

Case number: NAIH / 2020/2204/8.

Subject: Own-initiative decision

procedure

DECISION

The National Authority for Data Protection and Freedom of Information ("the Authority") is Deichmann

Shoe Trading Limited Liability Company (registered office 1134 Budapest, Kassák Lajos utca

19-25, company registration number: 0109693582; hereinafter referred to as the Debtor or the Company) - May 25, 2018.

For the period from 1 March to 3 March 2020,

in the General Data Protection Regulation¹

ex officio data protection authority to verify compliance with the requirements set out in

make the following decisions in the proceedings .:

1.

The Authority finds that in dealing with the applications submitted by [...], the Debtor shall:

(a) infringed the rules on the right of access in Article 15 (1) of the Regulation

containing provisions

(b) has infringed Article 18 (1) (c) of the Regulation to restrict data processing

containing the rules of the law of the

(c) infringed Article 12 (4) of the Regulation.

2.

The Authority shall establish the May 25, 2018 and

the illegality of its procedure in force between 1 August 2006 in so far as it did not do so

appropriate technical and organizational measures to enable camera data management

related data should be ensured in accordance with the provisions of the General Data Protection Regulation.

3.

The Authority notes the 26 November 2019

the illegality of its procedure in force between 3 and 3 March 2020 in so far as it does not

has taken appropriate technical and organizational measures to enable camera data management

related rights, in particular the right of access and the processing of data

exercise of the right to restrict - provided for in the General Data Protection Regulation

be.

4.

The Authority shall notify the Debtor of the infringements found in points 1, 2 and 3 during the period under review.

within 30 days of the date on which this Decision becomes final

HUF 20,000,000, ie HUF twenty million

data protection fine

obliges to pay.

The measures taken by the Debtor shall govern the initiation of judicial review

shall inform the Authority within 30 days of the expiry of the time limit for bringing proceedings.

The fine shall be imposed by the Authority on centralized revenue within 30 days of the decision becoming final

direct debit forint account (10032000-01040425-00000000 Centralized collection account

IBAN: HU83 1003 2000 0104 0425 0000 0000). When transferring the amount, NAIH / 2020 /

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with

regard to the processing of personal data

and on the free movement of such data and repealing Regulation (EC) No 95/46 (General Data Protection Regulation or

GDPR or Regulation)

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2204/8. JUDGE. number should be referred to.

If the Debtor fails to meet its obligation to pay the fine within the time limit, he shall be liable for a penalty payment.

to pay. The amount of the late payment allowance is the statutory interest, which is the first of the calendar semester affected

by the delay

equal to the central bank base rate valid on Non - payment of fines and penalties for late payment

In that case, the Authority shall order the enforcement of the decision.

recovery.

There shall be no administrative appeal against this decision, but it shall be subject to a right of appeal within 30 days of its notification

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

The application shall be submitted to the Authority, electronically, which shall forward it together with the case - file to the court. The request to hold a hearing must be indicated in the application. The whole personal

The fee for the court review procedure for non-exempt persons is HUF 30,000, the subject matter of the lawsuit

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

The Authority shall include the decision on the website with the identification of the Debtor involved in the proceedings as a client [...].

(hereinafter referred to as the "Customer").

EXPLANATORY STATEMENT

I.

Procedure and clarification of the facts

I.1. History, notification to the Authority

The National Data Protection and Freedom of Information Authority (hereinafter: the Authority) received and

NAIH / 2019/2507. In the notification filed under case number, the Client submitted that on 26 May 2018 a

He bought in the obligatory shop of Kaposvár (7400 Kaposvár, Achim András utca 4; hereinafter: the Shop) in the value of HUF nine thousand nine hundred and ninety

returning. He also stated that he later noticed that he had paid with twenty thousand forints banknotes, the block

According to

On 29 May 2018, the Customer lodged a complaint, about which - on the objection of consumer quality -

minutes were recorded. The record states that the notifier was informed of his complaint can do to the police.

In a letter addressed to the Company on May 29, 2018, the Client described in detail the

events, and then made a request to the Company to view the

or requested that the camera not be deleted until

the objected case has not been verified. The Applicant has also informed the Company that - the Business is past

on his advice - he also approached the police, who recommended that he contact the Society.

The Company responded to the Customer's request dated May 29, 2018 on June 19, 2018. THE

in a reply letter informing him that camera recording was only for the police - official police

upon request - they can issue it, they can turn to the Somogy County Police Headquarters with a legal remedy.

On May 30, 2018, the Customer also entered his "complaint" in the customer's book in the Store. E

document contains the applicant's request that "on 26 May 2018 (5:14 p.m.

saved by the company's management ', as this is the only evidence

you need admission to validate your additional needs. The Store in connection with the application it

the remark stated that "At the closing of the current day's cash register, the cash surplus and cash surplus are not

generated '.

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On June 25, 2018, the Client filed a police report against an unknown perpetrator, however, the police

during the procedure, the camera was no longer available at the time of the request.

The Authority has instructed the Client on the types of proceedings that can be initiated at the Authority and these

the manner and conditions for initiating an investigation by the Authority after training

did not submit a request for an official procedure.

