

Case number: NAIH-497-14/2022.

History: NAIH-6640/2021.

Subject: data management for credit assessment purposes and related to it
information

H A T R O Z A T

treatment,

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

vel (hereinafter: Bank), as well as [...] involved in the procedure as a client (hereinafter:

Jelzalogbank) against [...] (hereinafter: Complainant) for the purpose of credit evaluation of his personal data

without legal basis

and general data processing for the purpose of credit assessment

of its practice to natural persons regarding the management of personal data

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

2016/679 (EU) on the placement of data (hereinafter: GDPR and general data protection

decree) in the official data protection procedure initiated ex officio to examine its compliance

makes the following decisions:

I.1. The Authority believes that the Bank and the Mortgage Bank violated

- Article 6 (1) of the GDPR,

- Article 5 (2) of the GDPR,

- Article 12 (1) of the GDPR.

I.2. The Authority obliges the Bank and the Mortgage Bank that the judicial review

on his initiative

review

within 30 days of the court's decision

lawsuit

guiding

deadline

expiration,

respectively

I.2.1. amend your data management information and certify to the Authority that a

modified data management

in its information regarding the preliminary credit assessment

provides information on data management in accordance with GDPR regulations!

I.2.2. proves the handling of personal data collected during the preliminary credit assessment

its legal basis, in the absence of this, delete the personal data of the data subjects for which

no legal basis has been proven!

I.2.3. modify it so that it applies to the credit assessment phase following the preliminary credit assessment

consideration of interests, so that it properly justifies the interests of the Bank with the interests of the stakeholders

priority over him, as well as regarding the management of the Complainant's personal data

also send your unique interest assessment!

I.3. The Authority fined the Bank for its illegal data processing

HUF 30,000,000, i.e. thirty million HUF

data protection fine

obliged to pay.

The initiation of a court review of the data protection fine is a legal action

the expiry of the deadline, or in case of initiation of a review, the 15th following the court's decision

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

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

0425 0000 0000) must be paid. When transferring the amount, NAIH-497/2022. FINE. for number

must be referred to.

If the Bank does not fulfill its obligation to pay the fine within the deadline, a late fee will be charged

is obliged to pay. The amount of the late fee is the legal interest, which is affected by the delay

is the same as the central bank base rate valid on the first day of the calendar semester. Fines and late fees in case of non-payment of compensation, the Authority orders the execution of the decision.

I.2. the Bank and the Mortgage Bank must fulfill the obligations according to supporting evidence must be provided in writing within 30 days of taking the measures along with its submission - proof of consideration of interests or deletion of personal data, in addition, you must certify the modified data management information to the Authority. Obligations in case of non-compliance, the Authority orders the implementation of the decision.

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

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

can be attacked. The statement of claim must be submitted to the Authority, electronically¹, which is the case

forwards it to the court together with its documents. The request to hold the hearing must be indicated in the statement of claim

must For those who do not benefit from the full personal tax exemption, the administrative court fee

HUF 30,000, the lawsuit is subject to the right to record the levy. In the proceedings before the Metropolitan Court, the legal representation is mandatory.

The Authority draws the attention of the Bank and the Mortgage Bank that the decision is open to appeal

until the expiry of the time limit for filing an action, or in the case of an administrative lawsuit, the court is final

the data affected by the disputed data processing may not be deleted or destroyed until the decision is taken yes.

II. Cooperation agreements signed by the Authority, the Bank and the Mortgage Bank are joint

agreement on data management, internal regulations for handling them as business secrets

grants his request in part, so that the agreement on joint data management is essential

duration - information provided in Article 12 (1) of the General Data Protection Regulation

information falling within the scope of the obligation - cannot be classified as a business secret in view of the fact that

that the data subjects are entitled to them according to the General Data Protection Regulation

get to know, therefore rejects the request to treat them as a business secret.

The II. there is no place for an independent legal remedy against the order according to point, it is only on the merits of the

case

can be challenged in a legal remedy request against the decision made.

I N D O C O L A S

I.

The course of the procedure

I.1. The Bank did not comply with Article 5 (2) and Article 31 of the General Data Protection Regulation

of his obligation under NAIH/2019/2277. (NAIH/2020/115., NAIH-3072/2021.) no.

in an investigation case, and the Bank's data management violates the general data protection regulation

made it probable, therefore the Authority is

about law and that

CXII of 2011 on freedom of information. Act (hereinafter: Infotv.) Section 58 (2)

information self-determination

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

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

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

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based on point a) of paragraph NAIH/2019/2277. closed the investigation procedure started at no

Infotv. On the basis of § 60, paragraph (1), NAIH initiated a data protection official procedure ex officio

6640/2021. with the handling of the Bank's personal data preservation at No

in connection on August 12, 2021.

NAIH-6640-1/2021. No. - dated August 12, 2021 - data protection started by order

The subject of the official procedure investigation is the Complainant's personal data managed for credit assessment purposes

examination of the compliance of its retention with the GDPR.

I.2. In the official data protection procedure, the Bank is the general one in the order of the Authority

CL of 2016 on public administration. Act (hereinafter: Act) to § 63

with reference three times (No. NAIH-6640-1/2021, No. NAIH-6640-3/2021 and the NAIH-

6640-9/2021. s. orders) invited him to make a statement in order to clarify the facts,
for which the Bank provided information within the deadline NAIH-6640-2/2021., NAIH-6640-5/2021.,
NAIH-497-1/2022. number).

I.3. The Authority NAIH-6640-7/2021. notified the Complainant in order no
provided him with legal status and drew his attention to the fact that the evidentiary procedure had been completed,
therefore, according to the rules of document inspection, you can inspect the documents, request a copy of the documents,
and
can make a statement. The order was returned to the Authority with a "not sought" mark. Then
at the Complainant's request, the Authority transmitted electronically (to the Complainant's customer portal) the
order. The Complainant did not make a statement after receiving the Authority's order.

I.4. The Authority NAIH-497-6/2022. order no. to clarify the facts, a new one
with a request for information
contacted the Bank solely for its general data management practices
therefore, these questions arose regardless of the Complainant's case
that the Authority not only the personal data of the Complainant, but also the data management practices of the Bank
extended its official data protection procedure. In this regard, the Authority's procedure in 2021.
started on the 8th of October.

NAIH-6640-3/2021. No. - dated October 8, 2021 - initiated by data protection order
the subject of the official procedure is the data processing of the data subjects for the purpose of credit evaluation according to
the GDPR
examination of its compliance.

I.5. The Authority is the Akr. With regard to Section 10 (1), Jelzálogbank has secured customer legal status
for and NAIH-497-8/2022. s. called him to make a statement in an order. The Mortgage Bank
on involving the Bank as a client, the Authority notified the Bank in NAIH-497-9/2022. notified in order no.

II. Clarification of facts

II.1. History

II.1.1. Initiation of the investigation procedure

NAIH/2019/2277. received in investigation case no. (NAIH/2020/115., NAIH-3072/2021.)

according to the complaint, the Bank and the Mortgage Bank rejected the Complainant's offer received on 26.07.2018 loan application, and later the personal data recorded in connection with the rejected loan application based on the result of another credit assessment, despite the fact that the Complainant did not request it another loan offer.

According to the result of a new credit assessment, which was attached to the Authority in a copy, in 2018 by the Complainant. Data provided verbally was used on 14/09. The "Preliminary" attached by the Complainant according to the document entitled "information on the results of credit assessment", the credit intermediary is the Bank volt.

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in law

II.1.2. Call for declarations and declarations

The Authority invited the Bank and [...] Kft. (hereinafter: Kft.) and the Jelzálogbank with reference to points a) and e) of Article 58 (1) of the GDPR, as well as Infotv. Section 54, paragraph (1), points a) and c).

II.1.2.1. Kft. statement

The personal data of their customers will only be forwarded to those who have a contract with the Kft To the Bank, if their client signs the Bank's own data management consent, which is to the Bank is part of the submitted loan application. This is a bank form. This is originally transmitted by To the bank, Kft. does not make a copy of it.

The Kft. has attached a copy of the information regarding the data management of the Kft., signed by the Complainant, according to which Kft. CCXXXVII of 2013 on credit institutions and financial enterprises.

Act (hereinafter: Hpt.) on the basis of Section 10 (1) point bb), a multiple agent intermediary who the

in accordance with the provisions of the mediation of financial services

as an activity

institution's competing financial services

more financial

performs in relation to His duties include, among other things, the client's request

delivery to the given financial institution.

According to the information sent to the Authority by Kft., the personal data of their customers is only available at that time

are forwarded to the banks if their client signs the Bank's own data management

consent, which forms part of the loan application submitted to the Bank. This is originally transmitted by

Towards the bank.

II.1.2.2. Mortgage bank statement

According to the Jelzálogbank's statement, the Jelzálogbank acts through the Bank as a key intermediary

Hpt. provides mortgage loans to customers. Based on. Customers are with Jelzálogbank

in a contractual legal relationship, but the Bank acts in the name, for the benefit and at the risk of the Mortgage Bank,

with respect to which data management relationship is a joint data management agreement

(the

hereinafter: Agreement).

The Complainant's data will be managed by Jelzálogbank from July 26, 2018. Since the Complainant stopped a

from the conclusion of the contract, therefore Jelzálogbank uses the data in accordance with Article V of 2013 on the Civil

Code.

Act 6:22. is managed on the basis of paragraph (1) of §

II.1.2.3. Bank statement

According to the Bank's statement, Kft. performs intermediary activities for [...]. The Bank and the

Jelzálogbank receives personal data from Kft. if the customer fills in and signs the

"Customer statement regarding participation in the mediation of financial services" (a

hereinafter: Declaration). The Bank signed the Declaration by the Complainant on July 23, 2018

sent a copy to the Authority. The signature of the Complainant and [...] Kft. in the Declaration

is listed, which, according to Jelzálogbank's statement, is a sub-agency of the agent company Kft.

The Bank also stated that it supported the data in the case of the Complainant

manages it for the purpose of concluding a mortgage loan contract. The data retention period is 5, respectively

10 years from the termination of the contract, depending on whether a contract was concluded.

According to point 3 of the Declaration:

"I understand that if a contract is not concluded based on this request, that is

[...] - to the 1. no. The member affected by my request named in point is the specified personal

my data in Hpt. 166/A. pursuant to § related to the failure of the contract to be concluded

you can manage it until the end of the claim validation period, i.e. for 5 years."

