration arranged in order) in a table with the marks of the Applicant's history in connection

- the serial number;
- 
- 
- on which date the ticket was issued, or if a half-yearly or annual evaluation was entered (other than a recording date;
- recording user name;
- recording date);
- the number of the evaluation;
- the type of evaluation (ticket – with a single multiplier, thesis – with a double multiplier; half-year evaluation, annual evaluation);
- whether another grade, paper, semester or year was overwritten with this entry evaluation? (Yes No);
- if an overwrite occurred, which serial number entry was overwritten;
- has the ticket, paper, semester or annual evaluation been deleted? (Yes No);
- name of the deleting user;
- deletion date data.
- 

Furthermore, if the system logs the registered grades from the school printing regarding the Applicant's data, then he separately requested the printing date and the

to send the printer user name to.

After the positive feedback by phone, the Representative from eKRÉTA Informatikai Zrt. 2021.

received a written response on July 1 rejecting their request for data. According to the answer, these are a they can request it from a public education institution if they make it available, as well as the requested data part of it is available by entering the e-Control module as a parent or student

In the Classes menu, by clicking on the downward arrow before the name of the subject.

After the above, the Representative made the statement that the Respondent did not know the Applicant to ensure your right of access to personal data.

Following the Authority's request to fill in the gaps, the Representative sent the Application and the a copy of the correspondence with the maintainer. The specific perpetrator of the alleged violation overwriting and deleting the Applicant's grade by the parent in the context of the status description access,

indicated that the

The applicant did not fully complete the eKRÉTA interface for the Representative

Access to the applicant's data related to the subject of history. In filling the gap

recorded that at the request sent to the maintainer on August 18, 2021, November 2, 2021

and its lack of traceability

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I received an answer, so the deleted or overwritten grade is only personal data

it was only accessible after a long search.

The Representative requested that the Authority comply with Article 58 (2) of the General Data Protection Regulation act according to paragraphs b), d), h), that is

b) condemns the data manager or data processor, if its data management activity

violated the provisions of this regulation, because the data processor handed over such a program

to the data controller, which does not fully provide the representative of the applicant with the

the visibility of grades as personal data, specifically who changed it and when

on a grade, who and when deleted the grade (this is a systemic problem that is not only it affects the applicant, but all children and their parents who are obliged to eKRÉTA for use);

d) instructs the data manager or the data processor that its data management operations - given in a specified manner and within a specified period of time - harmonises this regulation with its provisions, i.e. improve the eKRÉTA program so that children's representatives, and children can get to know the program in its entirety after being identified their personal data regarding grades, specifically, who, when, what entered a grade, who modified the grade when, who deleted the grade when;

h) revokes the certificate or instructs the certification body to comply with Articles 42 and 43 to withdraw a duly issued certificate or instruct the certification body to do not issue the certificate if the conditions for certification are not or no longer met, i.e. if the data processor does not make any changes in point d) within the deadline set by the NAIH the eKRÉTA system according to the listed criteria, then withdraw or reject it the certification body to withdraw the issued certificate.

II.2. The Respondent is chronological in his statement given during the clarification of the facts presented in order the resolution of the dispute between the Representative and the Respondent measures taken during

The first case presented to the Representative on behalf of the Applicant, with the objected to regarding his request was received by e-mail on June 21, 2021, at which time he was asked to educational institution deputy director that in the KÉRETA system the related amendments, and from the end-of-year history subject to the Applicant's certificate please review the registered grade.

In his electronic letter sent on June 23, 2021, the Respondent's deputy director informed the Representative that he had investigated the circumstances of the evaluation, and presented the reasons

the semester mark was changed and how the end-of-year grade was formed.

In his reply sent by e-mail on June 24, 2021 at 10:19 p.m., the Representative requested the

Entering or modifying all the marks the applicant received from the history subject

date, including the review of your semester evaluation, and the date of actual enrollments

to send the screenshots, the date for completion is June 30, 2021

marked.

The Deputy Director of the Applicant by electronic mail on June 24, 2021 at 11:45 p.m.

responded to the Representative's request and provided information that he had entered the system and

he took the requested photo, which he attached to his letter. He also noted that history

specialist teacher on January 20, 2021 approx. sealed the marks of a hundred students, and in this case "besides clicked'.

