Case number: NAIH-2727-2/2022. Subject: partially granting the request

resolution and termination

order

History: NAIH-5732/2021.

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

based on the request of the applicant (hereinafter: Applicant) (hereinafter: application) with […] (a

hereinafter: Respondent) related to claims management

without legal basis

a data protection official initiated in the subject of data management and improper fulfillment of a stakeholder request

makes the following decisions in the procedure:

I. 1. In its decision, the Authority accepted the Applicant's request on May 25, 2018

partly in the part aimed at establishing the illegality of subsequent data processing

I.2. finds that the Respondent has violated it

gives place and

- the

processing of personal data for natural persons

by

protection and the free flow of such data, as well as the 95/46/EC Directive

Regulation 2016/679 (EU) on its exclusion (hereinafter: GDPR or general

data protection regulation) points a) and b) of Article 5 paragraph (1),

regarding

- Article 5 (2) of the GDPR,

- Article 6 (1) of the GDPR,

- Paragraphs (1) and (4) of Article 12 of the GDPR,

- Article 13 of the GDPR, and

- Article 15 (3) of the GDPR.

II. The Authority's part of the Applicant's request that its decision is informational

self-determination

law (a

hereinafter: Infotv.) publish based on Section 61 (2).

CXII of 2011 on freedom of information.

about law and that

rejects.

III. The Authority in its order of the personal data of the Applicant

illegal treatment

the period before May 25, 2018

regarding, as well as regarding the deletion of your personal data

terminates.

ARC. In its decision, the Authority charged the Applicant ex officio with the illegal data processing it carried out

because of

10,000. HUF 000, i.e. ten million forints

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-5732/2021. FINE.

number must be referred to.

If the Respondent does not fulfill his obligation to pay the fine within the deadline, he is in default

must pay an allowance. The amount of the late fee is the legal interest, which is due to the delay

is the same as the central bank base rate valid on the first day of the relevant calendar semester. The fine and the

in case of non-payment of late payment, the Authority orders the execution of the decision.

V. In view of the fact that the administrative deadline has been exceeded, the Authority orders the

Payment of HUF 10,000, i.e. ten thousand forints, to the Applicant by the authority - in writing

according to your choice - by bank transfer or postal order.

* * *

The I., II. and IV. by resolution, and III. administrative remedy against the order

it has no place, but it is addressed to the Capital Court within 30 days from the date of communication

can be challenged in an administrative lawsuit with a claim. The claim must be submitted to the Authority,

electronically, which forwards it to the court together with the case documents. Against the order

in a lawsuit, the court acts in a simplified trial. Not in the full personal tax exemption

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

Legal representation is mandatory in proceedings before the Metropolitan Court.

JUSTIFICATION

I. Procedure of the procedure

I.1. At the request of the Applicant, Infotv. On June 24, 2021, pursuant to § 60, paragraph (1).

official data protection procedure has been initiated.

The application did not contain the audio recording referred to by the Applicant, which proves that

addressed to the Respondent with a stakeholder request, and the Applicant did not explain that a

The Respondent in what form (in writing or by telephone) was rejected by the Applicant

he did not substantiate his request, nor did he substantiate the fact of the rejection, nor the claim referred to

The Applicant did not attach a court decision establishing the statute of limitations to his application, therefore the Authority

of NAIH-5732-2/2021. in order no.

5732-2/2021. complied with in the document registered.

I.2. The Authority referred the Applicant to NAIH-5732-4/2021. the procedure was notified in order no

and invited him to make a statement for the first time in order to clarify the facts,

with reference to the CL of 2016 on the general administrative order.

law (a

hereinafter: Ákr.) to § 63, to which the Respondent's answer was received on August 16, 2021

and to the Authority (document No. NAIH-5732-5/2021).

Based on the Respondent's statement, the Authority considered that due to clarification of the statement

it is again necessary to invite the Applicant to make a statement in order to clarify the facts,

as well as the data management conditions of the case

questions essential for its exploration

in its response, the Respondent did not detail the data management objected to by the Applicant

operations and the examination of new circumstances became justified, therefore to make a statement again

called in order to clarify the facts in its order dated September 10, 2021, to which

in a letter received by the Authority on September 24, 2021, the Applicant sent the

statement (document No. NAIH-5732-9/2021).

2

In his answer, the Respondent made contradictory statements compared to his previous statements

did, and also did not specify the method of deleting the Applicant's personal data, therefore the Authority

in his order dated October 14, 2021, he called for a statement for the third time

Requested. (NAIH-5732-10/2021.) The last deadline given by the Applicant for this call

in a letter dated

requested an extension of the deadline by 15 days, however, he did not justify his request. THE

The authority partially granted the request for a deadline extension of 9 days

granted a deadline extension. However, the Applicant on 15.11.2021. day, so 11

fulfilled the invitation with a delay of one day, and referred to the fact that the Authority's deadline

extension

order partially approving the request for 11.10.2021. on the day of

for delivery to the Applicant.

I.3. The Authority is NAIH-5732-15/2021. s. notified the Applicant in his document that a

proof procedure is completed. The Authority's order in this regard, as evidenced by the receipt

Applicant 25.11.2021. received it on 12.03.2021.

expired on The Applicant did not send a statement to the Authority.