I.2. Official control initiated ex officio

I.2.1. In view of the above, the Authority considered it appropriate to initiate an ex officio official inspection of it

in order to check whether the Company complies with the data management practices applied by it

requirements of the General Data Protection Regulation. Official inspection on 12 December 2019

started NAIH / 2019/8543. case number. During the official inspection, the Authority found that:

The company operated cameras extensively in all 129 stores across the country

period.

During the official inspection, the Company stated that there was only one during the period under review a request has been received from the data subject "in this regard" (ie in relation to access to camera recordings) a To the company. The access right was not handled by a central instruction but by a faulty individual caused by a decision which, in the opinion of the Company, is an internal regulation in accordance with the regulation its absence at that time: when the decree became applicable, on 25 May 2018, the Company had not yet done so had no internal data management regulations for camera recordings, so it was not regulating, inter alia, the way in which applications from the data subject are to be handled.

The Company itself acknowledged that it did not comply with the Regulation processing of the data subject's request received during the investigation period.

The Company has identified the need to regulate surveillance systems used in stores therefore from 18 June to 1 August 2018 in all its stores made the decision to turn off the camera system until the appropriate controls were in place prepare.

The Company 's regulations for the electronic monitoring system (hereinafter: the Regulations) 2019. adopted on 26 November 2006, which contains, inter alia, detailed instructions on how to how to handle requests for access to camera recordings. From this day the Company again recorded the camera footage, which it stores for 7 days.

I.2.2. In this connection, the Regulations state that "A person whose right or legitimate interest the recording of the image affects, you may, by proving your right or legitimate interest, request that the recording be not be destroyed or deleted by the controller until requested to do so by a court or authority, but not later than 30 napra. The data subject may also request that the controller inform him or her in writing of what can be seen in the recording containing him. The data subject can only receive a copy of a recording on which another person has it not or only in an unrecognizable way. If the above cannot be met, the data controller will provide it for the data subject to view the recording that contains him or her. Review camera shots can only be performed at the headquarters of Deichmann Cipőkereskedelmi Kft

the auditor and other staff entrusted with technical tasks by the administrator may be present. "

The Regulations also state that applications must be addressed to the registered office of the Company or to the
can be delivered to the e-mail address adatvedelem@deichmann.com, which the Company will receive upon receipt of the
application.

examine and provide information on the measures taken within one month.

The Code also provides information that you can assert your rights before the court concerned, and a

You can also file a complaint with an authority.

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I.3. Official proceedings initiated ex officio

I.3.1. Given that the information revealed during the official inspection, the Authority stated that
it is probable that the Company has violated the provisions of the General Data Protection Regulation, 2020.

On 4 March, it decided ex officio to initiate official data protection proceedings.

The official procedure was aimed at examining whether the Company was general during the period under review
whether the data subject has received or received the data subject's requests in accordance with the Data Protection
Regulation

compliance with the general data protection regulation
included.

Although the Authority, following the alleged infringement found in the notification,
the Company reported on its general practice in managing rights, the Company reported
that it had received a single application from the data subject during the period considered. Because it affected the Company
in this way

the identity of the person exercising his rights, ie the Client, has become identifiable and the Authority, as

The company claimed that there was no such claim - the findings were specific to it

you can do it. In view of this, the Authority involved the Client as a client on 4 June 2020

dated, NAIH / 2020/2204/6. in order no.

I.3.2. During the official proceedings, the Debtor stated that it had received inquiries from customers

the following records are maintained: Conciliation Board inquiries (4-500 inquiries per year), letters of complaint received by e-mail (1192 letters at the time of the Debtor's letter of 24 March), customer book. On the basis of the Debtor's statement, the Authority found that during the period under review the Debtor has not kept separate records on the data protection subject of the exercise of the data subject's rights inquiries.

The Debtor stated that between 25 May and 1 August 2018, the cameras recorded the image, between August 1, 2018 and November 26, 2019, the monitors showed a mere live image, and then From November 26, 2019, the recording of camera recordings resumed.

The Debtor sent a letter dated 15 June 2018 entitled "33. circular ", which circular 5.4. contains the Debtor 's decision to operate the cameras in all shop shut down.

In the first period (May 25-August 1, 2018) in the vicinity of the entrance and inside the store stickers provided information on the fact of camera data management. According to the submitted Annex 2 / A a information was provided with the following text: "Camera-monitored area. The recording is for recording costs. "

In the second period (August 1, 2018 to November 26, 2019) on viable observation also a glued stickers provided information. A 2 / C. The following wording has been added in accordance with Annex "Camera-monitored area". Section 3.3.1 of the Annex provided guidance on what to do stickers must be placed on the doors. A 3.3.1. to place the "Camera Monitored Area" sticker he was instructed that this sticker should only be placed in stores where the camera records.

In the third period (from 26 November 2019), the information will be displayed on the shop and mirror. it happened with stickers. In addition, the Debtor provided information to its employees on the special a also in the data management information prepared for them.

I.3.3. On December 20, 2019, the Company sent it to all stores, area managers, decorators and Circular No. 66 to the Helpdesk. In Circular 66, the Company expressly requested the employees to

to read the information on camera data management in addition to the information for employees a version for customers, so that they know what permissions customers have when retrieving camera recordings.