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In his reply sent on June 29, 2021 at 12:50 p.m., the Representative objected that one of

screenshot received is the same as what they otherwise

they see, the other

the screenshot shows what was requested the first time, but it doesn't show whether it happened either

overwriting, if so, when and whether a ticket was deleted from the system. In addition, he voiced the

that they do not consider their suspicions regarding the eKRÉTA manipulation closed, they asked objectively

the appointment of an expert committee to investigate the case was put into perspective by the education

appeal to the rights commissioner, if it is not done by the deadline specified by him

progress in the case.

too

to set up the

After that, on June 29, 2021 at 2:45 p.m., the head of the institution sent an email about

informed the Representative that it was an expert committee

school year is hard work



at the end of its period, there is no way, at the same time it was sent by eKRÉTA at the institution's request the operator's response to them, that in addition to the screenshot sent information cannot be extracted from the system. He also recorded that the e-diary application the information that can be extracted from the admin interface is clear and documented with screenshots. These clearly show the date of the entry (the school day to which the given entry was made), as well as the recording date (the time when the entry was recorded in the e-log.) He also detailed the competence of the specialist teacher in the context of establishing a grade. Finally, he informed the Representative that the case considers it closed.

In his response to the Authority, the Respondent outlined the circumstances of the incorrect entry of the ticket, which was discovered during an investigation initiated by the parents. According to this, the class teacher a finalized the semi-annual report based on an extract printed before the grading meeting in CRETE, in which the student's history grade is marked based on a wrong entry volt. According to the information received from the specialist teacher, the Applicant just achieved a good result in the subject, but the teacher entered dozens of tickets in the KRÉTÁ on the day of the recording, that's why you made a mistake and accidentally clicked the mark. His mistake already at the classification conference he noticed it, he also corrected it in KÉRTÁ, but unfortunately the print was marked into a copy. The parent admitted that his child's performance in the first semester was good, but that claimed that during the second half of the year, the sign was included in the system. Although to prove this he did not know, but according to the head of the institution, he thereby accused the institution of the journal entry was falsified.

The parents wanted to prove their claim with screenshots, which the Respondent provided sent in the form available to them, the administrative error was noticed in time and was repaired. So the Requested about the data available to them in the system, the admin took a screenshot of the posts visible on the interface and their date, and for the parents sent, at the same time, a technical resolution from the company operating the system

they asked Then the operator's response was presented to the Representative, according to which it is institution, in addition to the information already provided, the diary cannot decipher it more precisely information related to its management that the parent lacks.

The question posed in the referenced resolution is precisely: "My question is, can it be seen somewhere, how many times a mark is overwritten by the teacher. Right now we only see (know about) when last entered. "

Answer given by [...] (eKRÉTA) on June 29, 2021 at 1:48 p.m.:

"Dear [...]. Thank you for your inquiry. We can give you the following answer to your question: It is no information can be obtained from the system about the modification of grades or its date.

[...]"

According to his statement, the Respondent only found out after that that

The applicant is EMMI (Ministry of Human Resources Public Education-Administration

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Department) - to which the Office of Education directed the Applicant with his complaint cited above based on - he turned to the maintainer in accordance with his answer dated August 10, 2021.

According to this response from EMMI, "The [...] Primary School, High School and [...] Vocational High School (the hereinafter referred to as the Institution) is maintained by [...]. The Institution is against the student and parent the maintainer is obliged to investigate your comments and complaints regarding its procedure, it and the person concerned must be informed of the result.

The Klebelsberg Center is the government that maintains the CRETA system in relation to the state however, the Klebelsberg Center has no information regarding what is the agreement between eKRÉTA Informatikai Zrt. and the Institution in ecclesiastical law between a person's maintainer, i.e. what modules and functions are used.

Any operation with data in the KÉRETA system (entry, modification, deletion) – and its characteristics (which user, from which IP address, when did the given operation) – it is logged in a retrievable way, which the developer provides detailed information on request

company for the maintainer".

On October 6, 2021, the maintainer requested information from the Applicant about the circumstances of the case - the when the good grade in the semester certificate was entered into the KÉRETA system and when was corrected - and about the steps taken to clarify the matter.

The Respondent gave an answer to the maintainer on the same day, describing the circumstances of the case agreed with what was contained in their reply to the Authority, and referred to the e-log also the response of the operating company, according to which they as an institution requested by the parent, the diary information related to its treatment cannot be deciphered any more precisely than which was sent to them. He forwarded to them the correspondence with the Representative, and provided information that at the beginning of the new academic year they were informed that the Applicant his student status at their institution was terminated, the Applicant was taken away by his parents from the school, and the employment of the history teacher involved in the case was also terminated.

According to the documents sent to the Authority and attached to the Respondent's response, 2021.

On October 7, the applicant requested information from the operator of eKRÉTA

About all history grades entered in the 2020/2021 academic year, the date of entry of the grades and regarding the date of possible repair, he supported his request with the above letter from EMMI.