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information" (a

in the following:

address, marital status,

The Bank sent a copy to the Authority as part of its complaint handling documentation

a copy of the letter sent to the Complainant dated November 7, 2018, according to which the [...]

your credit request recorded on the account number was invalidated on September 10, 2018, and the

"On the result of a preliminary credit assessment

information) named

document, according to the first sentence of which the document is dated 14.09.2018. on the day of the Complainant

based on the verbally provided data necessary for the preparation of the preliminary credit assessment by a

Prepared for the complainant. The information sheet contains the following personal data of the Complainant:

date of birth, nationality, gender,

occupation, employer

company form, highest education, income data, number of people living in your household,

number of dependents, account number, card number, type of mobile number (subscription or card), since

resides at his residence, legal title of residence, type of employment, management at another credit institution

e residential current account, the number of all its loans

II.1.2. Findings of the authority in the previous case

Based on the above, the Authority determined that Kft. for the Bank and Jelzálogbank.

forwarded the Applicant's personal data on July 26, 2018 in order to carry out a credit assessment, to which the Complainant gave his consent according to the evidence of the documents attached by the Ltd.

In the letter sent to the Complainant dated November 7, 2018, the

Bank that the

[...] on September 10, 2018

was invalidated, on the other hand, data provided verbally on September 14, 2018

another credit assessment was carried out. Personal data is provided for the purpose of a new credit assessment handling according to the Bank's statement, and according to the attached documents, the Complainant's oral based on his consent.

According to Article 7 (1) of the GDPR, it is also based on Article 5 (2) of the GDPR

the data controller must be able to prove that the data subject has given his consent, so it cannot be accepted the Bank's data management practice, according to which based on verbal consent they carry out a credit assessment.

Based on the above, the Authority determined that the Bank violated Article 7 (1) of the GDPR paragraph, as well as the provision of Article 5 (2), since he could not prove, that the Complainant agreed to the new loan offer dated September 14, 2018 to prepare.

Based on the statements of the Bank and Mortgage Bank, as well as the attached documents, the Authority also established that the Bank acted as Jelzálogbank's agent during the objectionable data management, therefore, the Bank was also responsible for preparing the loan offer and credit assessment, as well as joint data management concluded an agreement on the basis of Article 26 of the GDPR, a copy of which was sent to To authority.

The credit agreement was not concluded with the Complainant, as it was only for the purpose of the credit assessment

took place, which, according to the declarations, was carried out by the Bank - as the agent of the Mortgage Bank - was tasked with, and the Bank was also responsible for the acquisition and preservation of the related contributions according to the agreement, so at this stage only the Bank carried out data management in connection with the credit assessment damaged by the Complainant.

In view of the above, the Authority found that the Mortgage Bank is responsible for the Complainant in relation to the processing of your personal data based on verbal consent, i.e. a

During the use of the complainant's stored personal data for the purpose of a new credit assessment it cannot be established in connection with illegal data processing.

With reference to the above, the investigation procedure conducted by the Authority against Jelzálogbank is Infotv. It closed with a reference to § 55 (1) point b).

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CCXXXVII of 2013 on credit institutions and financial enterprises. law (a hereinafter: Hpt.) 166/A. Pursuant to § (2), the financial institution was not established bank secret customer data and personal data related to service contracts can handle it as long as there is a claim related to the failure of the contract can be validated.

The Hpt. 166/A. Based on § (3), the law differs from the point of view of claim enforcement in the absence of a provision - the general limitation period defined in the Civil Code shall govern.

Based on the above, the Bank and the Mortgage Bank legally manage the Complainant's personal data in connection with the failure of the conclusion of the contract for the purpose of asserting a claim, i.e. with the legal basis according to Article 6 (1) point f) of the GDPR has the processing of personal data necessary to achieve the named goal.

On the basis of Article 5 (1) point c) of the GDPR, the personal data involved in data processing is they must be appropriate and relevant in terms of the purposes of data management, and a they must be limited to what is necessary ("data saving").

Given that Hpt. 166/A. Section (2) does not list itemized what it is

personal data may be processed in the event of the failure of the contract

for the purpose of validating a claim, therefore the related GDPR recital (47).

must be carried out by the Bank and the Mortgage Bank.

However, the fulfillment of the above does not mean that it is necessary in the consideration of interests

declared data can also be used for other purposes. In Article 5(1)(b) of the GDPR

based on the principle of "boundedness to purpose", the collection of personal data is only for specific,

it can be done for a clear and legitimate purpose, and they cannot be handled in conflict with these purposes

in a mutually agreeable manner. Based on the cited provision of the GDPR, the credit assessment is therefore carried out

after Hpt. personal data managed with reference to its provisions for other purposes, newer

they cannot be processed for the purpose of credit assessment.

II.1.3. Authority notice and the Bank's response

In view of the above, the Authority approves Infotv. Section 56 (1) and GDPR Article 58 (2).

On the basis of point d) he called on the Bank to stop the oral transfer of personal data

by preparing a preliminary credit assessment contrary to the provisions of the consent-based GDPR

related data management practices and transform the

related to a loan offer

information sheet

documentation.

The Authority received NAIH/2020/115/6. to notice No. (hereinafter: notice)

delegate - NAIH/2020/115/9. - his response letter (hereinafter: response letter) filed under the number a

from the Bank, in which the Bank explained its position regarding the Authority's findings,

furthermore, he sent it as an attachment regarding his actions taken based on the summons

certificates.

The Bank informed the Authority that "in the case of residential mortgages, the Bank and

Mortgage Bank as the legal basis for the retention of data in the case of contracts not concluded -

as well as when performing the credit assessment itself - Article 6 (1) of the General Data Protection Regulation

4 of the General Business Regulations of Jelzálogbank.

Appendix 5.4 of the General Data Protection Notice. is stated in point:" After that

the Bank cited the referenced point:

"In the case of data managed under the legal title of preparation for the conclusion of the contract, data management

duration is the same as that

of its creation

a claim may be asserted in connection with its failure. This is the period - if it is legal

or the mandatory legal act of the European Union does not provide otherwise - five years, which is the deadline

has a statute of limitations, which means that it is an interruption procedure contained in the Civil Code

after its final termination, the limitation period starts again; and if the right holder can be saved

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with the duration of the contract

"On the result of a preliminary credit assessment

cannot assert his claim for any reason, the statute of limitations is suspended, in which case the obstacle

within a period of one year from its termination, the claim can be asserted even if it is

the statute of limitations has already passed or less than one year remains."

In the reply letter, the Bank indicated to the Authority that it does not have the Complainant's personal data

to be deleted in this way, as the ongoing Act CXXXIX of 2013 on the Hungarian National Bank.

Act VII. would "jeopardize" the completion of the official procedure listed in chapter The Authority

accepts this argument of the Bank, as long as it supports this claim with documents.

In view of the above, the Authority called on the Bank to attach a copy to it

copies of documents that prove that the procedure referred to in the reply letter is still in progress

is before the Hungarian National Bank. If the procedure is completed, send it to the MNB

a copy of its decision, and also certifies it if it continues to assert legal claims

Bank data processing in relation to the Complainant's personal data.

Received at the Authority on March 22, 2021 - NAIH-3072-2/2021. registered -

in his email NAIH-3072-1/2021. The Bank forwarded the attachment to call no

Magyar Nemzeti Bank's order No. [...], and [...]. Decision No. (hereinafter:

MNB decisions) in copy.

In addition to the above, the Bank stated that, in view of the attached MNB decisions, a

Based on its complaint handling regulations, 10 days after the final conclusion of the legal dispute settled by the procedure shall keep the Complainant's personal data for up to 10 years in accordance with the principles of money laundering and terrorism

LIII of 2017 on the prevention and prevention of financing

law (a

hereinafter: Pmt.) with paragraph (1) of § 58.

The Authority did not agree that the Bank treats the Complainant with reference to the above

personal data, as the Authority NAIH/2020/115/6. s. in its notice (hereinafter:

notice) established that no business relationship was established with the Complainant, as only

a credit assessment procedure was conducted. This fact was also written in the attached MNB decisions,

furthermore, the Bank's statement given upon request also supports that the Complainant

personal data CXXXIX of 2013 on the Hungarian National Bank. Act VII. chapter

in view of the ongoing official procedure according to provisions

not referred to in connection with data retention.

The Authority accepted the Bank's statement that there was no contract with the Complainant

GDPR (65) regarding your personal data obtained during the contract process

with reference to its preamble and Article 6 (1) (f) of the GDPR

could handle it with reference to the procedure in progress before the Magyar Nemzeti Bank, however, this

the procedure is closed or terminated based on the attached MNB decisions.

Furthermore, the Authority did not accept that the Bank Pmt. with reference to paragraph (1) of § 58

may manage the Complainant's personal data for the period specified therein, since Pmt. § 3 in point 45

no specific business relationship was established.

II.1.4. Repeated notice of authority

Based on the above, the Authority is Infotv. Section 56 (1) and GDPR Article 58 (2) d)

on the basis of point, the Bank was once again called upon to bring its data management into line with the GDPR provisions and accordingly

1. a.) proves the legal basis by which it handles the Complainant's personal data,

1. b.) if it continues on the basis of Article 6 (1) point f) of the GDPR

data management, in that case attach the related interest assessment, or

2. delete the Complainant's personal data and certify this to the Authority.

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The Authority informed the Bank that Infotv. Pursuant to Section 58 (1), if a

on the basis of a notice to remedy the infringement, or the immediate threat of infringement

was not terminated, the Authority thirty days after the end of the information deadline

decides within days to take the necessary additional measures, on the basis of which Infotv. § 60

may initiate a data protection official procedure, including the imposition of a fine

can decide.

NAIH-3072-3/2021 sent through the Authority's company portal. the Bank's repeated notice no

20/05/2021 received it on the day of, but did not send a reply letter to the Authority.

II.2.2. Closing the investigation case, starting a data protection official procedure

Based on what was written in point I.1, it could be established that the Bank did not comply with the Authority

notice, was not verified by data management related to the protection of the Complainant's personal data

its legal basis, therefore its data management may still violate the Complainant's general data protection rights defined in the decree.

The Bank did not comply with Article 5 (2) and Article 31 of the General Data Protection Regulation

of its obligation according to the General Data Protection Regulation

suspected a violation, therefore the Authority informed Infotv. Section 58, paragraph (2) based on point a) a

NAIH/2019/2277. closed the investigation procedure started at no. and Infotv. Paragraph (1) of § 60

initiated a data protection official procedure ex officio regarding the data management affected by the complaint on August 12, 2021. The Authority informed the Bank about this in NAIH-6640-1/2021. No. - 2021. notified in his order dated August 12.