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I.3.4. The Debtor further submitted that the Authority take the following facts as mitigating taken into account as a circumstance: the Debtor ordered the data processing after recognizing the infringing condition elimination; On November 26, 2019, the Electronic Surveillance System was adopted regulations; only one stakeholder application was received during the period considered; privacy the transformation of data management practices with the involvement of legal professionals is under way; the notifier is so tried to compensate for the fact that he had been offered thirty thousand forints, which the applicant did not accept. el.

II. Applicable law

Infotv. Pursuant to Section 2 (1), the scope of this Act - with regard to personal data as defined in paragraph 1, covers all processing of personal data and data of public interest or public data in the public interest.

Infotv. Pursuant to Section 2 (2) of Regulation (EU) 2016/679 of the European Parliament and of the Council (hereinafter referred to as the General Data Protection Regulation)

the Data Protection Regulation in Annexes III-V. and VI / A. Chapter 3 and Sections 3, 4, 6, 11, 12, 13, 16, 17, 21, 23-24. Section 4 (5), Section 5 (3) to (5), (7) and (8), Section 13 (2)

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

paragraph 25 / M. § (2), 25 / N. §, 51 / A. § (1), Articles 52-54. § 55 (1) - (2), 56-60. §, 60 / A. § (1) - (3) and (6), § 61 (1) paragraph 61 (a) and (c), Section 61 (2) and (3), paragraph (4) (b) and paragraphs (6) to (10) paragraphs 62 to 71. §, § 72, § 75 (1) - (5), 75 / A. § and 1.

shall apply with the additions set out in Annex I.

Infotv. Pursuant to Section 60 (1), in order to enforce the right to the protection of personal data the Authority may initiate ex officio data protection proceedings.

According to recital 171 of the General Data Protection Regulation, the application of this Regulation within two years of the entry into force of this Regulation should be brought into line with this Regulation. If the processing is based on consent under Directive 95/46 / EC and the data subject has given his or her consent in accordance with the conditions laid down in this Regulation re-apply for the consent of the data subject in order for the controller to apply the date of application of this Regulation you can continue to manage your data afterwards. Decisions taken by the Commission under Directive 95/46 / EC and authorizations issued by the supervisory authorities shall remain valid until they shall not be amended, replaced or repealed.

Pursuant to Article 2 (1) of the General Data Protection Regulation, this Regulation applies to personal data automated processing of data, in whole or in part, and their personal data non-automated processing of data which are part of a registration system which are intended to be part of a registration system.

The processing of personal data pursuant to Article 5 (1) (a) of the General Data Protection Regulation be carried out lawfully and fairly and in a manner which is transparent to the data subject ('legality, fair procedure and transparency ").

Pursuant to Article 12 (1) of the General Data Protection Regulation, the controller is appropriate take measures to ensure that the data subject all the information referred to in Articles 13 and 14 and Articles 15 to 22. and Article 34 information in a concise, transparent, comprehensible and easily accessible form, in a clear and comprehensible manner particularly in the case of any information addressed to children. The information shall be provided in writing or by other means, including, where appropriate, by electronic means. The Oral information may be provided at the request of the data subject, provided that the data subject has otherwise provided evidence identity.

Pursuant to Article 12 (4) of the General Data Protection Regulation, if the controller does not do so

measures at the request of the data subject, without delay but at the latest upon receipt of the request inform the person concerned of the reasons for not taking action within one month of that the person concerned may lodge a complaint with a supervisory authority and have recourse to the courts. Information pursuant to Articles 13 and 14 pursuant to Article 12 (5) of the General Data Protection Regulation and 15-22. The information and action provided for in Articles 1 and 34 shall be provided free of charge. If concerned request is manifestly unfounded or, in particular due to its repetitive nature, excessive, the controller, the provision of the requested information or information or the taking of the requested action administrative costs:

Pursuant to Article 13 (2) (b) of the General Data Protection Regulation, the controller (...) is personal at the time of data acquisition, in order to ensure fair and transparent data management inform the data subject of his or her right to request from the controller access, rectification, erasure or processing of personal data relating to and may object to the processing of such personal data and to the data subject the right to data portability.

Pursuant to Article 15 (1) of the General Data Protection Regulation, the data subject is entitled to: receive feedback from the data controller that your personal data is being processed and if such processing is in progress, the right to have access to personal data (...) access.

Pursuant to Article 15 (3) of the General Data Protection Regulation, the controller is the subject of the processing provide the data subject with a copy of the personal data Additional requested by the data subject for copies, the controller may charge a reasonable fee based on administrative costs.

If the data subject submitted the application electronically, the information was widely used shall be provided in electronic format, unless otherwise requested by the data subject.

The copy referred to in paragraph 3 pursuant to Article 15 (4) of the General Data Protection Regulation the right to claim must not adversely affect the rights and freedoms of others.

Pursuant to Article 18 (1) (c) of the General Data Protection Regulation, the data subject is entitled to:

at the request of the data controller, the data processing shall be restricted if the data controller no longer needs the personal data

data for data processing purposes, but the data subject requests them in order to submit legal claims, to enforce or protect.