Employee of Informatikai Zrt. on October 14, 2021 electronically

The eCRETE

letter

sent the requested information as an attachment to the maintainer, eKRÉTA Informatikai Zrt.

According to his letter dated October 8, 2021, in the Applicant's KRETA branch in the academic year 2020/2021 history

11 grades were recorded from the subject, none of which

no changes were made and they were not deleted, and it was presented in tabular form by a

received tickets, the date they were entered, the name of the ticket holder and the date

by which time the given grade was recorded, those where the grade is italicized

the day of its admission differs from the day on which the ticket was recorded.

In response to this letter, the operator informed the operator on the same day, October 14, 2021,

that the content of their letter is contrary to what the parents claim, because it is printed

the certificate shows a marked semester mark, so it is clear that a change has been made.

Another letter sent to the maintenance department of eKRÉTA Informatikai Zrt. is dated October 19, 2021,

it states that what was contained in their previous letter - that no changes have taken place in the student

in his grades - wrongly, without examining the log data with sufficient thoroughness

they said, for which they apologize. In the CRETE system, the history teacher is a specialist

users

good

grade for the student with the date of that day. At that time, the fastener was visible on the surface

for him, both the student's average and the previously recorded semester mark, which is still valid at that time

On February 03 at 13:14:16 a was recorded

2021 by logging in with your account.

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volt. 17 seconds after that, on February 03, 2021 at 13:14:33, the user modified the

the value of a semester ticket for a good rating.

In a letter dated November 2, 2021, the maintainer informed the Representative of eKRÉTA

Informatikai Zrt. about the content of both letters, and summarized that the requested information

for the operating company, a deeper, more thorough, more comprehensive investigation

was determined as a result. They maintained that the case

from the date of acquaintance,

everything was investigated to the best of their ability, and by them

they reported back to the stakeholders based on available information.

II.3. The Authority NAIH-4667-1/12022. at the request expressed in the order issued under the

NAIH-7922-6/2021 was sent by the applicant on April 21, 2022. number

filed

the certificate referred to in their answer, in which the eKRÉTA operator declares it regarding whether the institution has the log data in question

with access rights. The operator's statement is dated December 15, 2021, and in this

the CEO of eKRÉTA Informatikai Zrt., who is authorized to sign the company, declares, that "eKRÉTA Informatikai Zrt. has access rights for users

for log files related to the use of the KRÉTA system, with the fact that the eKRÉTA Informatikai Zrt. a KRETA

institution

at the written request of its maintainer, the log files will be released".

institution and/or the

system user

The Respondent stated again that their institution has no direct access to the data

access, this is supported by the documents sent earlier, it is their institution

provided all available information on the data they have access to within the deadline

For a representative.

Regarding the statement of eKRÉTA Informatikai Zrt, the Respondent noted that

it is inaccurate in several details, both formally and in terms of content, and does not fully comply with reality, as the previously attached documents prove their position that a

the institution cannot access the data in question in any way. Just the maintainer

at his written request, after several attempts, he managed to provide data to the operator,

which data the maintainer, after consultation with the Application, immediately a

Made available to a representative.

prescribe, for use is

II.4. The Authority requested that the Applicant or the maintainer with eKRÉTA Zrt, the KRÉTA

a copy of the operating or business contract concluded for the use of the system, or

- if they have one - the data processing contract affecting the KRETA system

sending a copy of it, or a statement about who decided that it is

the institution uses the KRÉTA system

In his answer, the Respondent provided information that by using the eKRÉTA system

related decision was made in order to ensure vocational high school training at the school

Innovation and Technology

vocational training agreement

In the vocational training agreement, the Ministry obliged the

maintainer. in 2020

new agreement with the Ministry of Human Resources due to a change in legislation

was concluded, point 5 of which still mentions the use of eKRÉTA

relevant obligation. The Applicant a copy of the vocational training agreements

attached.

According to his further statement, they tried to find the contract with eKRÉTÁ, but that

were not found, although in 2019 the system contacted them electronically

with its operator, however, they did not receive an answer regarding the remuneration and conclusion of the contract,

and in the meantime, they were provided with the use of the system free of charge. On this

the Respondent attached a copy of the correspondence to its answer.

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in the framework of

are provided

contract

public procurement

In order to comply with the Authority's order, on May 26, 2022, they contacted the

receiving a copy of the contract with eKRÉTA Zrt, which operates the system

for the sake of, however, on May 30, 2022, the

they were informed that it was unique

they do not have a contract, it is with the National Vocational and Adult Education Office

(NSZFH) concluded

for them.