Data protection initiated by the Authority on October 8, 2021 due to the aforementioned the Bank extended the official procedure by preserving personal data collected for the purpose of credit assessment for the general examination of its related data management, about which the Bank was notified in NAIH-6640-3/2021. No. - dated October 8, 2021 - notified

The

started

brought to his attention the data obtained during the investigation procedure in the case of a complaint report facts were used during the official data protection procedure in NAIH-6640-4/2021. no as recorded in the memorandum, thus representing the case of the precedent of the official data protection procedure the following documents of the examination procedure:

Infotv. Pursuant to § 71 paragraph (2), the Authority NAIH/2019/2277. number

- NAIH/2019/2277. and its annexes
- NAIH/2019/2277/2. and its annexes
- NAIH/2019/2277/4. and its annexes
- NAIH/2020/115.
- NAIH/2020/115/2. and its annexes
- NAIH/2020/115/4. and its annexes
- NAIH/2020/115./6. and 7.
- NAIH/2020/115/9. and its annexes
- NAIH-3072-2/2021. and its annexes
- NAIH-3072-3/2021.

II.2.2. The subject of an investigation by the data protection authority

NAIH-6640-1/2021. No. - dated August 12, 2021 - data protection started by order

The subject of the official procedure investigation is the Complainant's personal data managed for credit assessment purposes examination of the compliance of its retention with the GDPR.

NAIH-6640-3/2021. No. - dated October 8, 2021 - the above subject

was extended to the examination of the Bank's general practice, i.e. the credit assessment of the parties concerned to examine the compliance of the retention of personal data processed for this purpose with the GDPR.

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II.3. Calling the Bank to make a statement for the first and second time

In the official data protection procedure, in the order of the Authority, the Bank is subject to general public administration CL of 2016 on public order. Act (hereinafter: Act) with reference to § 63

invited him to make a statement in order to clarify the facts, to which the Bank will respond below provided information:

II.3.1. NAIH-6640-1/2021. submitted for order no. - on September 2, 2021 -

information:

II.3.1.1.1. Legal basis and information

The Bank maintains the previous data protection official procedure, NAIH/2019/2277.

(20 December 2019, 31 January 2020, 12 June 2020, 2021

March 22) provided the information that the Bank had provided the Complainant's personal data to

for the purpose of performing a credit assessment, it is managed on a contractual legal basis. Personal data of the Complainant

regarding its preservation, the Bank maintains its previous position, according to which the legal basis is mandatory was data management, revised.

The Bank did not delete the Complainant's personal data, the legal basis for their retention is a legitimate interest.

As the Bank presented in its previous replies, the Complainant is the data controller

information was accepted on June 26, 2018. The document certifying this was issued by the Bank in 2020.

he sent it to the Authority as an attachment to his letter of January 31.

The Bank included the Complainant's personal data for the credit assessment, since it is a mortgage loan contract

was not concluded, Hpt. 166/A.§ and the Civil Code. 6:22 a.m. in view of § 6 (1) of the GDPR

on the basis of point f) of paragraph 1, it retains it on the basis of a legitimate interest, the previously applied legal one instead of an obligation. The Bank sent the relevant assessment of interests to the Authority.

II.3.1.1.2. Consideration of interests

The data management is named as follows:

"Preservation of data recorded during mortgage lending in cases where a
no contract concluded"

The data processed in connection with the credit assessment are as follows:

natural personal identification data,

contact details,

real estate collateral data,

-

-

-

- employment data,

- financial and income data.

The consideration of interests includes the following points:

-

-

-

-

-

-

"I. Data management and personal data affected by data management"

"II. The legitimate interest of the data controller:"

"III. The interests and basic rights of the data subject"

"ARC. Comparing the interests of the data controller and the data subject"

"V. Description of collateral"

"ARC. The result of the balance of interests test"

II.3.1.1.3. In addition to the above, the Bank presented the following:

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The Bank stated that it did not respond to the Authority's request in the investigation procedure with the following justified:

The Bank did not respond to the shipment arriving at Céghapu, as it was sent only by the

He learned from the authority's notification of the official data protection procedure initiated ex officio. THE

Although the shipment arrived at the organizational unit managing the company gate, it ultimately did not reach the

To the bank as recipient, since the shipment was forwarded to an electronic storage,

which was created for the previous organizational unit and which was no longer in use. THE

In previous cases pending before the authorities, the Bank always responded within the deadline

mail and e-mail, and always endeavored to cooperate,

therefore, the Authority appreciates the Bank's non-response to the letter sent through Céghapu

he apologizes.

II.3.1.2. The Bank sent another one to the Authority - NAIH-6640-1/2021 - to clarify the facts.

responded to order no. via email from the email address [...] on September 2, 2021.

on the day of

To the Bank, as a customer obliged to perform electronic administration in official data protection proceedings

you do not have the possibility to contact the [...] e-mail address, therefore the Authority NAIH-6640-3/2021.

in its order no. called for electronic administration and trust services

CCXXII of 2015 on its general rules. law (hereinafter: Eüsztv.) in the manner prescribed

answer the Authority's questions.

The Authority has issued NAIH-6640-3/2021 on the Bank's data management practices for credit assessment purposes. no requested information from the Bank in its order.

II.3.2. NAIH-6640-3/2021. Information provided to the invitation written in order no.

The Bank sent its response to the Authority from the [...] e-mail address once again, as required by the manner, as well as provided information on the following in relation to his general practice:

The Bank is primarily the effective

into the provisions of legislation, as well as its own, internal

rejects claims in the event of a conflict with its creditworthiness requirements. This can be a reason for rejection

for example, on the calculation of the income-proportioned repayment installment and loan coverage ratios

32/2014. (IX.10.) Conflict with the rules of the MNB decree or the central credit information

participation in the system, in the case of subsidized loans, the relevant government decree

non response. Suspicion of fraud and money laundering is also a reason for rejection.

He requested that the processed data be attached to the loan application forms and to the loan application

personal data included in documents (personal identification number, contact details,

data on employment, income and real estate collateral).

The Bank has previously sent a consideration of interests

test on September 2, 2021

finalized, the interest assessment test was prepared by the Bank's data protection department, and a

is finalized with the approval of this department.

Due to the failure to conclude a contract, primarily consumer protection official procedure, supervision

the Bank can expect the procedure to be carried out in accordance with CXXXIX of 2013 on the Magyar Nemzeti Bank.

Act VII.-VIII based on chapter

At the same time, the Complainant also complained about the Bank's procedure to the Equal Treatment Authority objected to.

Since May 2018, one each from the Financial Conciliation Board and the Hungarian National Bank

an inquiry was received due to the rejection of the loan application.

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In order to establish that a contract has not been concluded [...], legal proceedings have been initiated.

During the period under review, the Bank [...] registered a case in which, for reasons of bank security (fraud suspicion) was rejected.

The Bank in the General Data Management Information Form attached to the General Business Regulations provides information regarding the right of objection of the persons concerned:

this annex, as well as the

22.1. If the data management is the Business Regulations

According to the Information on Data Management, [...] is itself or any third party necessary for the enforcement of his legitimate interests, the Data Subject has the right to object to the personal against the processing of your data for such purposes. In the event that [...] does not know prove that the data processing is justified by compelling legitimate reasons which take precedence over the interests, rights and rights of the Data Subject referred to in such protest against your freedoms or for the submission or enforcement of legal claims are related to its protection, [...] may no longer process personal data for this purpose and they must be deleted. In the event that the Data Subject is for direct business acquisition purposes objects to data processing, his personal data can no longer be processed for this purpose."

The balance of interests test IV. "be able to give a number" and "claims enforcement" legitimate interests were explained in more detail by the Bank as follows:

The Hpt. 166/A. § (2)- (3), which states that the financial institution a not created

client data that is bank secret related to the service contract,

can process personal data until the contract is concluded

in connection

in terms of claim enforcement in the Civil Code

a specified general limitation period applies.

Consideration of interests IV. The Bank wanted the "legal obligation" referred to in point

to formulate. The Bank has a legitimate interest in the fact that the creation did not occur within the general limitation period

in the case of contracts, you can prove that the customer is using the service

has contacted the Bank, the necessary administration for the provision of services has been carried out, however, no contract was concluded.

Regarding the customer and partner rating system, the Authority referred to the consumer

CLXII of 2009 on granted credit. to § 14 of the Act, according to which the consumer's creditworthiness is determined by a evaluates based on available information and makes an offer only in the case of a

consumer to enter into a credit agreement, if as a result of the creditworthiness examination

it is probable that a

the consumer is able to fulfill his obligations arising from the credit agreement

for full performance. The detailed rules for the examination of creditworthiness are laid down in legislation

establishes. If the law does not provide otherwise, the information is provided by the consumer

they may be based on information and the use of the credit reference service.

The above legislation on customer and partner rating and collateral evaluation is prudential

40/2016 on its requirements. (X.11.) Similar to the MNB decree, it obligatorily prescribes a

for creditors, the classification of customers/consumers during the conclusion of the credit agreement.

The Bank emphasized at the end of the statement that in the case of the Complainant, the conclusion of the contract

its non-payment was due to the decision of the Complainant, as the interest conditions during the administration

turned out to be unfavorable for him.

The Bank sent the following documents, which it requested to be treated as business secrets:

claim can be asserted. The

- No. [...] on the general rules of lending secured by residential real estate. cross instruction
procedure

concerning

provisions/process description, as well as the names of the databases used in the process

included,

for credit assessment

extract,

deep

the

11

Extract of [...] Regulation (Risk Assumption Regulation),

-

- On joint data management between the Bank and Jelzálogbank on May 24, 2018

agreement.

II.4. Calling the Bank to make a statement for the third time

After examining the answers received from the Bank, the Authority concluded that a

to clarify the facts, it is necessary to request additional information from the Bank about its general practice, therefore

NAIH-6640-9/2021 invited the Bank to make a statement again. in order no.