II. Clarification of facts

II.1. The Applicant submitted the following in his application and filling in the gaps:

II.1.1. The Applicant requested the following in his application:

- the investigation of the data management of the Respondent,

- determination of illegal data processing,

- deletion of unlawfully processed data,

- the data controller's instruction to harmonize its data management operations

with data protection provisions,

- examine the data management practices of the Requested Party, especially the "real purpose"

in terms of data management, furthermore

- Infotv's decision against the Application. It is brought on the basis of § 61, paragraph (2).

public.

II.1.2. The Applicant attached the following documents/screenshots to the application

in copy:

screen recording of an outgoing call (to […]),

-

- the Applicant 11.06.2021. letter of information and payment notice dated

- in the context of gap filling, the Respondent's letter number [....], in which it notifies the Applicant,

to close the Applicant's case and to the Applicant as a transaction actor

deletes linked personal data within 3 working days, at the same time the transferor

keeps a copy of the order due to the registration obligation prescribed by law.

In addition to the above, the Applicant, in the context of gap filling, with the Application on 15.07.2021. day at 18:03

attached the audio of the telephone conversation. This audio recording was made by the Applicant,

and in this he asked the Applicant to send the audio recording made earlier (on 23.06.2021)

and for him. The Applicant also indicated in this audio recording that the previous

during a phone call, he also submitted a stakeholder request for deletion and asked if based on this

what is the reason for not deleting your personal data, but the administrator does not in this regard

he found a reference in his records and referred to the fact that the data subject's requests must be in writing

submit. The Respondent's administrator was unable to provide information on the Applicant's question

to provide on the basis of which legal or other provision the data subjects do not comply

requests, only if they are received in writing. At the beginning of the audio recording, the clerk a

Among the Applicant's personal data, his mother's birth name and the Applicant's birth name

requested the availability of the place and time, which the Applicant later blamed,

as he questioned why this was necessary.

3

According to the testimony of the audio recording, in addition to the above, the claimant is the Respondent and the Applicant

spoke about its legitimacy and enforceability. The Applicant referred to the fact that the inheritance was not

covers the debts of the testator, and the Applicant, as an heir, is not obliged to pay for it

for the debts of the testator, if the debts exceed the value of the inheritance. According to the Applicant

The Respondent, as a company dealing with claims management, should know this. The Applicant

furthermore, he blamed the Respondent for not validating within the limitation period the

claim and is now trying to collect it, illegally.

II.1.3. In the request sent to the Authority, the Applicant detailed the data management complained about

According to the following:

The Applicant submitted that the Respondent purchased a claim on 07.12.2015, which the

Claims from the applicant under the legal title of "inheritance". On 23.06.2021, the Applicant received, a

After a summons registered with the respondent under case number […], by phone at 11:58 a.m.

informed the Applicant of the following facts, of which the Applicant was aware:

- the original obligee died in 2013, with assets under HUF 100,000 and assets over HUF 300,000

-

with funeral expenses, and the heirs are only liable to the extent of the estate,

and that if there had been a legacy (exceeding the debt), a

the claim is time-barred, so it cannot be enforced in court,

- the Applicant has no intention of paying the claim out of court.

In his application, the Applicant also referred to the fact that he informed the Applicant that a

his possibility to assert his claim has ceased and he drew the attention of the Respondent

that the Applicant is aware of this (since the Applicant's data is only used by

it was made possible by learning about the inheritance order), and requested the deletion of the processed personal data.

According to the Applicant, the Respondent denied the Applicant's stakeholder request without justification

rejected. The Respondent's administrator stated that he would continue to process the data and

attempted to collect additional information about the Applicant.

The Applicant also referred to the fact that the Respondent's claim is time-barred, so the existing one

personal data of the Applicant could no longer be processed with reference to a claim

however, he did not attach a court decision to his application.

According to the Applicant, the Respondent was fully aware of the claim after the purchase

that he could not enforce the claim in court. The Respondent clearly does not

accidentally failed to enforce the claim in the 5 years since the assignment. The Applicant

according to his claim, in relation to data management, the violation manifests itself precisely in this: a

The Respondent can harass the Applicant until the end of time, since the Respondent decides whether

that he does not initiate court proceedings within the limitation period.

The processing of the requested data is therefore obviously illegal, since the purpose of the data processing (legal

assertion of interest) did not exist even before the statute of limitations. It follows directly from this that

that derivative data processing related to the enforcement of the legitimate interest (contact

purpose, customer identification purposes) cannot be legal and fair either.

The Applicant also referred to the behavior of the Respondent

handles the stakeholder inquiry based on the testimony of the audio recording made on July 15, 2021 (i.e.

more precisely, he neglects it, since he does not even record the verbal signals of the stakeholders), obviously

contrary to data protection provisions.

During his phone call to the Respondent, the Applicant specifically referred to the fact that a

The Applicant's grieving process is wrong with the aggrieved party's data management

direction

influenced him, because the Respondent's letter of notice upset him just when he was in mourning

he calmed down.