They requested this contract by mail, to which they responded on May 31, 2022

received that they are unable to send this due to their confidentiality obligation,

contact the other contracting party. According to the Applicant's information, the NSZFH

on its website under the public interest data menu item "Contracts concluded through public procurement"

under the point named "Uploading...Soon" content welcomes the visitor.

III. Legal provisions applicable in the case:

On the protection of natural persons with regard to the management of personal data

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

Regulation (EU) 2016/679 (hereinafter: General Data Protection Regulation)

under its scope

about law and that

CXII of 2011 on freedom of information. Act (hereinafter: Infotv.) Section 2 (2)

according to paragraph of the general data protection regulation in the provisions indicated there

must be applied with supplements.

The General Data Protection Regulation

information self-determination

for data management belonging to

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

any information relating to a person ("data subject"); the natural person can be identified,

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

location data, online identifier or physical, physiological,

one concerning your genetic, intellectual, economic, cultural or social identity

can be identified based on several factors;

Based on Article 4, Clause 2

"data management": you are on personal data

any operation performed on data files in an automated or non-automated manner or

set of operations, such as collection, recording, organization, segmentation, storage, transformation

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

or otherwise by making available, coordinating or connecting,

restriction, deletion or destruction;

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

body, agency or any other body that aims to manage personal data

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

its means are determined by EU or member state law, the data controller or the data controller

special aspects regarding the designation of the EU or

too

can define;

member state

law

According to point 8 of Article 4, "data processor": the natural or legal person,

public authority, agency or any other body acting on behalf of the data controller

manages personal data;

According to recital (63) of the General Data Protection Regulation: The data subject is entitled,

to access the data collected about him and to simply and

at reasonable intervals, establishing and checking the legality of data management

exercise this right in order to [...]

Pursuant to Article 12 of the General Data Protection Regulation:

(2) The data controller facilitates the relevant 15-22. the exercise of his rights according to art. The 11.



in the cases referred to in paragraph (2) of Article 15-22, the data controller your rights under Art  
may not refuse to fulfill your request for exercise, unless you prove that  
that the person concerned cannot be identified.

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(3) The data controller without undue delay, but in any case the request  
within one month of its receipt, informs the person concerned of the 15-22 according to article  
on measures taken following a request. If necessary, taking into account the request  
complexity and the number of requests, this is the deadline  
two more months  
can be extended. Regarding the extension of the deadline, the data controller explains the reasons for the delay  
indicating within one month from the receipt of the request  
concerned. If the person concerned submitted the request electronically, the information is possible  
must be provided electronically, unless the data subject requests otherwise.

(4) If the data controller does not take measures following the data subject's request, it is a delay  
without, but at the latest within one month from the receipt of the request  
data subject about the reasons for the failure to take action, as well as whether the data subject complained  
can submit it to a supervisory authority and exercise its right to judicial remedy.

According to Article 15 of the General Data Protection Regulation:

(1) The data subject is entitled to receive feedback from the data controller regarding  
whether your personal data is being processed and if such data is being processed  
is entitled to access to personal data and the following information  
get:

- a) the purposes of data management;
- b) categories of personal data concerned;
- c) recipients or categories of recipients with whom or with which the personal  
data has been disclosed or will be disclosed, including in particular third-country recipients,

and international organizations;

d) where appropriate, the planned period of storage of personal data, or if this is not the case

possible aspects of determining this period;

e) the right of the data subject to request from the data controller the personal data relating to him

rectification, deletion or restriction of processing of data, and may object to such

against the processing of personal data;

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

g) if the data were not collected from the data subject, everything about their source is available

information;

h) 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 about the significance of such data management and that

what are the expected consequences for the person concerned.

(2) If personal data is transferred to a third country or international organization

is forwarded, the data subject is entitled to receive information from

about the appropriate guarantees according to Article 46 regarding transmission.

(3) The data controller shall provide the data subject with a copy of the personal data that is the subject of data management

makes available. For additional copies requested by the data subject, the data controller is responsible

may charge a reasonable fee based on administrative costs. If it is affected

submitted the application electronically, the information was widely used

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

(4) The right to request a copy referred to in paragraph (3) shall not be affected

adversely affect the rights and freedoms of others.