II.4.1. At the request of the Authority, the Bank stated the following:

Pursuant to preamble paragraph (44) of the GDPR, data processing is considered lawful if

it is necessary in the context of a contract or intention to enter into a contract. Interpretation of the Bank

the customer's "interest" is considered an intention to enter into a contract, therefore Article 6 (1) of the GDPR

The legal basis according to paragraph b) can be used during the preliminary credit assessment. According to the Bank

this assumption is supported by the article 29 working group 06/2014. s. III.2.2 of his opinion

ii), which considers the contract to be a legal basis for the performance of the contract

data management prior to the conclusion of the contract in cases where "it is not the data controller or a

they take the necessary steps at the initiative of a third party, but at the request of the person concerned."

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

hereinafter: Hpt.) according to Section 6, Paragraph (1), Point 40, for the provision of credit and loans

directed service activity includes the examination of creditworthiness, credit and

preparation of loan agreements, registration and monitoring of disbursed loans,

control, as well as measures related to recovery.

According to the Bank, the data management is certainly legal, since the Bank will subsequently -
if the customer requests a loan - the results of the preliminary credit assessment must be taken into account
act.

According to the Bank's statement, according to the main rule, the pre-assessment is prepared on the basis of oral data
is happening. In the case of account acceptance, the data is the so-called are recorded in [...] and the printed,
on the "Information on the results of preliminary credit assessment" document signed by the applicant
the data is displayed.

If the customer is not present in the branch, he must fill out the "[...] type loan application package",
on the basis of which the preliminary credit assessment can be carried out, or in the case of a successful preliminary
assessment, the preliminary one
valuation can be ordered. If preliminary as part of the preliminary credit assessment
a valuation is also carried out, the "[...] application package for preliminary credit assessment and preliminary valuation
the customer must fill in a document called "for order" and in this case it is
you must also submit the documents necessary to carry out a valuation.

II.4.1.1. The Bank has attached the list of documents to be submitted during the preliminary valuation,
which may be the following depending on the type of property and other circumstances:

the document on which the burden is registered,
property sheet,
land registry map copy,
proof of address document,

-
-
-
- contract of sale,
-
- usage sharing agreement, sketch,

- demolition permit,
- registration of an easement right of passage,
-
- floor plan,
- authentic energy certificate,

utility statements,

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- Green Home Program Energy statement,
- Condominium founding deed or draft,
- building and expansion permit,
- technical description, or in the case of a new apartment, a description showing the equipment,
-
-
- declaration of energy compliance,
-

budget, or summary or update data sheet,

in the case of modernization/renovation works, a permit from a specialist authority,

well water rights permit, in the case of CSOK, water test report,

According to the Bank's statement, when applying for a preliminary credit assessment, the client does not declare a
about his intention to enter into a contract, but at the same time, the condition for accepting the application is the preliminary
one
performing a credit assessment.

II.4.1.2. For the purpose of pre-assessment, the Bank processes the following personal data:

personal data concerning the applicant and co-applicant,

-
- availability and contact details,

- data related to workplace, business,

- bank and financial data,

-

-

-

income data,

real estate data,

data on the requested loan.

II.4.1.3. The preliminary credit assessment is the so-called must be done with [...] specified by the customer present based on data. The data used for pre-assessment can be modified in [...] and the modified based on the data, a new pre-assessment can be carried out.

The Bank referred to what was written in the letter sent to the Authority on June 12, 2020, according to which "The During the loan application process, the Bank does not inform you about the continuation of the credit assessment concerned about data management according to Article 13 of the General Data Protection Regulation. The "loan application procedure", the purpose of data management is always the same, i.e. granting loans; lending carrying out activities, conducting and recording the necessary business processes, and compliance with the disbursement conditions."

II.5. Calling the Bank to make a statement is the fourth time, the general one in connection with his practice

In the period affected by the investigation, the Bank carried out [...] pre-assessments, of which it took place in [...] cases credit assessment.

Bank referred to the fact that Article 12 (1) and Article 13 of the GDPR only so much as the information in writing or in another way - including, where appropriate, electronic path must also be provided, the Bank is primarily responsible for the data processing it carries out data management information sheets forming annexes to business regulations and business regulations by publishing it, it provides information that complies with the requirements for electronic publication

regulation. The Bank publishes a separate summary of this on its website at the following link:

[...]

The Bank sent to the Authority, which is part of the Jelzálogbank's business regulations data management information and its changes from May 25, 2018 until the date of the Bank's statement over a period of time. According to the Bank's statement, the information on data management always contained reference in relation to data processing related to the preliminary credit assessment. The Authority specifically called on the Bank to support its claims with documents and a by sending the referenced data management information. The Bank responds to this call below attached documents as an attachment to his statement sent on May 11, 2022:

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-
-
-

[...] Housing loan

application package for preliminary credit assessment and preliminary valuation for your order (Personal data sheet-Applicant [...], Property data sheet [...], Application data sheet [...], Applicant's statements [...], Personal data sheet - Co-applicant [...])
[...] "Information on data management related to loans secured by residential real estate"
"Personal information about mortgage loans"

the

loan

criticism,

admission,

[...] like that

existence of conditions

other necessary for application

[...] for its main intermediary

The data management information mentioned above mentions Jelzálogbank as a data controller, and refers to the fact that the additional data controller involved in joint data management is the Bank. The processed data the list is included in the forms related to the loan application personal data. Furthermore, the prospectus provides information about the provision of services the exact range of data handled during its preparation is defined in the provisions of the Business Regulations and the loan application form, that is

certificate

documents, the KHR declaration, documents retrieved from the TAKARNET system, property and

Data provided by the life insurance company, NAV, the Hungarian State Treasury, BISZ Zrt., Céginfó

system, the data provided by the appraisers of [...], the [...] internet interface, and the

arose during the performance of a contract for the provision of residential, property-backed loans

other documents contain.

The attached data management information sheet contains a very long list in the "Purposes of data management" section contains, however, it does not separately contain data collected during the preliminary credit assessment information, and mentions the Bank only once, as follows:

"- it is

related to data transfer

for data management

authorization,

concluding a contract,

account management, monitoring, possible reminders from customers, the loan agreement

it is necessary due to possible termination of

According to the Bank's statement, during the preliminary credit assessment

for data management

related to Article 12 (1) of the GDPR in such a way that the data

the documents provided to the person concerned at the time of admission contain the detailed availability of data management information.

In addition to the above, the Bank will also notify customers separately when the credit evaluation is initiated on learning and accepting information about data management. During the delivery of the personal information - which the customer receives during the preliminary credit assessment - the Bank also informs that customers about the conditions of data management. The related statement (Preliminary statements requiring credit assessment and preliminary valuation" document) attached by the Bank.

In connection with the acknowledgment of this data management information in point 2 below readable:

"I declare that the money loan was carried out by the Creditor and the Bank on data management

[...] General

Its business regulations, as well as the residential and free-use mortgage provided by [...] data management information forms attached to the business regulations for the type [...] contain, which are available on the Bank's website [...] or in its bank branches.

Demanding"

The Bank applies the legal basis of legitimate interest to data processing when the (preliminary) data collected during the credit assessment is retained, because no credit agreement was created from them. The Bank a Since GDPR became applicable on May 25, 2018, it has considered legitimate interest as a legal basis. It's this supporting consideration of interests was finalized on September 2, 2021, respectively the business regulations were amended accordingly on October 28, 2021.

I learned information. THE information is

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The Bank also made a statement again regarding the Complainant's personal data despite the fact that the questions asked by the Authority relate solely to the general practice of the Bank

were concerned. The Bank's statement in this statement includes what was presented in its previous statement amended, as he referred to the fact that the loan application submitted by the Complainant was repeated examined and found that, in the case of the Complainant, following the credit assessment, which in any case, it precedes the acceptance of the loan application, the application was made immediately and the credit evaluation process started immediately after that.

II.6. Mortgage bank as client in this procedure

The data protection official procedure initiated ex officio is partly an investigation initiated on the Complainant's complaint was initiated as a continuation of the procedure, data processing for the purpose of credit assessment is general the subject of its practice is compliance with the provisions of the General Data Protection Regulation.

According to their declaration, the Mortgage Bank and the Bank are considered joint data controllers a data processing related to credit assessment regarding. However, the specific data management operations are carried out by the Bank, so the extent of the data management and responsibility is this differs accordingly.

The fact that the Complainant was not only subject to a preliminary credit assessment is confirmed by the investigation attached during the procedure - NAIH-3072-2/2021. filed as an attachment to No. - 40652-12/2019. s.

MNB decision, which contains the examination results of the Jelzálogbank's credit assessment procedure.

The referenced MNB decision "II.2. According to the "Declaration", Jelzálogbank is second accepted the loan application and notified the Complainant about the approval of the loan, also sent him a draft contract.

According to Sub-Annex 1 of the agreement between the Bank and the Mortgage Bank, accepting the loan application, Jelzálogbank also performs data management during authorization and contract preparation.

During the investigation procedure, the Mortgage Bank stated that the Bank, on behalf of the Mortgage Bank, act at your own risk and benefit. According to its statement, the Mortgage Bank will manage the Complainant's personal data and those of the Civil Code. 6:22 a.m. It is stored for 5 years based on § (1).

Due to the above, the Authority With regard to Section 10 (1), the legal status of a customer has been secured by a

For Jelzálogbank, and in an order called on him to make a statement, to which Jelzálogbank is responsible provided the following information:

Jelzálogbank is considered a joint data controller with the Bank, in this regard the tasks and they also shared responsibility in their agreement.

Jelzálogbank clarified its previous statement dated December 30, 2019, in which informed the Authority that it will handle the Complainant's personal data from July 26, 2018. THE Jelzálogbank specified this as a creditor with mortgage lending activities in connection with the Bank, it is considered a joint data controller, however, the Jelzálogbank with the credit assessment did not perform any data management operations in connection with

It has to do with credit reporting

in view of the related to it

data management is carried out by the Bank, so providing information about data management is also within the Bank's remit belongs to.

[...]

The Mortgage Bank also referred to the Bank Authority - NAIH-6640-1/2021. no order - sent for information, and repeated the contents thereof. The Mortgage Bank also refuted what the Authority NAIH-497-8/2022. s. according to the Bank's order previously sent information on data management ("Provided by [...], for residential purposes and free tasks, as well as for this

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with the duration of the contract

use mortgage-type [...] Data management information of the Business Regulations on Loans")

it does not contain information about the preliminary credit assessment. The Jelzálogbank cited the data management the sections of the information sheet which - in his opinion - refer to the preliminary credit assessment, and emphasized that the legal basis in this case is related to the preparation of contracts.