4

II.2. The Applicant NAIH-5732-5/2021.sz. according to his statement on file:

The Requested person - on the basis of the Authority's call - from the date of assignment

initially reviewed and found the following:

[…] assigned the claim to the Respondent on December 7, 2015. The Applicant a

On the basis of legally binding inheritance transfer order No. […] (hereinafter: inheritance transfer order) [….]

was registered as the legal heir of the Applicant on September 20, 2016.

on the day of

The Respondent initiated collection proceedings against the Applicant due to an administrative error. THE

According to the applicant's procedure for the administration of the estate, if one is valid

the amount of the value of the estate stated in the order of inheritance is lower than the

costs related to the acquisition of a legacy, the Respondent will take immediate action

about closing the deal. Unfortunately, the case was not closed in the case of the Applicant.

Based on the review of the case, it was established that the objection presented orally by the Applicant

was fully substantiated and the employee of the Requested telephone operator was negligent,

when he did not take what the Applicant presented as an oral complaint, but instead requested it in writing

to send the objection. The Applicant did not contact the Applicant in writing.

Due to the above, the Respondent closed the handling of the case, and the Applicant, as a transaction actor and

has irretrievably deleted its related personal data from its records. THE

The Respondent notified the Applicant of the closure of the case and that, as a party to the transaction

deletes all your personal data, takes action on this within 3 working days, the inheritance transfer order

at the same time, the Respondent keeps a copy of it in accordance with the law

registration obligation. A copy of the notification sent to the Applicant, as well as the cancellation

the Screen save confirming its occurrence was forwarded to the Authority by the Respondent.

According to the information provided by the Applicant, in the event of a statute of limitations, it will proceed as follows:

Act V of 2013 on the Civil Code (hereinafter: Civil Code) 6:23. § as such

stipulates that a time-barred claim cannot be enforced in court proceedings, however

this does not affect the existence of the obligation to perform the service. It's out of date

for a claim, therefore, the Civil Code rights, which rights are held by the Applicant as the right holder

can be exercised, and the fact of the statute of limitations cannot be taken into account ex officio. If it is

at the request of the person concerned, the court, having examined all the circumstances of the claim enforcement, the claim

establishes its statute of limitations, in which case the Requested shall terminate the data processing and the processed

deletes data.

II.3. The Applicant NAIH-5732-9/2021. s. the following information in the statement filed in the document

provided by:

To delete the data without a trace regarding the previously managed personal data of the Applicant

considering that the Applicant is unable to provide accurate information, the Applicant

can state in general that the personal identification and contact information of the obligees

manages your data.

The inheritance transfer order, and with it the personal data indicated in it (Applicant

name, place and time of birth, mother's name) of the Applicant about credit institutions and financial

CCXXXVII of 2013 on enterprises. legal obligation in view of § 258 of the Act

basis, with reference to Article 6 (1) point c) of the GDPR. The Respondent did not

has the audio of the conversation with the Applicant, as the Applicant a

in the order of transfer of inheritance

apart from the indicated personal data, the Applicant has everything

he deleted his personal data, as he closed the transaction as referred to above.

5

carried on

The Respondent also claimed, supported by documents, that he bought from [….].

claim, in which he was recorded in the records of the Respondent as the legal heir of […]

the Applicant, was not statute-barred until the administrative error was detected, given that the old Penal Code.

based on the act of interrupting the statute of limitations, a written request to fulfill a claim is considered an act

notice, as well as recognition of the obligee's debt, the claim is made by agreement

modification and judicial enforcement.

II.4. The Applicant NAIH-5732-13/2021. s. in his statement filed in the file, the Respondent is

provided the following information:

The Applicant's personal data was deleted on August 11, 2021. The Authority for that

at your request to send it with the Applicant

phone conversations

a copy of your audio recording, given that they are included in the complaint handling regulations (8/2020

(No. X.01.) 8.2. will be kept for 5 years, the Respondent answered the following:

In the first reply sent to the Authority, the Respondent confirmed that the telephone operator

co-worker was in default when the Applicant's verbal objection was not addressed verbally

for recording as a complaint, instead he asked the Applicant to send his complaint in writing.

Given that no audio recording could be found in the Applicant's records,

which was recorded as a verbal complaint in connection with the Applicant, as well as in writing

was not submitted either, the Respondent did not take care as required by law

about keeping a complaint.

The Respondent also stated that, amended to the previous order, the Applicant is personal

regarding the management of his data, he gave his answer that since his legal obligation a

to make a backup copy of its registration system, and therefore the personal data of the Applicant

still keep it as a backup. Access to this personal data

is limited and may not be used for any purpose other than providing backup.

The obligation to create backups is imposed by financial institutions, insurance companies and

reinsurance companies, as well as the IT of investment companies and commodity exchange service providers

42/2015 on the protection of its system.

(III.12.) Govt.

in the following:

Government Decree) 5/B. § point d) prescribes for the Respondent.