Pursuant to Article 28 of the General Data Protection Regulation: The data processor

(3) Data processing by the data processor based on EU law or member state law

was created - the subject, duration, nature and purpose of the data management, the personal data

type, categories of data subjects, as well as the obligations of the data controller and

rights

determining - it must be regulated by a contract or other legal act that binds it

data processor against the data controller. The contract or other legal act in particular

stipulates that the data processor:

e) appropriate technical and organizational, taking into account the nature of data management

measures to the extent possible to assist the data controller in being able to perform

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obligation of the concerned III. requests related to the exercise of your rights contained in chapter

regarding your answer;

on the operation of institutions and the

Education and training

20/2012 on the use of his name. (VIII. 31.) The relevant provisions of the EMMI Decree:

§ 94. The form used by the school

11. the class diary,

§ 101. (4) The class diary

public education

institutions

a) progress and default, as well as

b) evaluator

contains a diary section.

(6) The evaluation diary section

a) the student's name, place and time of birth, address, education identification number,

your social security number, your mother's birth name and contact information, or your father

the name and contact information of your legal representative,

b) the student's journal number, master sheet number,

c) the subjects studied and their assessment broken down by month, as well as at the end of the semester and the end of the year

your text evaluation, grades,

d) data related to the performance of community service

included.

CXC of 2011 on national public education. pursuant to the Act (hereinafter: Nkt.):

§ 41. (4) The public education institution keeps the following data of the child or student:

e) data related to the student relationship:

eb) evaluation and qualification of the student's behavior, diligence and knowledge,

exam data,

§ 57. (6) on completing school forms - the end-of-year certificate and the state exam

with the exception of the issued certificate - the system approved by the minister responsible for education

with its application, the privacy, data protection and security protection requirements

they can also be prepared and stored electronically. Issuance of the certificate

the form on which it is based must also be produced in printed form in this case, and

must be preserved.

The relevant provisions of Act V of 2013 on the Civil Code (Ptk.):

2:43 a.m. § [Named personality rights]

It means a violation of personal rights in particular

e) violation of the right to privacy and protection of personal data;

2:54 a.m. § [Enforcement of personal rights]

(1) Personal rights can be asserted personally.

4:161. § [Legal representation of the child]

(1) It is the right and obligation of parents exercising parental supervision to ensure that their child

represent him in his personal and property matters.

Infotv. According to § 60, paragraph (1), the right to the protection of personal data

in order to enforce it, the Authority, at the request of the person concerned, data protection initiates official proceedings.

Infotv. Pursuant to § 60, paragraph (2), for the initiation of official data protection proceedings request in the case specified in Article 77 (1) of the General Data Protection Regulation can be submitted.

In the absence of a different provision of the General Data Protection Regulation, the request was initiated for official data protection procedure CL of 2016 on the general administrative procedure.

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the provisions of the Act (hereinafter referred to as the Act) specified in Infotv shall be applied with differences.

The Akr. According to paragraph (1) of § 35, the request is a declaration by the client with which the official request the conduct of a procedure or a decision of the authority for his right or legitimate interest in order to enforce it.

The Akr. According to § 35, paragraph (3), a decision made on the subject at the client's request until it becomes final.

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

ARC. The Authority's decision, the evidence taken into account and its evaluation

III.1. In accordance with the contents of the application, the Authority examined whether the Applicant whether the Applicant in the KRÉTA system fulfilled the Applicant's access request 2020/2021. data relating to the overwriting and modification of the semester history mark of the academic year tangentially.

IV.1. Establishing the procedural rights of the Representative

The Authority first examined the Representative's procedural rights in the requested case.

Based on the definitions of the general data protection regulation, the child is a subject the grade as data for the child's academic assessment is personal to the child

data, and any operation performed on the data is considered data management. So the  
the child's information is the grade for the given subject in the semester notice  
was evaluated, and this data does not change in the basic case. In this case, the data has changed, i.e. a  
amended or overwritten at a time other than the issue of the semi-annual notice, the Authority  
according to his point of view, the data processing operation that causes the discrepancy between the two data also affects the  
child  
is considered relevant information.

Infotv. Section 60 (2) and Article 77 (1) of the General Data Protection Regulation  
due to the violation of their rights contained in the general data protection regulation  
they can request the initiation of official data protection proceedings.

With regard to the personal data of the minor child, the parent does not qualify as such  
pursuant to Article 4, point 1 of the General Data Protection Regulation, to the data subject.

At the same time, the parent can submit it on behalf of the minor concerned  
request to the data controller. To the Authority to conduct official data protection proceedings  
the data subject, the person involved in the data management - in the case of a child, also submits a request  
representative - can submit.