Jelzálogbank also referred to the fact that its information on data management states that the listed

data - among others - from Hpt. to point f) of paragraph (2) of § 3 and Hpt. § 6, subsection (1) 40.

It is treated with reference to point c).

Jelzálogbank referred to the data management related to the Business Code

information sheet contains the following:

"In the case of data managed under legal title, the preparation for the conclusion of the contract is data management

duration is the same as that

of its creation

a claim may be asserted in connection with its failure. This is the period - if it is legal

or the legal act of the European Union does not provide otherwise - five years, which is a limitation period

[...]"

"In the case of non-established contracts, the Data Controller provides the Data Subject with the General Terms and Conditions

No. 4 point 2 of the Annex, as well as the data specified in this Information, the contract

validating or presenting any claims related to the failure of its creation, or

it is registered and managed for the purpose of its protection."

The Jelzálogbank referred to the maintenance of the five-year statute of limitations for various supervisory purposes

in order to be able to represent other official and court cases

required.

II.7. Data management information available on the website

The following data management methods available on the Bank's website were used during decision-making

information sheets, which the Authority made part of the file with a note:

- General data protection information: [...] and

-

[...], Information on data management related to loans secured by residential real estate: [...]).

III. Applicable legal regulations

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

apply.

Infotv. Paragraph (1) of § 55 is based on the initiation of the investigation ex officio by the Authority within two months from the date of receipt of the notification

ab) closes the investigation and initiates a data protection official procedure according to § 60.

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

in order to do so, the Authority initiates an official data protection procedure at the request of the data subject and may initiate official data protection proceedings ex officio.

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

Pursuant to GDPR Article 4, point 1, "personal data": identified or identifiable natural any information relating to a person ("data subject"); the natural person who directly or indirectly, in particular an identifier such as name, number, location data, online identifier or physical, physiological, genetic, one or more factors related to your intellectual, economic, cultural or social identity can be identified based on;

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segmentation,

recording,

organization,

so the collection,

According to Article 4, point 2 of the GDPR, "data management": on personal data or data files

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

total,

storage, transformation or

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

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

deletion or destruction;

According to GDPR Article 4, point 7, "data controller": the natural or legal person, public authority body, agency or any other body that determines the purposes of personal data management and determines its assets independently or together with others; if the purposes and means of data management determined by EU or Member State law, to designate the data controller or the data controller relevant special aspects may also be determined by EU or member state law;

Based on GDPR Article 4, point 11, "data subject's consent": voluntary of the data subject's will, specific and clear declaration based on adequate information by the data subject statement or confirmation

indicates that

gives his consent to the processing of his personal data;

Based on recital (44) of the GDPR, data processing is considered lawful if it is necessary in the context of a contract or intention to enter into a contract.

Based on recital (47) of the GDPR, if the legal basis for data management is legitimate interest, then a preliminary assessment of interests must be carried out, in the framework of which, among other things, it must be determined

the legitimate interest, the impact on the data subject, and the fact that data processing is necessary, and whether it is proportionate, as well as whether the legitimate interest or the right of the affected party must be considered superior.

through an unmistakably expressive act

Based on Article 5 (2) of the GDPR, the data controller is responsible for paragraph (1). for compliance and must be able to demonstrate this compliance ("accountability").

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

a) the data subject has given his consent to the processing of his personal data for one or more specific purposes for its treatment;

b) data management is necessary for the performance of a contract in which the data subject is one of the parties,
or to take steps at the request of the data subject prior to the conclusion of the contract
required;

c) data management is necessary to fulfill the legal obligation of the data controller;

f) data management to enforce the legitimate interests of the data controller or a third party
necessary, unless the interests of the data subject take precedence over these interests
or fundamental rights and freedoms that require the protection of personal data,
especially if a child is involved.

Based on Article 6 (4) of the GDPR, if data is processed for purposes other than the purpose of data collection
not based on the data subject's consent or any EU or Member State law which

Article 23 (1) is considered a necessary and proportionate measure in a democratic society
to achieve the goals set out in paragraph 1, to establish that it has a different purpose

whether data management is compatible with the purpose for which the personal data was originally collected
collected, the data manager takes into account, among other things:

a) between the purposes of collecting personal data and the purposes of planned further data management
possible relationships;

b) the circumstances of the collection of personal data, in particular the data subjects and the
for relationships between data controllers;

c) the nature of the personal data, in particular that it is personal data according to Article 9
responsibility

is it about the management of special categories,
or that it is criminal

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and on the handling of data relating to crimes in accordance with Article 10
this word;

d) the potential consequences of the data for the data subjects

planned further treatment;

e) the existence of appropriate guarantees, which may also mean encryption or pseudonymisation.

Based on Article 13 (3) of the GDPR, if the data controller collects personal data

wishes to carry out further data processing for purposes other than its purpose, prior to further data processing

must inform the data subject about this different purpose and everything relevant mentioned in paragraph (2).

about additional information.

Pursuant to Article 7 (1) of the GDPR, if data processing is based on consent, it

data controller must be able to prove that the data subject's personal data

contributed to its treatment.

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

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

handling violates the GDPR.

Article 58(2)(b), (d) and (i) of the GDPR: Within the corrective powers of the supervisory authority

acting as:

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

violated the provisions of this regulation;

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

in a specified manner and specified

within a period of time - harmonized by this regulation

with its provisions;

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

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

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

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

law

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

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

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

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

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

Article 57 (1) of the GDPR:

Based on point f) without prejudice to the other duties specified in this decree, the supervisory authority performs the following tasks in its own territory: it is managed by the person concerned or by some body, complaints submitted by an organization or association in accordance with Article 80, the subject of the complaint investigates to the extent necessary, and informs the complainant within a reasonable period of time a developments and results related to your investigation, especially if you are a follow-up investigation cooperation with another supervisory authority becomes necessary.

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based on point i) imposes an administrative fine in accordance with Article 83, the given case depending on your circumstances, in addition to or instead of the measures mentioned in this paragraph.

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

The Acr. Based on Section 10 (1), the customer is a natural or legal person, other organization whose right or legitimate interest is directly affected by the case, to whom the official register contains data, or who (which) is subject to official control

pulled

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

The Akr. Based on § 80, subsection (1), the decision is a decision or an order. The authority - the (4) with the exception specified in paragraph - makes a decision on the merits of the case, during the procedure made other decisions orders.

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

exercises its powers taking into account the principle of proportionality, especially with the fact that you are in the law regarding the handling of personal data

The regulations defined in the mandatory legal act of the European Union are being implemented for the first time in case of violation, to remedy the violation with Article 58 of the General Data Protection Regulation in accordance with - takes action primarily with the warning of the data manager or data processor.

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

Based on Article 83 (2) of the GDPR, the administrative fines depend on the circumstances of the given case depending on the measures referred to in points a)-h) and j) of paragraph (2) of Article 58 must be imposed instead. When deciding whether it is necessary to impose an administrative fine, and when determining the amount of the administrative fine, sufficiently in each case the following should be taken into account:

- a) the nature, severity and duration of the infringement, taking into account the data management in question nature, scope or purpose, as well as the number of persons affected by the infringement, as well as the the extent of the damage they have suffered;
- b) the intentional or negligent nature of the infringement;
- c) mitigating the damage suffered by the data controller or the data processor

any action taken in order to;

d) the extent of the responsibility of the data manager or data processor, taking into account the 25.

and technical and organizational measures taken pursuant to Article 32;

e) relevant violations previously committed by the data controller or data processor;

f) with the supervisory authority to remedy the violation and the possible negative effects of the violation
extent of cooperation to mitigate;

g) categories of personal data affected by the infringement;

h) the manner in which the supervisory authority became aware of the infringement, in particular,
whether the data controller or the data processor reported the violation and, if so, how
with detail;

i) if against the relevant data manager or data processor previously - in the same a
subject - one of the measures mentioned in Article 58 (2) was ordered, orally
compliance with revolving measures;

j) whether the data controller or the data processor considered itself approved according to Article 40
to codes of conduct or approved certification mechanisms pursuant to Article 42;
as well as

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k) other aggravating or mitigating factors relevant to the circumstances of the case, for example
financial benefit gained or avoided as a direct or indirect consequence of the infringement
loss.

Violation of the following provisions based on Article 83 (5) of the GDPR - with paragraph (2).

in accordance - with an administrative fine of up to EUR 20,000,000, or a

in the case of enterprises, no more than 4% of the total annual world market turnover of the previous financial year
shall be charged with an amount equal to, with the higher of the two amounts to be imposed:

a) the principles of data management - including the conditions of consent - of Articles 5, 6, 7 and 9
appropriately;

b) the rights of the data subjects 12-22. in accordance with article

Infotv 60/A. According to paragraphs (1), (2), (2a) of §

(1) In the official data protection procedure, the administrative deadline is one hundred and fifty days, which the deadline does not include the communication of the data necessary to clarify the facts the time from the invitation to its fulfillment.

(2) The Authority's official data protection procedure is the general data protection regulation

a) Cooperation procedure defined in Article 60, Paragraphs (3)-(5) and

b) 63-66. uniformity mechanism defined in Article

suspended for the duration of its application, with the Authority during the period of suspension also performs what is required in the cooperation procedure and the uniformity mechanism procedural acts.

(2a) Apart from the cases specified in the Act on General Administrative Procedure a

An authority may suspend the official procedure it is conducting if

a) in the course of it, a question arises, the decision of which is another body or person falls under its jurisdiction, or

b) without any other decision or procedure of the Authority closely related to the given case a given case cannot be decided on grounds.

The Akr. According to § 50, paragraph (5), the procedure is not included in the administrative deadline the duration of its suspension, interruption and the customer's default or delay.

For the calculation of the procedural deadlines, among other things, the Ákr. § 52 shall be applied.

LIV of 2018 on the protection of business secrets. Act (hereinafter: Trade secret law) § 1 (1)

on the basis of paragraph business secret related to economic activity, secret - in its entirety, or

as a total of its elements, you are not well-known or the person performing the relevant economic activity is not easily accessible to persons - and therefore has a material value, a fact

information, other data and the compilation made of them, which are to be kept confidential

in order to ensure that the right holder of the secret exhibits behavior that is generally expected in the given situation.

and the treatment of which the procedure is successful

Acr. On the basis of § 27, paragraph (3), the authority, in the course of its procedure, in order to conduct it -

in the manner and scope defined by law - manages the protected data that

are related to its procedure,

conducting

necessary for

Act V of 2013 on the Civil Code (hereinafter: Civil Code) 3:112. § (3)

based on paragraph

can give instructions, which the senior official must carry out.