The Respondent extended the deadline in his letter dated the last day of the deadline given for the invitation

applied to the Authority to extend the deadline by 15 days

requested, however, he did not justify his request. The Authority took into account that the Applicant

has not previously missed a deadline. According to the Authority's point of view, however, the deadline

extension request was not properly substantiated, as the Applicant did not indicate the

the reasons for his request, and also not because it was due to the Authority's third call

necessary, because the Respondent did not fully answer the previous invitations, or

his statement was sometimes contradictory.

Due to the above, the Authority considered the 15-day extension of the deadline to be excessive, since a

The respondent did not indicate any reason that would have clearly prevented him from doing so

05.11.2021 by the date of the order. The Authority is in favor of a deadline extension

granted the request in part by allowing a 9-day deadline extension. THE

However, he applied for 15.11.2021. on the day of, i.e. completed the call 11 days late,

and referred to the fact that the Authority partially granted the request for a deadline extension

order 10.11.2021. was delivered to the Respondent, so that the Authority

about it

deadline of 05.11.2021. until today

extended it.

II.5. The Authority has viewed the data management information available on the website of the Applicant,

in which the following can be read:

provided that for the declaration

decree

(the

6

its legal basis is Article 6 (1) GDPR

information is separated from debt collection

II.5.1. In connection with debt collection, personal data is the primary responsibility of the Respondent

it is handled with reference to Article 6 (1) point f) of the GDPR.

II.5.2. The following in connection with data management during audio recording

included

Data processing of the Requested

area

data management (point 11) and in connection with the lending activity

data management of telephone conversations (point 12).

In connection with debt collection, the following were set as goals, among others:

Debt management-related negotiations, legal declarations, requests (e.g. installment payments

agreement), ensuring the accountability of the data controller, legal requirements

presentation, protection, ensuring provability related to validation by both parties

for.

point f) with debt collection

Data management

in context. The duration of data management is in accordance with Act V of 2013 on the Civil Code. (the

6.21-6.25 relating to statute of limitations, hereinafter: Civil Code. was determined on the basis of § (i.e

limitation period 5 years).

The Requested Hpt. 288 for retention of complaints only with credit activities

referred to in telephone conversations related to

III. Applicable legal provisions

The GDPR must be applied when personal data is partially or fully automated

processing, as well as the processing of those personal data in a non-automated manner

for handling, which are part of a registration system, or which are a

they want to make it part of the registration system. It is for data management under the scope of the GDPR

Infotv. According to Section 2 (2), the GDPR must be applied with the additions indicated there.

According to Article 5 (1) points a) and b) of the GDPR:

Personal data:

a) must be handled legally and fairly, as well as in a transparent manner for the data subject

conduct ("lawfulness, due process and transparency");

b) should be collected only for specific, clear and legal purposes, and should not be processed

in a manner inconsistent with these purposes; in accordance with Article 89 (1).

is not considered incompatible with the original purpose for the purpose of archiving in the public interest,

further data management for scientific and historical research purposes or for statistical purposes

("goal-boundness");

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").

Article 6 (1) of the GDPR:

c) the processing of personal data is legal, if it concerns the data controller

necessary to fulfill a legal obligation.

f) the processing of personal data is legal, if the data processing is

it is necessary to enforce the legitimate interests of the data controller or a third party, unless

such interests or fundamental rights of the data subject take precedence over these interests and

freedoms that require the protection of personal data, especially if the data subject

child.

7

According to Article 12 (1)-(6) of the GDPR:

(1) The data controller shall take appropriate measures in order to ensure that the data subject a

all the information referred to in Articles 13 and 14 regarding the management of personal data

and 15-22. and each information according to Article 34 is concise, transparent, comprehensible and easy

provide it in an accessible form, clearly and comprehensibly worded, especially a

for any information addressed to children. Information in writing or otherwise

- including, where applicable, the electronic route - must be provided. Oral at the request of the person concerned

information can also be provided, provided that the identity of the person concerned has been verified in another way.

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

in the cases referred to in paragraph 15-22, the data controller is the person concerned. to exercise his rights according to art

may not refuse to fulfill your request, unless you prove that the person concerned

cannot be identified.

(3) The data controller without undue delay, but in any case from the receipt of the request

informs the person concerned within one month of the 15-22. following a request according to art

on measures taken. If necessary, taking into account the complexity of the request and the

number of applications, this is the deadline

it can be extended for another two months. The deadline

request for an extension by the data controller indicating the reasons for the delay

informs the person concerned within one month of receipt. If the data subject is electronic

submitted the application via e-mail, the information must be provided electronically if possible,

unless the data subject requests otherwise.

(4) If the data controller does not take measures following the data subject's request, without delay, but

informs the person concerned no later than one month from the date of receipt of the request

about the reasons for the failure to take action, as well as about the fact that the person concerned can submit a complaint to a

with a supervisory authority, and can exercise his right to judicial redress.

(5) Information provided under Articles 13 and 14 and Articles 15-22 and Article 34

all information and measures carried out based on this must be provided free of charge. If it is affected

your request is clearly unfounded or - especially due to its repetitive nature - excessive, that is

data manager:

a) related to providing the requested information or information or taking the requested action

may charge a fee of a reasonable amount, taking into account administrative costs, or

b) may refuse to take action based on the request.

It is the responsibility of the data controller to prove that the request is clearly unfounded or excessive.