The Civil Code § 2:43 point e) refers to the protection of personal data as a personal right. THE  
Ptk. 2:54 a.m. According to § (1), personal rights can be asserted personally,  
which can therefore be exercised by the person concerned, or the Civil Code. 2:14 a.m. on behalf of the minor pursuant to §  
the legal representative can act, so it is for the child's data - the general data protection  
he also exercises the right of access detailed in Article 15 of the Decree. Legal minor  
representative in the case of parents, Civil Code 4:161. pursuant to §, the parent exercising parental supervision. THE  
In the case of the concept of parent, GDPR uses the practitioner of parental supervision.

Data protection

checking its legality, as required by the general data protection  
access in its institutional system

its function is data management

(63)

decree

law

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its preamble explains, so that the data subject is sure that his data

whether it is being processed, and in doing so, check the conditions of data processing. THE

regarding the purpose of the right of access, Kúria Kf.VI.39.065/2020/5 issued on June 10, 2020. s.

decision also confirmed this argument: Paragraph (63) of the preamble of the GDPR

pursuant to which the data subject is entitled to access the data collected about him,

as well as for the legality of data processing simply and at reasonable intervals

exercise this right in order to establish and control. The essence of the right of access is the above

based on provisions, therefore, the data subject is about the processing of his personal data

receive information in order to establish and check the legality of data management.

In the details of the data subject's request for access to his personal data,

he is not obliged to give reasons regarding his basis, but this must be clearly stated in the application

it should be clear that the data subject's purpose is to exercise his right to access, that is

information in order to establish and check the legality of data management.

As a legal representative, the Representative wanted to act on behalf of the minor child

stakeholder right, so acting on behalf of the minor, he wanted to access the grade as a stakeholder

for information on overwriting and deleting the grade related to its management a

Article 15 (1) GDPR

on the basis of reservations. The purpose of this is data management

it was a determination of its legality, data on the child's subject evaluation

information regarding the fact of its modification (overwriting, deletion) and its time

through He proved his right of representation before the Authority with the child's birth certificate.

The Authority established the Representative's right to represent the Applicant enforcement of data subject rights, as well as the related data protection official procedure regarding his initiative.

#### IV.2. Determining the identity of the data controller

Based on the above, the Applicant's subject grade as the child's evaluation relevant data is personal data, any operation performed on personal data is considered data management. Thus, the recording of the given grade is considered data management, modification, overwriting, deletion.

And the data controller according to Article 4, point 7 of the General Data Protection Regulation, who is there has substantive decision-making authority as defined - the purpose of data management and its means may also be defined by member state law - and at the same time it bears responsibility for the fulfillment of legal obligations related to data management. So, among other things, it is the data controller must satisfy the data subject's demand for the exercise of rights [general data protection decree 12-23 article].

The public education institution collects the data on the student's assessment in accordance with the domestic law, Nkt. Section 41

The data relating to the student's evaluation is managed on the basis of paragraph (4) point e) subpoint eb). the institution is considered a data controller.

In this case, the electronic record of the evaluation data is the KRÉTA system is done through 20/2012. (VIII. 31.) EMMI decree for public education institutions designates it as a mandatory form, prescribes the use of the class diary. THE no regulations regarding the design, form, and content of the form contains, does not legal obstacle to being electronic a class diary should be introduced. Nkt. A system in accordance with § 57, paragraph (6). the Public Education Registration and Study Basic System - CRETE.



therefore public education

The public education institution that manages the data evaluates the child's academic performance with a grade form and records the given grade in the electronic diary. This investigation

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as indicated

data managed in the system

in the case of the conditions set out in the conceptual definition of the data controller, the Requested corresponds, because he recorded the Applicant's grade in the electronic diary, and then modified at a different time, in accordance with the data subject's access request he is also responsible for its performance.

According to the General Data Protection Regulation, a data processor is someone who acts on behalf of the data controller manages personal data, but the data management itself has substantive decision-making rights does not provide regarding

The operator of the KRÉTA system is eKRÉTA Informatikai Zrt. (1111 Budapest Budafoki u.

59.) a

as determined by the Authority

qualifies as a data processor, as its task is to provide the referenced information and <https://ekretazrt.hu/> website

development and

product support.

THE

-

<https://tudasbazis.ekreta.hu/pages/viewpage.action?pageId=4064926> - according to data controller public education institution.

"The Data Controller is the 2011 CXC on national public education. law (hereinafter:

Nkt.), and Act XXXIII of 1992 on the legal status of public employees. pursuant to law

in all cases the institution." [...] "Data management activities of eKRÉTA Informatikai Zrt

does not perform, its task is to develop and support the operation of the KRÉTA system."