The Civil Code Pursuant to Section 323, subsection (5), to the shareholder of the sole proprietorship

to his responsibility in accordance with the rules regarding the influence that ensures the qualified majority

must be applied.

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ARC. Decision of the Authority

IV.1. Data management operations and managed data in the case of data management for the purpose of credit assessment

According to the Bank's statement, it also carries out so-called preliminary credit evaluation and credit evaluation

Before concluding mortgage bank loan agreements.

"[...] During the pre-assessment, the credit institution examines whether the customer provided

taking into account information and data - in the event that in the future on this

information and data will remain unchanged - can you provide it in accordance with the applicable legislation

loan to the customer. [...]"

According to the Bank's statement, a preliminary credit assessment is a prerequisite for accepting a loan application

completion as well.

For the purpose of pre-assessment, the Bank collects the following personal data - in accordance with GDPR Article 4, Point 1

handles:

personal data concerning the applicant and co-applicant,

-
- availability and contact details,
- data related to workplace, business,
- bank and financial data,

-

-

-

income data,

real estate data,

data on the requested loan.

According to the Bank's statement, personal data related to the preliminary credit assessment is the general rule according to it, it is handled on the basis of verbal communication, so it does not ask for certificates, however, it is preliminary in connection with a valuation, he requests the attachment of several documents.

According to the balance of interests, the data processed in connection with the credit assessment:

natural personal identification data,

contact details,

real estate collateral data,

-

-

-

- employment data,

- financial and income data.

Based on the above, the Bank basically handles the same personal data for credit evaluation

and during the preliminary assessment. The main difference, however, is that the preparation of the pre-assessment is oral based on data. These are recorded in the so-called "[...]" and the printed one is

on a document signed by the applicant ("Information on the results of a preliminary credit assessment").

appearing.

IV.2. Activities and data management quality of the Bank and the Mortgage Bank

On May 24, 2018, a joint data management agreement was signed between the Bank and Jelzálogbank created. [...]

Based on the statements of the Bank and the Mortgage Bank, as well as the attached documents, the objectionable data processing

the Bank acted as the Jelzálogbank's agent, i.e. the preparation of the loan offer and credit assessment

is the responsibility of the Bank, and an agreement on joint data management has been concluded, Article 26 of the GDPR

Based on. According to the Authority, the Bank and Jelzálogbank are joint data controllers, however, the graduate

activity, data management is different and the extent of data controller responsibility is also different.

The credit agreement was not concluded with the Complainant, as it was only for the conduct of the credit assessment and an offer has been sent. According to the declarations, the credit assessment is carried out by the Bank - as the

He was the agent of the mortgage bank, and he was also responsible for obtaining related contributions,

preservation was also the responsibility of the Bank according to the agreement, so with the preliminary credit assessment and

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through its branch network

provides a full range of services

in the stage related to credit assessment, only the Bank carried out actual data management for the Complainant and in relation to the personal data of other data subjects.

According to point II.c) 1 of the contract, "During the credit assessment and credit approval, the Bank acts in accordance with the provisions of the regulatory documents in force at all times."

The joint data management agreement concluded by the parties [...].

4.1. according to point, the purposes and means of data management are determined jointly;

5.1. according to point one of the methods of informing the stakeholders is the jointly defined information;

5.3. based on the decision of the parties, the Bank responds to stakeholder requests on behalf of the mortgage bank

yes.

In view of the above, data management during preliminary credit evaluations and credit evaluations relevant decisions are made jointly by the Bank and the Mortgage Bank, therefore the data management both are responsible for the development of practice.

[...]

According to the company report, a cooperation agreement was established between the Bank and the Mortgage Bank based on the Bank

mortgage loans

to the Bank, for which the Mortgage Bank pays a fee. The debtor classification and the the Bank carries out lending activities in accordance with the regulations of the Mortgage Bank.

According to the publicly available company registration and company reporting data, the Bank is the exclusive owner of Jelzálogbank. For this reason, he is responsible for the Civil Code. 3:323. According to paragraph (5) of § a the rules on influence ensuring a qualified majority must be applied accordingly.

According to Jelzálogbank's publicly available company report, Jelzálogbank was founded by the Bank with 100% ownership. The Bank is the exclusive owner of Jelzálogbank, and

[...] is considered the parent company. For this reason, he is responsible for the Civil Code. 3:323. According to paragraph (5) of § a

the rules on influence ensuring a qualified majority must be applied accordingly.

Furthermore, in data management decisions

the Bank also has greater influence

At the mortgage bank, according to the Authority's point of view, the Civil Code. 3:112. due to § (3), furthermore

in view of the fact that the preliminary credit assessment and the credit assessment are carried out by the Bank, for this reason the two

the degree of responsibility of the data controller can be considered different in the actual data management under investigation

because of the roles they played, which the Authority took into account when imposing fines by only a

He ordered the bank to pay the established fine amount, only with regard to the Mortgage Bank

made findings and ordered the termination of the violations.

IV.3. Legal basis for data management

IV.3.1. The legal basis of data processing for the purpose of pre-assessment and credit assessment is the pre-assessment and the

during the process of carrying out a credit assessment

IV.3.1.1. The Authority, in the case of the history of this procedure, the personal data of the Complainant

he called the Bank repeatedly with regard to his treatment after the completion of his credit assessment

to verify the legal basis by which it manages the Complainant's personal data, and also

if it refers to a legitimate interest, then it also attaches the interest assessment supporting it,

in the absence of proof of legal basis, delete the Complainant's personal data.

The Authority did not receive a response to the Authority's repeated request from the Bank, i.e. the Complainant

A data protection official procedure was initiated due to an alleged violation of personal data, in which a

Authority the purpose and legal basis of processing the Complainant's personal data processed after the credit assessment investigated.

22

"contracting

a request by the concerned a

rotating data management is required for the requested

IV.3.1.2. Data management during this official procedure for the examination of general practice

as a legal basis for preamble paragraph (44) of the GDPR, as well as Article 6 (1) paragraph b) of the GDPR

the Bank referred to point

In this context, the Authority highlights the European Data Protection Board's protection of personal data

on the processing according to Article 6 (1) point b) of the General Data Protection Regulation

are affected

2/2019 in connection with online services provided to

guidelines. This guideline is made in the context of online services, however

the findings related to point b) of Article 6 (1) of the GDPR are other contracts

is also applicable in relation to 2.7 of this according to point:

"At the time of data processing, it is not certain whether the contract will actually be concluded.

The second round of Article 6(1)(b) can nevertheless be applied as long as

as long as the person concerned submits his request in the context of the possibility of entering into a contract, and a orally

to take steps. In line with this,

if the data subject contacts the data controller to inform the data controller

about the details of its service offering, the personal data of the data subject upon request

its handling for the purpose of answering may be based on point b) of paragraph (1) of Article 6."

Completing the pre-assessment and credit assessment therefore does not guarantee that a contract will be concluded,

since these steps representing the preparation of the contract do not constitute a binding offer either according to the Civil Code.

6:64 a.m. §, however, this does not prevent the data controller from complying with Article 6 (1) of the GDPR

on the basis of point b) of paragraph, continue data management in this context, since the pre-assessment and

to carry out a credit assessment

possibility

in the context of

Due to the above, according to the Authority's point of view, it is acceptable that with the pre-assessment and credit assessment

The Bank and Jelzálogbank conduct data processing in connection with Article 6 (1) paragraph b) of the GDPR points until the time the credit assessment lasts.

IV.3.2. The personal data of the affected persons processed after preliminary credit assessment and credit assessment the legal basis for its retention if no contract has been concluded

According to the Bank's statements, the personal data collected for the purpose of credit assessment has changed its legal basis

in connection with its preservation and management.

According to the statement received by the Authority on May 12, 2022, the preliminary credit assessment in relation to the retention of data recorded during GDPR Article 6 (1) point f).

referred to since May 25, 2018. However, this is illegal on the part of the Bank due to the following there was a statement due to the following:

To the questions asked in the order regarding the initiation of the procedure - September 21, 2021.

in his letter dated - in his reply, he referred to the fact that in the previous investigation case - a

With regard to the preservation of the complainant's personal data - he made his previous position, according to which a the legal basis was mandatory data management, revised and hereafter Article 6 (1) of the GDPR considers paragraph f) as the legal basis. In the case of the Complainant, not only for a preliminary credit assessment, but a credit assessment was also carried out.

However, in the Bank's statement on June 12, 2020 - made in a previous investigation case - the Article 6 (1) b) of the GDPR has been identified as the preservation of unformed contracts legal basis.

Therefore, according to the Bank's statement on May 12, 2022, following the change of legal basis, a

The complainant - and the others involved - took their personal data for a credit assessment, as it is a mortgage loan no contract was concluded, Hpt. 166/A.§ and the Civil Code. 6:22 a.m. in view of § GDPR on the basis of legitimate interest based on point f) of Article 6 paragraph (1), the previously - until 29.IX.2021 - instead of an applied legal obligation.

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June 12, 2020 - NAIH/2020/115/9.

March 22, 2021 – NAIH -3072-2/2021.

Based on the above, the Bank referred to several legal bases for the personal data handled during the credit assessment regarding data retention:

Date of declaration and number filed with NAIH

legal basis a

Indicated in the declaration

regarding the preservation of personal data

GDPR Article 6 (1) point b).

GDPR Article 6 (1) point c,

specifically the Pmt. Section 58, paragraph (1).

Article 6 (1) point (f) GDPR

September 2, 2021 - NAIH-6640-2/2021.

The Authority established that GDPR Article 6 (1) point (c) (legal obligation)

reference in this case was not acceptable due to the fact that there is no legal

provision regarding the preservation of data handled during the credit assessment, if it is not created

contract between the parties. Furthermore, Pmt. Paragraph (1) of § 58 does not apply to this case,

since the referenced provision mentions a business assignment and transactional relationship, however, the a

was not created during the examined data management, so neither was Article 6 (1) point c) of the GDPR

acceptable reference. Article 6 (1) point b) of the GDPR is also not a suitable legal basis a

retention of personal data collected during a credit assessment concluded without entering into a contract

regarding, since the contract was not concluded and the contract conclusion phase was also concluded in these

in the cases.