Pursuant to Article 24 (1) of the General Data Protection Regulation, the controller is the nature of the processing, the scope, circumstances and purposes of the Convention and the rights and freedoms of natural persons, appropriate technical and organizational measures taking into account the varying probability and severity of the risk take measures to ensure and demonstrate that the processing of personal data e in accordance with this Regulation. These measures shall be reviewed by the controller and, if necessary, it updates.

Pursuant to Article 24 (2) of the General Data Protection Regulation, if it is a data processing activity as part of the measures referred to in paragraph 1 it also applies internal data protection rules.

Pursuant to Article 25 (1) of the General Data Protection Regulation, the controller is a science and technology the nature, scope, circumstances and purposes of the data processing, and the rights and freedoms of natural persons taking into account the severity of the risk, both when determining the way in which the data are to be processed and it shall take appropriate technical and organizational measures, such as pseudonymisation, in the course of data processing implemented, on the one hand, the principles of data protection, such as data protection, are effective

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the requirements of this Regulation and the rights of data subjects

Incorporate the necessary safeguards into the data management process.

According to recital 78 of the General Data Protection Regulation, natural persons

the protection of their rights and freedoms with regard to the processing of their personal data requires

appropriate technical and organizational measures to ensure that the requirements of this Regulation are met

making. In order for the controller to be able to demonstrate compliance with this Regulation, it shall be internal

apply the rules and implement measures that comply

in particular the principles of privacy by design and default.

Infotv. In its decision made in the data protection authority proceedings pursuant to Section 61 (1) (a)

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

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

Pursuant to Article 58 (2) (b), (d) and (i) of the General Data Protection Regulation, the supervisory authority

condemns the controller or processor, acting in his or her capacity to rectify data, if he or she is a data controller

infringed the provisions of the Regulation or administrative proceedings in accordance with Article 83

shall impose fines on the measures referred to in this paragraph, depending on the circumstances of the case

in addition to or instead of them.

Pursuant to Article 83 (5) of the General Data Protection Regulation, the principles of data processing, including

Articles 5, 6, 7 and 9 of the General Data Protection Regulation

in accordance with Article 83 (2), a maximum of EUR 20 000 000

or, in the case of undertakings, the full financial year of the previous financial year

up to 4% of its worldwide turnover, with the higher of the two

an amount shall be charged.

III. Decision:

The General Data Protection Regulation shall apply from 25 May 2018, ie on 26 May 2018

applications submitted in the following days

should be used.

However, the Regulation already entered into force on 27 April 2016 and recital 171

for data processing started before the date of application of this Regulation

The data protection rules provided for a "grace period" of two years from the date of entry into force of this Regulation

to comply with this Regulation.

Although the period under review does not cover data processing prior to 25 May 2018, the Authority

notes that the data protection rules also ensure that the data subject is exercised during this period

was of paramount importance: the right of the data subject to information was also recorded and the practice of the Authority that right also included the right of access to the camera recordings concerned and the right to block them

The data processing regulated in the GDPR was a similar legal institution in terms of the content of the right to the way in which the applicant's applications had to be handled had to be known

should have been before the Company.

III.1. Handling Customer Requests

As the Company reported that it received only one interested party during the period considered, and thus the identity of the person exercising his / her rights with the Company has become identifiable, the Authority a Findings received by the Company regarding the handling of the affected application specifically to the Client in respect of which it does so.

III.1.1. The Customer's request addressed to the Company on May 29, 2018 stated that it wished view the named camera image, which is an application under Article 15 (1) of the Regulation

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shall constitute a request for access on the basis of which the Company has access to personal data would have been obliged to ensure that the Client had access to the recordings made about him.

It appears from the Company's letter replied on June 19, 2018 that the Company has informed about it the Customer to have camera footage only available to the police upon official police inquiry may appeal to the Somogy County Police Headquarters.

The Authority notes, first of all, that the camera footage of a data controller is not limited to the police but, in addition, it is otherwise required to provide any information court or authority, in accordance with Article 15 (3) of the GDPR it must give a person access to the part of the recording in which that person is person is listed.

However, Customer did not request the original camera footage or a copy thereof

From the Company, but to have access to the recorded recordings, while the Company is the recording

He did not recognize the difference between the need to view the recording and the need to release the recording, and he

ruled that

request as if the Customer had requested the release of the recording, although otherwise to view the recording and the right to issue a copy of the recording.

The Company therefore, in addition to not allowing access to the recorded camera footage, does not neither the fact of refusal of access nor the reasons for refusal of access information.

Based on the above, the Authority has determined that although the Company has a GDPR of one month responded within the time limit to the Client's request for the exercise of the right concerned, did not state the reasons therefor; why he is not allowed access to the recordings or the exercise of the rights of the data subject denied it on appropriate grounds, so that the handling of the Customer 's right of access did not comply with the Article 15 (1) of the GDPR.

If a data controller refuses to comply with the data subject's request, ie as a result does not take any action, so in the present case, if the Company decides to do so for the Customer does not grant him access to the camera footage taken of him, the GDPR

Article 12 (4) requires him to inform him, in addition to the reasons for the refusal, that: that he can lodge a complaint with a supervisory authority (in this case the Authority) and live with the right to go to court.