In this case, the Authority considers that the joint data controller status is contingent - the maintainer and the

in view of the role of the ministry responsible for public education - it did not examine its existence, because

the Respondent as a public education institution is definitely considered a data controller. THE CRETE

recognized in the system's issues related to data management - detailed below -

the Authority draws the legislator's attention to problems by means of a recommendation.

also parameterization of the KÉRETA system,

information sheet

data protection

publicly

system

available

CHALK

#### IV.3. Handling the access request

The Applicant requested access to the data recorded in the electronic log

Before the applicant.

The Applicant submitted his application, which is considered an access request, on June 24, 2021

before, for which the data manager is required by Article 12 (3) of the General Data Protection Regulation

on the basis of which a one-month response deadline was open, as well as the fulfillment of the request

he had to provide information about the reason for his absence according to paragraph (4).

The Respondent responded to the request on that day, June 24, 2021, which contained the

a copy of the data that the Respondent had at the given time, so that

the date on which a given grade was recorded or on which day it was recorded. Not given

information about who changed the grade and at what time, because

according to his statement, he did not have this information at the time of completing the request.

Attached to the application and obtained in the evidentiary procedure, originating from a different source all documents unanimously certify that requested by the Applicant additional information - who modified the disputed ticket and on what date - the Applicant a at the time of submitting an access request to it, it did not manage it did not have access, so the access request for this data is his own he could not fulfill within his competence.

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The Requested asks the customer service of the data processor eKRÉTA Informatikai Zrt instituted in order to provide the requested information and fulfill the access request -

"is it possible to see somewhere how many times a ticket is overwritten by the teacher. At the moment we only see (about this we know), when was the last time you entered it", and then from the data processor on June 29, 2021 that received the answer that this data cannot be extracted from the system - "The marks no information about its modification or its date can be obtained from the system."

Based on all this, it was established that the submission of the access request on June 24, 2021, the Respondent did not manage information regarding to which the access request was directed.

According to Article 15 (1) of the General Data Protection Regulation, the data controller shall you must provide access to data that is under your control at the time of the request, which data processing is "in progress".

The requested data, the information regarding the overwriting or cancellation of the ticket, is provided by the system operator According to the information of the customer service of eKRÉTA Informatikai Zrt. on June 29, 2021, the nor was it in the management of the data processor.

The applicant's maintainer and eKRÉTA Informatikai Zrt. October 6, 2021 and October 2021

It is clear from the correspondence between 19 October 2021 that the data processor provided the requested information provided on the 19th, so it was established that the data processor on June 29, 2021, the

The information given to the respondent did not correspond to reality. In the same way, he did not meet the

given to eKRÉTA Informatikai Zrt for the Representative on July 1, 2021 as a reality nor information according to which the requested diary data is handled by the public education institution can make it available to them, since the document sent to the maintainer on October 19, 2021 according to the letter, only the data processor could provide these data.

Since the Requested Data Controller has access to the data affected by the access request it was not handled at the time of submission of the request, in order to fulfill it, the data processor took measures within the set deadline, and then the information received

based on which he was aware that it was not possible to provide the requested data, thereby a

The request for access did not violate the General Data Protection Regulation requirements for its fulfillment, so this part of the Applicant's request is rejected cost.

The Requested person submits the access request with regard to the data available to him within the deadline set in the general data protection regulation - in fact, the request on the day of submission - fulfilled. With regard to additional data, the data processor asked for his cooperation, and due to his negative answer, the request was not further fulfilled saw it as enforceable, and informed the Representative about it. The position of the Authority in this regard according to the Applicant is not charged with negligence either - as long as he is aware of it and received it according to information requested information cannot be extracted from the system, additional no action was justified.

During the subsequent procedure, the maintainer received the requested data after being the first received a response from the data processor with content that contained the information in question did not contain it in accordance with reality, so the fulfillment of the access request is what is requested in terms of information, the maintenance and data processing procedures were not mature either can be said to be practice, which also reduces the responsibility of the Respondent.

#### IV.4. Cooperation of the data processor

According to the revealed facts and the testimony of the attached documents, the operator of the system

the information provided by the company and the public administrative body providing supervision was also not the same

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in terms of how access to the requested data can be provided. The

According to EMMI's information dated August 10, 2021, KRÉTA is the operator of the system

eKRÉTA Informatikai Zrt. provides information on the requested data at the request of the maintainer, while

based on the operator's statement dated December 15, 2021, the public education institution,

and its maintainer can also request the provision of data from the log files

concerning which, with access to files, the operator eKRÉTA Informatikai Zrt.

has

The latter is considered a practice in accordance with the General Data Protection Regulation, as it is

it is the responsibility of the data controller - and not the data controller - to validate the data subject's requests,

the fulfillment of this request by the data processor pursuant to point e) of Article 28 (3).

helps.