In view of the above, the Authority established that the Bank complies with Article 5 (2) of the GDPR

breached it as it indicated an inadequate legal basis and was therefore unable to prove that

conditions for the legality of data processing - from the start of data processing - continuously

exist.

IV.3.2.1. Consideration of interests supporting a legitimate interest

The following statements refer to the general consideration of interests, because the Bank

did not send the Authority a specific assessment of the interests of the Complainant.

The basic element of the interest assessment is the assessment of the stakeholders' interests and expectations, which must

be taken into account

be the data controller on the status, legal and actual situation of the data subjects, as well as to their reasonable expectations regarding data management. Contract conclusion for this data management in its absence, the affected parties and the Bank do not have a customer or legal relationship, therefore Article 6 (1) of the GDPR

not at any time and for any reason, for data processing with reference to paragraph f)

the data controller may refer without limit, subject to paragraph (47) of the preamble of the GDPR -

you must be able to clearly indicate that one or more specifically named personal data

which legitimate interest it bases its treatment on, and why it is necessary in view of this interest

data management, and you must also prove why it is proportionally limited by the legitimate interests of the data controller

the rights of the data subjects, and why the interests of the data controller follow from the revealed facts

against the rights of those concerned. Ensuring the appropriate guarantees is also of prime importance for this

legal basis, because in the absence of these, the risk of harming the rights of the affected parties is so high

it is possible that the data controller's legitimate interests are outweighed by the data subject's rights associated with data management

due to risks.

In considering the interests of the Bank - made available to the Authority - data management is carried out by name it as follows:

"Preservation of data recorded during mortgage lending in cases where a no contract concluded"

Legitimate interest, as well as the existence of other legal grounds for the named data management purpose

must be examined in context. It is recommended to clarify this at the beginning of the consideration of interests, even if it is legitimate

before comparing interest and the rights of those concerned. The Bank did not do this, as the "Legitimate interest"

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titled II. point is actually the continuation of point I. of the consideration of interests, because it

explains why it is necessary to carry out a credit assessment. He doesn't name it anymore

clearly mentions the new data management purpose following the credit assessment, but on page 5, that " [...] By preserving the data, it can be ensured that the Data Controller can meet any legal claims can enforce it, and in any official procedures and investigations, the Data Controller is reconstructs what happened during the procedure and can prove it.[...]" . Based on this, it can be established that that this is its purpose identified as a legitimate interest.

From the above, it can be read that "it can be ensured by preserving the data" means that the purpose of data management is that "any legal claims can be enforced by the Data Controller, furthermore in any official procedures and investigations, the Data Controller of what happened during the procedure reconstructs and can prove", which may be the legitimate interest of the data controller in the future.

A few lines below the above, it already refers to the fact that "[...]The purpose of data management is not otherwise can be reached, [...]" , so the Bank considers the purpose of data management in its assessment of interests defined in the past, despite the fact that it does not state clearly in any place, that it identifies the enforcement of its legitimate interest as a data management purpose.

The Bank stated to the Authority that the preliminary credit assessment is subject to a as a credit assessment, however, he did not justify why and did not mark it with this purpose of related data management. The Bank does not address this in its assessment of interests, and a nor in its information, so it is related to the preservation related to the preliminary credit assessment the most important data management condition of data management, namely its purpose, is also unclear.

IV.3.2.2. Data related to preliminary credit assessment is for the absence of a contract preservation

In the assessment of interests, the Authority identified fundamental deficiencies.

The Bank also mentions pre-assessment in point I of its consideration of interests, and in this context it writes that "the credit institution examines whether the information and data provided by the customer taking into account - in the event that in the future this information and data remain unchanged - can the client provide a loan in accordance with the current legislation for". After that, however, the Bank was consistently only involved in credit evaluation

performs the assessment of interests in connection with data management, and in the assessment of interests

nor does it claim that it is in connection with the credit assessment

findings are prejudgment

they also apply to data management, which is another major shortcoming of the consideration of interests, however

since the latter is a legislated stage, the former is not, hence the two

the legal basis for the data processing of section is not necessarily the same, despite the fact that the purpose may be

may agree, although the Bank did not clarify this regarding the pre-assessment.

Therefore, at the beginning of the consideration of interests, the Bank separately mentions the credit assessment and preliminary credit assessment,

which is completely acceptable, given that the range of personal data handled is different, and a

personal data

the method of making it available is also not the same. However, it is

in the essential part of the interest assessment, i.e. in determining the legitimate interest of the data controller, that is

when comparing the interests of the data controller and the data subject, no prejudgment with data processing

deals with only "credit assessment", "credit assessment activity", "credit assessment"

mentions.

The above deficiency of the consideration of interests is not compensated for by the following statement:

"The above findings are based on the so-called during a preliminary credit assessment

they also apply to data processing related to granted loans, since - if it is preliminary

the data and information provided during the credit assessment will remain unchanged when the application is submitted

- the Lender must take into account the results of the preliminary credit assessment for the requested loan

during authorisation."

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The consideration of interests above incorrectly refers to the fact that its findings

apply to "so-called also for data processing related to loans granted during preliminary credit evaluation",

which therefore means that for data processing where loans were also granted. Despite

this finding is thus included in the consideration of interests, that it is affected by the consideration of interests
name of data processing according to the first line of the interest assessment: "Received in the course of mortgage lending
preservation of data in cases where the conclusion of the contract has not been concluded".

The Authority also refers to C 708/18. s. case 2, according to which it is the legitimate interest
it must be existing and actual at the time of data processing and cannot be hypothetical
at the given time. However, there is no existing and actual legitimate interest from the consideration of interests
can be read out, it can only be considered hypothetical. Furthermore, it is hard to imagine that it is
Any legal claim may arise based on the customer's mostly verbal ("announced") data
in connection with the pre-assessment phase.

In view of the above

the Authority found that the Bank did not perform genuine
consideration of interests, and thus no legal basis in relation to the data management for which
performed a preliminary credit assessment, but it was not followed by a credit assessment, therefore it is related to this
its data processing conflicts with Article 6 (1) of the GDPR.

IV.3.2.2.1. Personal data collected during a credit assessment concluded without entering into a contract
consideration of interests regarding treatment following a credit assessment

The Bank has properly identified the data controller's legitimate interest that "The credit assessment
behind the activity there are legal requirements that must be complied with
it is necessary to ensure."

In relation to the legislation governing credit assessment, the Bank notes Hpt. Section 6 (1)
paragraph 40, as well as the customer and partner rating, as well as the collateral evaluation
§ 4 of the MNB decree on prudential requirements. The former requires creditworthiness
obligation of inspection, according to the latter, the partner rating system helps the client
determining your solvency and creditworthiness before taking on the risk.

In its assessment of interests, the Bank also refers to the fact that the Hungarian National Bank is the supervisory authority
body can impose fines in case of inadequate fulfillment of the regulations. The Bank also highlights

that since in the case of credit evaluations where the conclusion of the contract was not followed by data retention cannot refer to the fulfillment of a legal obligation, but at the same time the possible official due to procedures, its legitimate interest is the preservation of data related to contracts that have not been established within the general limitation period, therefore it refers to point f) of Article 6 (1) of the GDPR. The according to the wording of the interest assessment, "It is the legitimate interest of the Bank to know the number about rejected loan applications, either for the enforcement of possible claims or for supervisory purposes, official procedure, even in the case of enforcement of legal claims."

Basically, the Bank properly indicated its interest in connection with the credit assessment. However it also marks the fulfillment of the rights of the affected party as its own interest, as follows:

"The preservation of data also creates the possibility that the general data protection regulation on the basis of which the Data Controller can comply with and fulfill the access request from the data subject data provision."

The above statement is incorrect because the fulfillment of access requests in itself is not may be a data management interest. If we are talking about legal data management, then the access the obligation to fulfill requests - laid down in the GDPR - exists in the case of data processing, it is related to it, so it is an additional obligation, not an independent data management interest.

<https://curia.europa.eu/juris/document/document.jsf?jsessionid=DD840B6F01B0700232D3730B3EB56D76?text=&docid=221465&pageIndex=0&doclang=HU&mode=lst&dir=&occ=first&part=1&cid=2378250>

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Apart from the above, the legitimate interest exists, and it can be established that the consideration of interests is a personal data collected through a credit assessment (ie not through a preliminary credit assessment) has a general statute of limitations

confirms the legal basis of its retention within the period of GDPR Article 6 (1) point f) because the Bank has properly identified its legitimate interest in relation to the fact that it is contingent after the fact in official and legal proceedings as essential data processing to support your claims referred to it. On the other hand, a serious shortcoming of the consideration of interests is that the stakeholders

his interests were not identified by the Bank, and no comparison with the Bank's interests was made, thus in this regard, the argument is that the stakeholders are necessary and proportionate due to the Bank's interest limitation of his rights is not sufficiently substantiated.

The Authority previously emphasized that the Bank is the personal data of the Complainant did not send a separate consideration of interests regarding its treatment, however, given that a In the case of the complainant, he also carried out the credit assessment, so it was not just a preliminary assessment, therefore a findings detailed above also regarding the management of the Complainant's personal data guiding.

IV.3.2.2.2. Summary

Regarding the preservation of personal data obtained during the preliminary credit assessment in the consideration of interests, deficiencies can be established, due to which the legal basis does not exist is not suitable for verification, therefore the Authority to delete this personal data instructed the Bank.

In relation to the stage following the preliminary credit assessment - taking into account the referred also legal requirements - the legitimate interest exists in principle, however, the consideration of interests GDPR- in order to comply with it due to wrong conclusions and shortcomings correction is required.

IV.4. Preliminary information about data management

The so-called right to prior information is provided for in Articles 12-14 of the GDPR. regulated by its articles. In this in this case, therefore, information is not provided for an access request, but for data management before starting.

About the range of information that data controllers are obliged to provide even in the absence of a request from the data subject to be made available to data subjects is provided for in the above-mentioned Articles 13 and 14 of the GDPR. The examined in the case of data management, the source of the personal data is the data subject, therefore according to Article 13 of the

GDPR

the Authority had to examine the fulfillment of the obligation.

Article 12 (1) of the GDPR stipulates that the data controller must take appropriate measures

to bring in order to ensure that the processing of personal data for the data subject, a

All information mentioned in Articles 13 and 14 and Articles 15-22. and everything according to Article 34

certain information in a concise, transparent, understandable and easily accessible form, clearly and

provide it in a comprehensible way.