Information on the right to a remedy is particularly important in the management of data subjects' rights, whereas a person less familiar with data protection law is not necessarily aware of it by which authority to turn to in the event of a restriction, in the absence of such knowledge the violation or restriction of rights that may have befallen him or her will remain unresolved. This is borne out by the fact that in the present case a nor was the notifier aware that his application concerned a data subject which may be challenged before the Authority. By the time the notifier is right he became aware of the Remedies Forum, so long before it was made about it the Company no longer had the camera, so the Authority could not oblige the Company to

to satisfy the data subject's request.

Based on the above, the Authority has determined that in refusing the Client 's request for access, the Company has not acted pursuant to Article 12 (4) of the GDPR, so the Customer's request for access did not comply with GDPR requirements.

III.1.2. The Customer's request dated May 29, 2018 also includes the camera recording until then do not delete it until the case he or she objects to has been verified. The Customer is dated May 30, 2018 application states in more detail that 'the camera recording of 26 May 2018 (taken at 5:14 pm) save the management of the company "because this is the only evidence and additional needs of the applicant you need the recording to validate.

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Pursuant to Article 18 (1) (c) of the Regulation, any interested party who, in order to bring a legal action, in order to validate or protect the personal data processed about him, he is entitled to at the request of the controller, the data shall not be "deleted", even if the controller, otherwise beyond a specified retention period - you no longer need personal data for data processing for the purpose of

Without restrictions on data processing, it could be a common situation when you want your data subject's legal needs enforce (e.g., file a complaint with the police or initiate court proceedings), and the commencement

If the acting body requests the camera recording required for the proof, the data would no longer be available at the disposal of the data controller, as the retention period required for the purpose of data processing is already in place letelne. This is also confirmed by the case of the Client, when - on the advice of the Company - he made a police report, however, when the proceedings have reached the stage where the police request the named recording, the Company - as the Customer's request was not taken into account - had already canceled it, so the police The applicant's allegations and the contrary were not substantiated in the proceedings.

Enforcing the right to restrict data processing may be particularly important in a business premises in the case of an operated camera system where money is managed, as both the buyer and the seller

There may be a need to use the recording in the proceedings if they are unaware of a contentious situation

to decide. Without the availability of recordings, both parties may be harmed, as only the camera recording it is possible to prove the amount paid by the buyer and the amount paid by the seller taken over, so the seller may not return it properly to the buyer, so there may be a shortage in the cash register, or the buyer pays more money for the product than it would actually cost.

It is clear from the reply to the request, both on 29 May and 30 May 2018, that the Company to "save the recordings" or "do not delete them until checked", he did not react in any way.

In response to a letter dated May 29, the Company only stated that the camera recording was only police have the opportunity to hand it over, however, it did not elaborate on the obstacle to the recordings the fact that the recordings are not kept beyond the normal retention period, also did not provide information to the Customer, but clearly refused to comply with the request, as he no longer had the recordings during the police proceedings.

In its reply to the letter dated 30 May, the Company also did not explain why it did not retain the recordings beyond the normal retention period and did not provide information on the refusal nor, merely, that "no cash flow surplus or cash was generated at the close of the day's cash register".

Based on the above, the Authority has determined that the Company is restricting the processing of the Customer's data infringed Article 12 (4) and Article 18 (1) of the GDPR in the handling of its application (c).

III.2. The data management practice of the Debtor between 25 May and 1 August 2018

Although the Company identified only one stakeholder application during the period under review, the Authority the statement was not accepted, as it was the conclusion based on the handling of the only known request that the Company did not recognize, prior to the opening of the Authority's proceedings, that the application is subject to data protection, which is covered by Annex III of the GDPR. the exercise of the rights of data subjects under Chapter

III.2.1. On May 29, 2018, the employee filed a consumer protection complaint in the Kaposvár store a application because it did not detect that the application was subject to data protection. The consumer complaint is being filed

according to the minutes, the acting employee also consulted with the sales department, where they also did not know identify the affected application: the sales department also suggested that the Customer do report.

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On May 30, 2018, an employee working in the Kaposvár store registered the application in the customer's book. with the Client, who has also not noticed that the application qualifies as an exercise of rights. Nor could the customer service assistant, who was the Customer's by letter dated 18 June 2018 to the registered office of the Company or, if the senior official, as the addressee of the letter, himself, the request not even the senior official himself.

As the Company itself stated that the improper handling of the data subject's claim was due to that the Company has no data protection regulations at all regarding camera recordings during this period provided, the Company may have more than one known request for privacy However, as with the known application, they were not identified as a data protection complaint.

This is also confirmed by the fact that the Company kept a systematic record of incoming messages, but did not separate the data subject submissions concerning data protection, but the Customer - otherwise data protection as a consumer protection complaint and in the book of consumers has been recorded. The Company kept three different records of incoming submissions (Conciliation Board inquiries, e-mail complaints, customer book), but this does not mean that other data protection notices could not have been received by the Company as the notifier his application was also considered a complaint and an entry in the customers' book.

III.2.2. Article 24 of the GDPR contains the general obligations of the controller: based on this, the controller shall implement appropriate technical and organizational measures to ensure and demonstrate this to ensure that personal data are processed in accordance with the GDPR. If it is data management proportionate to the activity, the controller shall be required to comply as appropriate as part of these measures

also apply internal data protection rules.