In the case of using a data processor, according to Article 28 of the General Data Protection Regulation

in accordance with the terms of the agreement, on the way to ensure the exercise of the rights of the affected parties

must also be addressed.

According to the facts revealed in this case, due to the form of training provided by him, the Respondent

was obliged to use the eKRÉTA system, but not to use the system

does not have a relevant contract - not even individually to conclude such a contract

was obliged, because the Zrt had a public procurement contract with the NSZFH for the use of the system

he was entitled as part of his contract concluded through - nor with a data processing contract.

It is clear from the application and the correspondence establishing it that the Applicant

he primarily criticized the Respondent's procedure, according to the Respondent's assumption

"manipulated" the grade data in the KÉRTA system and its procedure

was aimed at revealing and verifying before the Respondent.

This suggestion was not substantiated, the Authority found that the Applicant is the applicant

did not commit a violation of law during its performance, did not handle the data affected by the access, about he could not provide information and the measures that can be expected to fulfill the request he did. The Respondent did not provide the data affected by the access because he wanted any "manipulation" or potentially controversial action he had taken to cover it up, but because the requested data was not actually in its management, and it is information did not come into his possession even after the measures taken to obtain it.

For this reason - since the subject of the procedure was the data management of the Respondent, but it was not is the subject of the system-level problems of the CHART system investigation - the Authority is

did not involve a data processor in this procedure, and no measures were taken regarding its practice does not make a demanding statement. At the same time, due to the known practice of eKRÉTA Zrt. according to which Zrt. only allows access to the data stored in its system for long and after contradictory statements, it was provided by the maintainer, and not by him data controller

responsible state body, a

He uses the above-mentioned recommendation to the Ministry of the Interior, and it has been brought to the attention of the legislator

points out shortcomings. It must be clarified that during the exercise of stakeholder rights - a regardless of the form of storage - the task of the data management institution is to ensure the data subject exercise of rights, not of the maintainer, the data processor must provide assistance for this, and this a contract or other legal act according to Article 28 of the General Data Protection Regulation must regulate.

#### IV.5. Assessment of the Applicant's additional requests

Additional requests made by the Applicant, according to which the Authority is general points b), d), h) of Article 58 (2) of the Data Protection Regulation - and by the Applicant are detailed - act according to them, they do not qualify as stakeholder requests, so they apply to this

institution, the Authority for Public Education

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an application procedure cannot be continued either. The data manager's general data management practice is a

The applicant's right or legitimate interest is not directly affected, for him the Authority is such

his decision does not give rise to rights or obligations, and therefore - the public interest

with respect to the procedure within the scope of its enforcement, the Applicant is not considered a customer

Acr. Based on paragraph (1) of § 10, and - since the Ákr. It does not comply with paragraph (1) of § 35

and, in this regard, there is no place to submit an application.

In view of the above, the Authority in the part of the application aimed at this general practice a

rejected the request.

#### V. Rules of procedure

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

covers the entire territory of the country.

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

Based on § 82, paragraph (1), it becomes final upon its publication. The Acr. Section 112, Section 116 (1)

paragraph, and on the basis of § 114, paragraph (1), a public administrative lawsuit against the decision

there is room for legal redress.

Given that the Authority exceeded Infotv. Administrative according to paragraph (1) of § 60/A

deadline, Art. Based on point b) of § 51, HUF 10,000, i.e. ten thousand forints, is due to the

Applicant - according to his choice - by bank transfer or postal order.

\* \* \*

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. Section 13 (3)

Based on subparagraph a) point aa), the Metropolitan Court is exclusively competent. The Kp.

Pursuant to § 27, paragraph (1) point b) in a lawsuit within the jurisdiction of the court, the legal

representation is mandatory. The Kp. According to paragraph (6) of § 39, the submission of the statement of claim a  
does not have the effect of postponing the entry into force of an administrative act.

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. According to Section 9 (1) point b) of the Act, the client's legal representative is electronic  
obliged to maintain contact.

The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). THE  
information on the possibility of a request to hold a hearing in Kp. Section 77 (1)-(2)

based on paragraph The amount of the administrative lawsuit fee is determined by the 1990 Law on Fees

XCIII. Act (hereinafter: Itv.) 45/A. Section (1) defines. The fee is in advance

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

Dated: Budapest, September 22, 2022.

Dr. Attila Péterfalvi

president

c. professor