(6) Without prejudice to Article 11, if the data controller has well-founded doubts in accordance with Articles 15-21. article

in relation to the identity of the natural person who submitted the application, further, the person concerned

you can request the provision of information necessary to confirm your identity.

Based on Article 15 (3) of the GDPR, the data controller is the personal data subject

provides a copy of the data to the data subject. For additional copies requested by the data subject

the data controller may charge a reasonable fee based on administrative costs. If that

concerned submitted the application electronically, the information was widely used

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

Based on Article 17 (1) of the GDPR, the data subject is entitled to request that the data controller

delete the personal data concerning him without undue delay, and the data controller

is obliged to provide the personal data concerning the data subject without undue delay

delete if any of the following reasons apply:

a) the personal data are no longer needed for the purpose for which they were collected or otherwise

treated in a manner;

b) the data subject withdraws it pursuant to point a) of Article 6 (1) or point a) of Article 9 (2)

pursuant to point 1, the consent that forms the basis of the data management, and the data management does not have

other legal basis;

8

c) the data subject objects to the processing of his data on the basis of paragraph (1) of Article 21, and there is no

an overriding legitimate reason for data processing, or the data subject is Article 21 (2).

objects to data processing based on;

d) personal data were handled unlawfully;

e) the personal data is legal as prescribed by EU or member state law applicable to the data controller

must be deleted to fulfill an obligation;

f) to collect personal data with the information society referred to in paragraph 1 of Article 8

took place in connection with the offering of related services.

Based on Article 17 (3) of the GDPR, paragraphs (1) and (2) do not apply if

data management is necessary:

b) EU or Member State law applicable to the data controller, which prescribes the processing of personal data

fulfillment of the obligation according to, or in the public interest or public authority entrusted to the data controller

for the purpose of performing a task in the exercise of a driver's license; Article 21 of the GDPR

Based on paragraph (1), the data subject is entitled to, for reasons related to his own situation

object at any time to your personal data based on points e) or f) of Article 6 (1).

against its handling, including profiling based on the aforementioned provisions. In this case

the data controller may no longer process the personal data, unless the data controller proves that

that the data processing is justified by compelling legitimate reasons that take precedence

enjoy against the interests, rights and freedoms of the data subject, or which are legal claims

are related to its presentation, validation or protection.

Other administrative or judicial remedies based on Article 77 (1) of the GDPR

without prejudice, all data subjects are entitled to lodge a complaint with a supervisory authority -

in particular your usual place of residence, place of work or the place of the alleged offence

in the Member State of origin - if, according to the judgment of the data subject, the personal data relating to him

handling violates this regulation.

Pursuant to Article 58 (2) point b) 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;

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;

The Akr. On the basis of § 17, the authority has its authority and competence in all stages of the procedure

investigates ex officio. If you notice the absence of one of them, and it can be established beyond doubt in the case

competent authority, the case will be transferred, failing which the application will be rejected

or terminate the procedure.

Based on Section 46 (1) of the Ákr, the authority rejects the application if

a) there is no legal requirement for the initiation of the procedure, and this law does not apply to it

it does not have any other legal consequences.

Based on Section 47 (1) of the Ákr, the authority terminates the procedure if

a) the request should have been rejected, but the reason for that was the initiation of the procedure

came to the attention of the authorities.

Infotv. On the basis of § 38, paragraph (2b), the Authority is provided with personal data in paragraph (2).

with respect to the defined scope of the litigation aimed at making a court decision and

performed by the court in non-litigation proceedings, based on the relevant regulations

in relation to data management operations, it does not cover the provisions specified in paragraph (3).

to exercise powers.

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.

Infotv. Based on § 61, subsection (1), in the decision made in the official data protection procedure a

Authorities

a) in connection with the data management operations defined in paragraphs (2) and (4) of § 2 a

You can apply the legal consequences defined in GDPR,

b) in connection with the data management operations defined in § 2, paragraph (3).

ba) can establish the fact of unlawful processing of personal data,

bb) can order the correction of personal data that does not correspond to reality,

bc) can order a

blocking of illegally processed personal data,

or deletion

destruction,

bd) may prohibit the unlawful handling of personal data,

[…]

bg) can impose fines,

and the treatment of which the procedure is successful

Infotv. On the basis of § 71, paragraph (1) during the Authority's procedure - for its conduct

to the extent and duration necessary - you can manage all personal data, as well as by law

data classified as protected secrets and secrets bound to the exercise of a profession, which with the procedure

are related

in order to conduct

required.

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 § 61, paragraph (2), the Authority may order in its decision - the data controller,

and the disclosure by publishing the data processor's identification data,

if

a) the decision affects a wide range of persons,

b) it was brought in connection with the activities of a body performing a public task, or

c) the severity of the infringement justifies disclosure.

Infotv. Based on § 61, subsection (5), the Authority, in deciding whether (1) is justified

imposition of a fine according to paragraph b) sub-point bg),

and the amount of the fine

during its determination, it takes into account all the circumstances of the case, so in particular the infringement

the size of the circle of stakeholders, the gravity of the violation, the reprehensibility of the conduct, and the fact that

whether the violator was previously found to be related to the handling of personal data

infringement.