In addition to the above, the prior information obligation is in Article 5 (1) point a) of the GDPR

can also be derived from the regulated principle of "legality, fair procedure and transparency", since this

data subjects have the right to see the entire process of data management

by means of appropriate information provided by the data controller before starting data processing.

The Authority NAIH-497-6/2022. in his order no. he specifically called on the Bank to

attached to data management

information, in which the credit assessment/preliminary credit assessment

provides information regarding Personal data handled by the Authority during the pre-assessment

did not examine the Complainant's information regarding the relevant information obligation,

since in the case of the Complainant, not only a preliminary assessment was conducted. The Authority is present

its findings therefore refer to the Bank's general practice.

27

the

loan

criticism,

admission,

authorization,

The Authority examined the brochure attached by the Bank and concluded that it

data management information contains a very long list in the "Purposes of data management" section,

however, it does not contain specific information about the data collected during the preliminary credit assessment, and also mentions the Bank only once, as follows:

"- related to the transfer of data to [...] ., as a key intermediary of [...]

for data management

concluding a contract,

account management, monitoring, clients may

notice, the loan agreement

it is necessary due to possible termination of

According to the Authority's findings, the Bank acted as an agent of the Mortgage Bank, the loan offer and

the Bank is also responsible for preparing a credit assessment, as well as an agreement on joint data management

concluded on the basis of Article 26 of the GDPR. If the credit agreement is not concluded with the parties involved, and

only the credit assessment was carried out, which, according to the declarations, was carried out by the Bank - as

the task of the Mortgage Bank's agent, then considering that in this stage - the Bank and

according to the agreement between the Mortgage Bank - only the Bank carries out actual data management, therefore it is

you must clearly state this in your data management information. Here, the Authority emphasizes that

from the point of view of the above findings, it is not relevant that the Mortgage Bank

referred to that "The residential and free-use mortgage provided by [...]

It is contained in a document entitled "Data management information of the Business Regulations on Credits".

information regarding the preliminary credit assessment and the retention of personal data,

for which no contract was concluded, because the short referred to by Jelzálogbank

information that only applies to the fact that in the case of contracts that have not been concluded a

validating or submitting any claims related to the failure of the contract, or

is registered and managed for the purpose of protection, it cannot be considered adequate information. This

information does not provide information on the legal basis of data management, nor is it clear,

whether it can be applied to pre-judgment, since it is only for the conclusion of contracts

its preparation mentions data handled under the legal title, which does not clearly imply prejudgment.

This is supported by Jelzálogbank's reference that, according to its data management information, a management of listed data - among others - Hpt. to point f) of paragraph (2) of § 3 and Hpt. § 6

With reference to point 40. c) of paragraph (1), the contract is prepared on a legal basis. These legislation, however - as the Authority stated above - only for credit assessment

apply, so the preliminary credit assessment is not regulated by legislation. The Authority

according to his point of view, there should be clear information that the credit assessment is a

it is preceded by a pre-judgment, in connection with which the personal data collected was not concluded

in which case, with reference to what legal basis, for what purpose and for how long. This is the referenced data management

"the contracts

the preparation of the conclusion of the legal title" with reference to the data management related to the preliminary evaluation and

data retention does not follow, as it is not required by law, and a

the term "contract preparation" in this case is not clear for which stage

applies, as the Bank has also stated that they are not yet making a statement in the pre-assessment stage about the intention to enter into a contract.

Based on the above, the information suffers from a serious deficiency in terms of pre-assessment,

and does not allow customers to see the process of data management and the fate of their data.

In addition to the above, it should also be highlighted that the Mortgage Bank referred to what is stated

in your data management information that you did not send them to the Authority - Article 5 (2) of the GDPR

despite the obligation according to paragraph - and he also referred to the parts he quoted from a

information 25.05.2018 have been included since However, the Authority could not verify this

from a publicly available data management information sheet, namely the data management information sheet of [...]

they are constantly updated, and the current information is always publicly available.

Given that the information attached by the Bank and referred to by the Mortgage Bank

- publicly available - information on data management collected during the preliminary credit assessment

in relation to the preservation of personal data for which no contract has been concluded,
did not contain adequate prior information, therefore it can be concluded that the Bank - as a
it is not clearly stated in the information sheets, because

28

complete

no information obligation

informative

Based on a contract with a mortgage bank, it is related to data management
responsible for the obligation - in this regard, he violated Article 5 (1) point a) of the GDPR,
Article 12 (1) of the GDPR, as well as the provisions of Article 13 of the GDPR.

IV.5. The Authority found that the Bank and the Mortgage Bank are joint
agreement

content, cooperation contracts, internal regulations, etc

documentation, in relation to which data protection regulations 12.

defined in Article (3)-(4).

so

if the Bank and Mortgage Bank wish to treat them as business secrets, in that case it is
does not conflict with the provisions of the General Data Protection Regulation. So in this respect the
Bank and Jelzálogbank's application, the Authority has the Ákr. It approves on the basis of paragraph (3) of § 27. THE
The essential duration of the agreement on joint data management - Article 12 of the General Data Protection Regulation.
information falling within the scope of the obligation to provide information defined in Article (1) - no
may qualify as business secrets. trade secret, in view of the fact that those concerned,
thus, the Applicant is also entitled to know according to the general data protection regulation, therefore these
rejects the request for treatment as a business secret.

IV.6. Legal consequences

IV.6.1. The Authority condemns the Bank and the

Mortgage Bank, because it violated the following provisions of the GDPR:

burden

- paragraph 1 of Article 6,
- Paragraph 2 of Article 5,
- Paragraph 1 of Article 12.

IV.6.2. The Authority with the Bank and Jelzálogbank on the basis of GDPR Article 58 (2) point c)

instructed to amend the data management information sheet, delete personal data and consider interests correction.

IV.6.3. The Authority examined whether it was justified against the Bank and the Mortgage Bank

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

75/A. considered all the circumstances of the case based on §. Given the circumstances of the case a

The authority determined that it is not necessary to impose a fine on the Complainant,

however, due to general practice, in the case of violations discovered during this procedure, a

a warning is neither a proportional nor a dissuasive sanction, so the imposition of a fine

necessary vis-à-vis the Bank.

The Authority did not fine the Mortgage Bank under IV.2. as written in point

The Authority considered the following aggravating factors when imposing the fine on the Bank

taking into account:

- The violation is continuous and still exists, and it is also a serious violation

can be considered the lack of a legal basis, the personal data handled during the preliminary credit assessment preservation and the lack of information related to the credit assessment. [GDPR Article 83 (2) paragraph point a)];

- The violation affects a large number of stakeholders, as according to the Bank's statement, a in the examined period [...] a preliminary credit assessment was carried out, of which in [...] cases a credit assessment has taken place. [GDPR Article 83(2)(a)];

- The established data protection

in nature

are considered [GDPR Article 83(2)(b)], given that

are related to data management practices.

violations of the law are grossly negligent

- To condemn the Bank for violating the general data protection regulation

took place in decision No. [...], in which the Authority established several

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including the violation of Article 5 (1) point a) of the GDPR. In this

in the decision, the Authority fined the Bank 2,000,000 HUF, i.e. two million forints for data protection

obliged to pay a fine. The Authority also condemned the Bank for [...]

Article 5 (1) point a) of the GDPR was repeated in its decision no

due to its violation, as well as Article 6 (1) and Article 12 (1) of the GDPR

due to violation of par. In this decision, the Authority the Bank

He was ordered to pay a HUF 2,000,000 data protection fine. (GDPR Article 83 (2)

paragraph e) and i)

During the imposition of the fine, the Authority took into account as a significant mitigating circumstance that a

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

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

The Authority took into account the following as other circumstances when imposing fines:

- Based on the Bank's 2020 profit and loss statement, its pre-tax profit [...] HUF

volt.

The Authority is the special authority when determining the amount of the fine imposed

in addition to the preventative goal, the general preventive aim to be achieved with the fine was taken into account

purpose, with which - in addition to restraining the Bank from further infringements - all

the movement of the market operator's data management practices in the direction of legality

wants to achieve. Because it is essential to indicate and prove the legal basis

a requirement that the data controllers must verify in each case

must [GDPR Article 83(2)(f)]

- The Bank fulfilled its obligation to cooperate, but this is legal

obligation. (GDPR Article 83(2)(e) and (i))

- The personal data affected by the breach are not special personal data.

(GDPR Article 83 (2) point g)

- The procedure was started partly due to non-compliance with the Authority's request.

A. Other questions

NAIH-6640-1/2021. No. - dated August 12, 2021 - data protection started by order

the subject of the investigation of the official procedure is the credit assessment of the Complainant's personal data

examination of the compliance of its storage with the GDPR. The

the 150th day in this part of the official data protection procedure expired on August 25, 2021,

considering that the Bank does not include those 12 days in the administrative deadline

delay caused by the fact that the Authority's first summons was not electronic

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

you sent your answer in the prescribed manner, therefore NAIH-6640-3/2021. this was required in order no

call the Authority.

NAIH-6640-3/2021. No. - dated October 8, 2021 - the above subject

was extended to the investigation of the Bank's general practice, so the persons concerned are personal

the retention of your data related to the processing of credit assessment purposes

It is for GDPR

to check its compliance. It is the 150th day in this part of the official data protection procedure

It expired on March 7, 2021, the 300th day will expire on August 4, 2022.

Infotv - effective from January 1, 2022 - 60/A. § (1) of the data protection authority

in the procedure, the administrative deadline does not include the time required to clarify the facts

the time from the invitation to provide data to its fulfillment.

Given that the Authority NAIH-497-6/2022 dated April 26, 2022. no

in his order, he invited the Bank to make another statement for the purpose of clarifying the facts, to which the Bank
your statement was received by the Authority on May 12, 2022, therefore from April 26, 2022.

The period up to May 12 is not included in the deadline, therefore the 300th day is 2022.

expires on the 19th of August.

* * *

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

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

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

* * *

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

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

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

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

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

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

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

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

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

CCXXII. Act (hereinafter: E-Administration Act) according to Section 9 (1) point b) the customer

legal representative is obliged to maintain electronic contact.

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

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

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

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

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

If the Bank and the Mortgage Bank do not adequately certify the fulfillment of the prescribed obligation,

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

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

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

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

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

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

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

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

the decision regarding the obligation to conduct, tolerate or stop

its implementation is undertaken by the Authority.

dated: Budapest, according to the electronic signature

c. professor

Dr. Attila Péterfalvi

president