Article 25 of the GDPR specifies the general obligations set out in Article 24: in this Article

The principle of regulated privacy by design and default explicitly requires that data subjects be involved

the guarantees necessary for the protection of the rights of the data controller should be integrated into the data processing process, ie

privacy considerations should be reflected in the design process and not in the established practice

the necessary measures should be taken.

All this means that the Company is already in the process of planning and developing camera data management - that is before installing the cameras - you should have brought them to the organizational or technical

measures that the GDPR III they can secure their rights under this chapter.

These measures include, on the one hand, internal procedures for the management of data subjects' rights

designating, inter alia, the person responsible for handling the data subject's requests; to form

the channels through which the Company can receive applications from stakeholders; where applicable, the Data Protection Officer

designation; to establish the rules for the exercise of the rights of the data subject (eg the Company is made in stores the right to access the camera in person, by post or electronically);

take appropriate data security measures; keep a register of data processing in accordance with Article 30.

The necessary measures also include appropriate information practices for those concerned

in which data subjects are informed about the fact of data management and most importantly

circumstances, including the rights to which they have access to the camera

and to whom and with what contact details they may make their requests

they may receive a reply within which time limit or, in the event of disagreement, to which body for redress.

Given that the Company has extensive coverage in the country, in all 129 of its stores

operated cameras during this period, the Authority considers that camera data management

proportionate expectation that the Company, in compliance with Article 24 (2) of the GDPR,

also apply appropriate internal data protection rules. The Company would have been needed in this area all its employees working with customers, in particular in the sales area and customer service staff - teaching you what to do with GDPR camera data management affected applications may occur, how to identify and distinguish these requests from others from submissions and complaints, how to handle these requests, which organizational within the Company these requests shall be forwarded to the unit.

Failure to take all of these measures has resulted in the Company not, as detailed above acknowledged that the only known request for access under Article 15 (1) of the GDPR was

It shall be deemed to be a request for restriction within the meaning of Article 18 (1) (c). This has led to the Company - despite repeated requests from the applicant - did not give the applicant access to the information about him camera recording and did not restrict it. Furthermore, the Company did not inform the notifier that appeal to the courts or the Authority, but erred in pointing out that the camera footage can only be issued to the police upon an official police request,

You can turn to the Somogy County Police Headquarters with a legal remedy.

Given that the Company during this period is the camera data management, so is the camera with regard to the exercise of data subjects' rights in relation to data processing infringed Article 25 (1) of the Regulation.

III.3. Evaluation of the Debtor's data management practices performed after 26 November 2019

Regulations governing the Company's data management practices during the operation of the camera system It was adopted on November 26, 2019, which includes, among other things, detailed instructions to that effect on how to deal with stakeholder requests related to camera recordings.

III.3.1. Rules for handling access requests

The Policy regulates three privileges for access to camera footage: a request written information about the events recorded on the camera, request a copy a view the camera image.

The Regulations restrict the right of the persons concerned to issue a copy, as the Company is this document

issue a copy of the recording to the data subject only if he or she is outside the data subject

no other person is listed. If the data subject requests the release of a recording which includes others,

you will only be able to view the contents of the recording if you get tired of the Company's headquarters

(To Budapest) and watch the recording there. The Company applies this practice despite the fact that a

Article 15 (3) of the GDPR clearly states that the controller is concerned

shall provide a copy of the recording to the data subject upon request: for the first time free of charge

this can be done by the data controller, while for other occasions you may be charged for making a copy.

Based on the above, the Company is therefore obliged to issue copies, during which - Article 15 of the GDPR

Subject to paragraph 4, it shall ensure that the request for access of the data subject is complied with

the rights of another person are not violated. As the obligation to issue copies to the Company from this

Article 15 (4) of the GDPR does not have to be

in the case of other persons listed in the contract, the person concerned will not be given the camera recording he or she has requested

copy, but must be guaranteed by the Company by appropriate technical measures (eg masking),

that the rights of other persons included in the recording are not infringed while the data subject requests access

fulfills. The restriction of the rights of the data subject in this way is particularly significant because the Company is

It has business premises in a significant number of cities in the country, more than fifty

all stakeholders are expected to travel several hours to the capital headquarters if the content of the recordings

you want to know.

The Regulations also restrict the right of data subjects to view the recording, as the

It follows from the wording that the Company will only be able to view the recording

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if, on the basis of their own practice, a person other than the data subject is included in the recording

- they cannot release the camera image.

The right to issue the copy in question is therefore provided for in Article 15 (3) of the GDPR, while the

access to personal data pursuant to Article 15 (1) of the GDPR

means. These two rights are two different sub-rights of access under Article 15 of the GDPR,

each of which belongs to the person concerned separately, so that it is not appropriate to a

practice if you can practice one (view a recording) if the other (view a recording)

copy) cannot be complied with, but the data subject's request must be in accordance with the content of the request

whether you are requesting a copy of the recording or viewing the recording.

However, Article 12 (5) of the GDPR gives the controller a limited possibility to

refuses to take action on the application of the person concerned (in this case, the

or issue a copy of it), but only if it

the application concerned is, in its view, manifestly unfounded or excessive.