Act C of 2000 on accounting (hereinafter: Accounting Act) § 169 (1)–(2)

based on paragraph:

(1) The entrepreneur prepared an account of the business year, the business report, as well as those

supporting inventory, evaluation, ledger extract, as well as the log book, or other, as required by law

can read a register that meets its requirements

mandatory for at least 8 years

keep.

(2) Accounting documents directly and indirectly supporting the accounting

(including ledger accounts, analytical and detailed records), at least 8

must be in readable form for years, it can be retrieved by referring to the accounting records

way to preserve.

Pursuant to § 166, paragraph (1) of the Accounting Act, any accounting document that the entrepreneur

issued or made by, or a natural person with a business or other relationship with the farmer

in form

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(invoice, contract,

a document issued or prepared by a person or another entrepreneur

agreement, statement, credit institution receipt, bank statement, legal provision, other

a document that can be classified as such) - regardless of its printing or other production method - which a

supports the accounting accounting (registry) of an economic event.

The Hpt. Based on Section 288, Paragraph (1), the financial institution and the independent intermediary ensure that

the behavior and activities of the customer or the financial institution and the independent intermediary

your complaint regarding your failure orally (in person, by phone) or in writing (in person

or via a document provided by someone else, by post, fax, electronic mail). THE

the rules on complaint handling must also be applied to the person who provides the service

contacts a financial institution or an independent intermediary in order to use it, but a

service is not used.

The Hpt. Pursuant to Section 7 (1), a financial institution is a credit institution and a financial enterprise.

The Hpt. Financial enterprise based on Section 9 (1).

a) the financial institution which - in points d) and e) of Section 3 (1) and Section 8 (2)

with the exception of the activities defined in paragraph -, one or more financial services,

or operates a payment system, and

The Hpt. Pursuant to Section 3, Paragraph (1), the following activities are business-like financial services

payment in HUF, foreign currency or foreign currency:

….

l) receivables purchase activity.

information security confidentiality requirements, if it is live

The Hpt. 67/A. Pursuant to § (1), financial service provider activity - supplementary financial

with the exception of services - can only be performed using an IT system

row, which ensures the closure of the system elements and prevents the

IT

unauthorized access to the system, as well as undetected modification. The IT

system must also meet general information security confidentiality requirements.

To this end, the credit institution must provide administrative, physical and logical measures

the general information security confidentiality requirements must be met.

Government Decree 5/B. Based on § point d), the IT system complies with Hpt. 67/A. § (1)

paragraph, Bszt. In paragraphs (12)-(14) of § 12, Fsztv. 12/A. § and Bit. Section 94 (4)-

(6), with the closure of the system elements, to the IT system

related to preventing unauthorized access and undetected modification, as well as

general

system

data backup and restore procedure ensures the safe restoration of the system, and a

backup and restore with the frequency according to the relevant regulations and documented testing.

ARC. Decision:

IV.1. Data management prior to May 25, 2018

[…] assigned the claim to the Respondent on December 7, 2015. The Applicant a

On the basis of legally binding inheritance transfer order No. […] (hereinafter: inheritance transfer order) [...]

was registered as the legal heir of the Applicant on September 20, 2016.

on the day of

Despite the above, the Authority only handles data after May 25, 2018

examined the Application due to the following:

In the present procedure, the Authority only applies to May 2018 in relation to the data management of the Applicant made findings in connection with data management after the 25th day, so the Ákr. Section 47 (1) on the basis of paragraph a) terminated the procedure in the part aimed at examining its data management, since the request was not

answered Infotv. to the conditions contained in § 60, paragraph (2), since the applicant in this part of the data management period, the general data protection regulation was not yet applicable, therefore, the Authority cannot conduct official data protection proceedings initiated upon request.

IV.2. Question of limitation of claim

According to the Applicant, the claim that the Respondent wants to collect against him is already time-barred, however, the Respondent disputed this and referred to the Civil Code. 6:23 a.m. § paragraph (4). based on this, the statute of limitations cannot be taken into account ex officio in court or official proceedings.

In the present procedure, the Authority has time-barred the claim in relation to the data management of the Respondent did not examine it, because it is judged by Infotv. Based on paragraphs (2)-(2a) of § 38, it does not belong to Under the jurisdiction of the authority. The decision of this preliminary question falls under the jurisdiction of the court.

The Respondent registered a claim against the Applicant in relation to which a The applicant did not attach any court decision that would establish that it does not exist, therefore, with regard to the claim registered by the Respondent regarding data management a a legitimate interest may in principle exist.

IV.3. Data controller

According to the data of the company register, the main activity of the Respondent is claims management.

The Authority established, based on the Respondent's statements, that with the examined data management in the case concerned, in connection with the above-mentioned activity, the purpose of its data management and means are determined independently by the Respondent, therefore on the basis of Article 4, Clause 7 of the GDPR data controller in connection with the management of the Applicant's personal data.