Based on the above, the Authority has determined that the development of the Company's data management regulations

has taken organizational measures during the year which do not guarantee the right of access of the data subject to the

Under the conditions set out in Article 15 (1) and (3) of the GDPR, thereby violating the GDPR

Article 25 (1).

III.3.2. Designed to handle requests to limit data processing

regulation

The Code states that “the person whose right or legitimate interest in the recording of the image is affected

may, by proving his right or legitimate interest, request that the recording not be destroyed by the controller

or cancel it until the court or authority has requested it, but for no more than 30 days ’.

The Authority notes at the outset that this provision was previously contained in Act 2, which

however, after the GDPR becomes applicable on 25 May 2018, it is required for implementation

has been changed due to legal harmonization, and at the time of drafting the Regulations, the Act no longer

contained this provision.

The Authority further notes that the GDPR regulations apply to Hungarian entities from 25 May 2018

are directly applicable, except for those for the full application and implementation of

additional provisions provided for in the national legislation of some Member States are needed. In addition, the regulation

gives Member States, to a limited extent, an additional or comparable option

different rules, but the exercise of the rights of the data subject does not fall

to this circle, ie if the data subject requests the controller to restrict the processing, it shall inform the controller
you have to implement.

Neither the GDPR nor the Svv. no longer contains a rule that would require data processing only

may be limited to a maximum of 30 days from the date of the request, since if

30 days after receipt of the request for a restriction on data processing

would delete the recordings requested to be restricted, it would not help to enforce your rights

because the procedure it has initiated would not yet reach the stage where

that the acting body seek the data controller in possession of the recording.

Furthermore, the GDPR exercises the right to restrict the processing of data - or the right of any data subject

does not impose a condition for the exercise of the right of restriction

it would have to prove the right or legitimate interest of the data subject.

2

Act CXXXIII of 2005 on the rules for the protection of persons and property and the activities of private investigators. Act

(hereinafter: Act)

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The interpretation of the right to restrict data processing in this way is restrictive, so the Company

has taken organizational measures in the development of its data management rules that do not

ensure the right of data subjects to restrict the processing of data under the conditions provided for in Article 18 of the GDPR

thereby infringed Article 25 (1) of the GDPR.

ARC. Sanction and justification applied

The Authority has established that during the data processing performed by the Debtor during the period under review - the

III.1.

- in the course of handling the Client's exercise of the rights of the data subject, has violated Article 12 of the Decree.

Article 15 (4) and Article 18 (1) (c) respectively. The Debtor

- a III.2. and III.3. infringed Article 25 (1) of the Regulation. This infringement

the Authority considered it appropriate to impose a fine as follows.

As to whether the imposition of a data protection fine is justified, the Authority should

Article 83 (2) of the Decree and Infotv.75 / A. § under its own motion considered the case all

and found that no warning was given in the case of the infringement found in the present proceedings

it is neither a disproportionate nor a dissuasive sanction and it is therefore necessary to impose a fine.

The Authority considers it necessary to impose a fine, as the Debtor in the period under review 2019.

until 26 November, no data protection regulations will apply to camera recordings

provided that it did not take the necessary organizational measures to ensure that the

the exercise of the rights of the persons concerned is ensured in accordance with the provisions of the GDPR, which has resulted in the

Debtor has violated the Customer's right to access or restrict data processing.

Furthermore, the data management regulations of the Debtor established on 26 November 2019 are still not in force

complies with the provisions of the GDPR, disproportionately restricts access to those concerned, and

the right to restrict data processing, so that the measures taken at that time are still inadequate,

as they do not ensure the exercise of the rights of the data subjects in accordance with the requirements of the GDPR.

In view of this, the Authority Pursuant to Section 61 (1) (a), they are contained in the operative part

and in this decision obliged the Debtor to pay a data protection fine.

The amount of the fine was determined by the Authority acting in accordance with its statutory discretion.

Depending on the nature of the infringement, the maximum amount of the fine that may be imposed under Article 83 (5) of the GDPR

EUR 20 000 000 or, in the case of the Debtor, the previous financial year in full

up to 4% of world market turnover, whichever is the higher.

Depending on the nature of the breach, in breach of the principle of privacy by design and by default, the

the maximum amount of the fine under Article 83 (4) (a) of the GDPR is EUR 10 000 000 or

not more than 2% of the total worldwide turnover in the preceding business year, whichever is the higher.

In imposing the fine, the Authority took into account the following factor as an aggravating circumstance:

-

the Customer's request to the data subject was not properly processed because the Debtor a

data protection regulations when it becomes applicable - operated by it

camera system - did not have at all: the notifier wanted to do so in several forums

to exercise his rights as a data subject, however, none of the Debtor's employees recognized that the applicant

request is considered to be a data protection exercise of the data subject - committed by the Debtor

an infringement is considered to have been committed with serious negligence on that basis [Article 83 (2) GDPR

paragraph (b)]

-

during the development of the regulations in force by the Debtor since 26 November 2019

The organizational measures taken disproportionately impede the access or

the right to restrict data processing [Article 83 (2) (a) GDPR];

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-

the Debtor is fully liable both for the breach committed against the Client and

and for the development of a restrictive practice that has existed since then, as it is under Article 25

it would have been his responsibility to take action [Article 83 (2) (d) GDPR];

-

the Debtor is also subject to extremely serious negligence in relation to the data processing in question due to the fact that

despite the order of magnitude more affected by the larger number of its stores

should have prepared for a request for the exercise of a right, its organizational arrangements are still such

nor were they capable of identifying and processing applications, and it can therefore reasonably be assumed that

the right of access was not exercised properly not only in the specific case examined, but also at other times

[Article 83 (2) (b) GDPR].