According to the Authority's point of view, the reference to an administrative error does not exempt the

Request from data controller responsibility, given that Article 4, Clause 7 of the GDPR

pursuant to which the Respondent is considered a data controller. The Applicant is the one who organizes it

process of data management and creates its conditions. The most important feature of the data manager

that it has substantive decision-making authority and is responsible for data management

for the fulfillment of all obligations laid down in the general data protection regulation.

considered for data processing and data protection

The Data Protection Working Group established in accordance with Article 29 of the Data Protection Directive (hereinafter:

Data Protection Working Group) on the concepts of "data manager" and "data processor" 1/2010.

also explained in his opinion no. that "Ultimately, the company or organization must

responsible

resulting from legislation

for obligations, unless there are clear elements indicating that a natural person a

responsible. […] However, even in such cases, when a specific natural person is appointed,

to ensure compliance with data protection principles or to process personal data, this

the person does not

to a legal person (or a company

public body) acts on its behalf, which in its capacity as data controller remains responsible for the principles

in case of violation."

will be a data controller, but its a

In connection with the complained case, the Respondent realized two things independently of each other

also referred to an administrative error. One of the administrative errors is against the Applicant

related to the initiation of a debt collection procedure, the other administrative error is the telephone one

omission by the operator, as a result of which the Applicant's phone call is not answered

treated as a complaint or stakeholder request. The two were realized independently

"administrative error" means a major omission, since it occurred in the first instance

administrative error, in which case it would be reasonable for the Applicant's first indication,

therefore, following your phone call on June 23, 2021, measures are being taken to correct this, however

they did not do this, not even on the Applicant's second phone call (July 15, 2021)

have informed the Applicant that they will investigate this case because they refer to an administrative error in the

conditions.

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Starting the recovery procedure is an internal decision, starting a process that involves several people

it presupposes the performance of tasks and the preparation and sending of an issued letter, which is why this is

can be evaluated as a high degree of negligence and carelessness.

IV.4. Management of the Applicant's personal data

ARC. 4.1. Data management for claims management purposes

The Respondent admitted that by mistake and the processes of its claim management activities

contrary to its descriptive regulations, the Applicant handled it personally for claims management purposes

data, as the Applicant as an heir

recorded as transaction actor, debtor a

in his records, despite the fact that his inheritance did not cover the testator's debts, and

not based on this, the Civil Code. on the basis of, and correspondingly not on the basis of the internal regulations of the

Respondent

it is possible to demand payment of the debt from the heir.

The Respondent, based on the assignment agreement, with the debtor and his legal successors

became entitled to a claim against him (his heirs), in order to enforce the claim,

as well as his legitimate interest in the processing of the personal data necessary for this

in principle, it can be established as a result of the legal regulations, and the data management purpose is legal

it counts as.

Among the principles of data management, Article 5 (1) point b) of the GDPR states that personal

data may be collected for a legitimate purpose, and they may not be processed for this purpose

in a mutually agreeable manner.

20.09.2016 from the municipality competent according to the debtor's place of residence. on the day of

from a probate order obtained - in which the Applicant is named as an heir -

it becomes clear that the amount of debts exceeds the amount of active assets. For this

despite the fact that after receiving the order, he sent payment notices to the Applicant a

Requested for debt settlement.

The Civil Code Pursuant to paragraph (1) of § 7:96, the heir is liable for the inheritance debt with the objects of the inheritance

and is liable to the creditors with their benefits, therefore, according to the Authority's point of view, the Respondent a

Applicant's personal data

treated it unlawfully for claims management purposes, and thus

breached Article 5(1)(b) of the GDPR from the entry into force of the GDPR, i.e. May 2018

from the 25th until the date of deletion of the Applicant's personal data, i.e. August 21, 2021.

until today.

According to the Applicant's statement, on August 21, 2021, the Applicant's

your personal data processed for claim management purposes after noticing that it was an administrative error

the case was not closed because of However, the Authority concluded from the facts that it was not

the Applicant detected the administrative error, but the Applicant reported it to the Applicant

on the occasion of two phone calls, and also initiated a data protection official procedure for this reason

The Applicant drew the attention of the Authority, i.e. the Respondent, to the fact that against him the Civil Code.

it is not possible to pursue recovery proceedings in relation to the claim referred to. For this

Despite this, the Respondent took steps only after receiving the Authority's order

to investigate the data management, because in the letter dated August 11, 2021, the Respondent stated that

stated that "Based on the request of the T. Authority, our company is assigning the case

from the date of his review and established the following. [...] Review of the case

on the basis of which it was established that the objection presented orally by the Applicant was fully

it was well-founded and our company's telephone operator was in default when he didn't take it

presented by the Applicant as an oral complaint, instead he asked to send it in writing

objection. […]

As a result of the above investigation, our Company closed the handling of the relevant case and a

The applicant as a transaction actor and his related personal data in an irreversible manner

deleted from his record.”

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IV.4.1. due to the provisions in point

IV.4.2. The legal basis for processing the Applicant's personal data for claims management purposes

According to the data management information of the Respondent, data management for the purpose of claims management

is defined in Article 6 of the GDPR.

Article (1) paragraph f) ends with a reference to a legitimate interest.