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

-

the Debtor offered the applicant thirty thousand forints to alleviate the damage suffered by the applicant

[Article 83 (2) (c) GDPR];

-

the Debtor already facilitates lawful data processing during the official control

has taken action, so in circular 66 he drew his staff's attention to read the

prepared a camera brochure for customers in order to be aware of the

the rights conferred on data subjects by the GDPR [Article 83 (2) (f) GDPR];

-

the Debtor has complied to the extent of its cooperation with the Authority

obligation to admit the infringement itself [Article 83 (2) GDPR

(f)].

In imposing fines, the Authority took into account the following other factors:

-

during the period under review, the Debtor identified a single stakeholder application, thus, according to its statement

committed a single infringement in the processing of the applications concerned, but

The Authority did not accept this statement of the Debtor [Article 83 (2) (k) GDPR];

-

the processing did not affect special categories of personal data [Article 83 (2) GDPR

paragraph (g)];

-

the fine imposed will be able to achieve its purpose if its amount - the Obligated sales

relative to its turnover - appreciable;

-

net sales revenue according to the Debtor's latest published financial statements for 2018

Was HUF 33,645,000,000, the amount of the data protection fine imposed is the net sales

0.0594% of its turnover.

The Authority did not consider Article 83 (2) (e), (h), (i) and (j) of the GDPR to be relevant for the imposition of fines. as they cannot be interpreted in the context of the specific case.

In setting the fine, the Authority did not consider it relevant that the data processing practice under investigation “Not a central instruction” but was the result of an “erroneous individual decision” as the Authority in his opinion, the Debtor is also liable in this case.

ARC. Other issues:

Infotv. Pursuant to Section 60 (1), in order to enforce the right to the protection of personal data the Authority may initiate ex officio data protection proceedings. The data protection authority procedure is general CL of 2016 on administrative order. (hereinafter: the Act) shall apply with the additions specified in the Infotv.

The Ákr. Pursuant to Section 103 (1) of the Act, ex officio proceedings procedures initiated upon request The relevant provisions of Art. 103–105. With the exceptions contained in §.

15

Infotv. Pursuant to Section 38 (2) and (2a), the Authority is responsible for the protection of personal data, and monitoring the exercise of the right of access to data in the public interest and in the public interest and promoting. The powers of the task set out in the General Data Protection Decree for the supervisory authority with regard to legal entities under the jurisdiction of Hungary shall be exercised by the General Data Protection Authority. as defined in the Decree and the Information Act. The powers of the Authority shall be: covers the whole country.

Infotv. 75 / A. § of the General Data Protection Regulation

shall exercise its powers in accordance with the principle of proportionality, in particular by:

legislation on the processing of personal data or a binding act of the European Union

for the first time in the event of a breach of the rules laid down in

in accordance with Article 58 of the General Data Protection Regulation, in particular the controller or processor shall be warned.

The decision is otherwise based on Ákr. Sections 80 and 81 shall apply.

The Ákr. § 112 and § 116 (1) and § 114 (1)

there is a right of appeal through an administrative lawsuit.

The rules of administrative litigation are laid down in Act I of 2017 on the Procedure for Administrative Litigation (hereinafter:

Kp.). A Kp. Pursuant to Section 12 (2) a) against the decision of the Authority

administrative lawsuit falls within the jurisdiction of the court, the lawsuit is subject to the Kp. Pursuant to Section 13 (11) of the

Capital

The General Court shall have exclusive jurisdiction.

Act CXXX of 2016 on Civil Procedure. Act (hereinafter: Pp.) - the Kp. Section 26 (1)

applicable pursuant to § 72 of the General Court in a lawsuit falling within the jurisdiction of the General Court

representation is mandatory. Kp. Pursuant to Section 39 (6), unless otherwise provided by law, the application

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

A Kp. Section 29 (1) and with this regard Pp. Applicable according to § 604, electronic administration

and Act CCXXII of 2015 on the general rules of trust services. Pursuant to Section 9 (1) (b) of the Administrative Procedure Act

(hereinafter: the Administration Act), the legal representative of the customer for electronic communication

obliged.

The time and place of the submission of the application is Section 39 (1). Holding the hearing

Information on the possibility to apply for It is based on § 77 (1) - (2). The administrative lawsuit

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

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

exempts the party initiating the proceedings.

The Ákr. Pursuant to Section 135, the debtor is obliged to pay a late payment supplement corresponding to the statutory

interest

to pay if he fails to meet his payment obligation on time.

Act V of 2013 on the Civil Code 6:48. § (1) in the case of a debt

the debtor shall, from the date of the delay, on the first day of the calendar half-year affected by the delay

is required to pay default interest equal to the applicable central bank base rate.

Budapest, September 2020 "

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Dr. Attila Péterfalvi

President

c. professor