THE

the Respondent cannot even arise for the purpose of claiming

the priority of its legitimate interest in data management over the rights and interests of the Applicant

against, so he could not refer to point f) of Article 6 (1) of the GDPR in this case.

With regard to this data management purpose, the Requested in Article 6 (1) of the GDPR

did not have a specific contractual legal basis (GDPR Article 6 (1) point b) either,

in view of the fact that the Applicant, as concessionaire, is for the purpose of claims management

for data processing, only the legal basis according to Article 6 (1) point f) of the GDPR can be accepted. THE

Kúria Kf.V.39.291/2020/5. upheld by its judgment of September 14, 2020, no.

in its final judgment, the Authority shared this regarding the applicability of the contractual legal basis

position. The Metropolitan Court is the European Data Protection Board, 2/2019. in its recommendation no

considered the interpretation that also appears to be the governing one, according to which the performance of the contract is

the legal basis

to be interpreted narrowly and does not automatically cover data processing resulting from non-performance,

and that only by sending the payment reminder, or the contract to proceed normally

data processing related to the processing of data may fall under the legal basis of the performance of the contract, the original

however, none of this applies to data processing for the purpose of claims management after the termination of the contract

can be applied.

Additional legal grounds defined in Article 6 (1) of the GDPR, so point a) a

consent, point c) is not applicable due to the lack of legal obligation, Article 6 (1) of the GDPR

and the Respondent may not refer to paragraph e) at all, given that no

carries out activities of public interest and does not have a public authority license.

On the basis of the above, it can be established that the Respondent has been in effect since the entry into force of the GDPR,

i.e. in 2018.

from May 25 until the date of deletion of the Applicant's personal data, i.e. August 21, 2021.

performed illegal data processing for claims management purposes until today, thus violating Article 6 of the GDPR.

paragraph (1) of Article

ARC. 4.3. Preservation obligation prescribed by law

ARC. 4.3.1. Probate order

The inheritance transfer order, and with it the personal data indicated in it (Applicant

name, place and time of birth, mother's name) of the Applicant about credit institutions and financial

CCXXXVII of 2013 on enterprises. with regard to § 258 of the Act (hereinafter: Hpt.).

on the basis of a legal obligation, with reference to Article 6 (1) point c) of the GDPR.

The Hpt. Pursuant to Article 258, paragraph (1), the financial institution is related to business-like activity

records in Hungarian - the requirements of Hungarian accounting legislation

by complying with it - conducts it in a manner suitable for supervisory and central bank control.

Act C of 2000 on accounting (hereinafter: Act) § 166, paragraph (1) and § 169

Based on paragraphs (1)–(2), personal data from the termination of the business relationship, respectively

it is registered and preserved by the data controller for 8 years from the completion of the transaction order.

Pursuant to Article 17 (3) point b) of the GDPR, the data subject's request for deletion is not

can be fulfilled if the processing of personal data is required by law.

Based on the above, it can therefore be established that the Respondent is GDPR Article 6 (1) c)

point, i.e. legally handles the inheritance transfer order with reference to the provisions of the law (and

that Applicant's personal data).

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the

the

according to

with stakeholders

data management

information sheet

However, the legislation only requires a storage obligation, not the stored personal data

can be used.

IV.4.3.2. Sound recording

The Applicant

carried on

telephone conversations are recorded and preserved by the Civil Code. during the limitation period determined according to

THE

The Respondent referred to the fact that there is no such audio material in connection with the Applicant

at your disposal.

It can be accepted as a fact that the Applicant had a telephone conversation with the Applicant because

the Applicant is NAIH-5732-4/2021. in his statement sent to order no.

that based on the Authority's call, the case was reviewed and it was determined that a

The Respondent's administrator made a mistake because he did not accept the Applicant's verbal complaint

registered as a complaint. From this, it can be concluded that the Applicant a

during his review, which he conducted due to the order of the Authority, he listened to the stored

audio recording, and he drew conclusions based on it, so there was an audio recording, which a

He recorded the conversation between the Applicant and the Respondent. This is supported by the fact that the Respondent

during the call on July 15, 2021, his administrator noted: "I see that you agreed on 06.23

with us earlier, with the colleague, then you would like to request this recording."

Due to the above, it can therefore be established that the Respondent of this official data protection procedure

after becoming aware of the incident, he deleted the audio material, the preservation of which is the procedure

point of view, especially with regard to the principle of accountability, it would have been justified, and for this reason the

It would also have had a legal basis based on point f) of Article 6 (1) of the GDPR. Besides, other things

purpose, it would have been justified to keep it, since if during the review it was established that

complaint was also made during the conversation, then Hpt. § 288 also provides for such preservation

obligation.

With the Applicant

not about preserving the audio of a telephone conversation

provision is also controversial because the Respondent himself admitted that the Applicant

during the first telephone conversation, he also formulated a complaint, which - the Respondent

according to his reference, due to the omission of his employee - he did not judge. Such "complaints" concern him

as a request

can happen. THE

The Applicant claimed that he submitted a stakeholder application to the Respondent, this is established

it would also have been necessary to preserve the audio material in question, later on

in order to prove whether the Respondent has legally classified the given complaint as

the non-affected request. About the preservation of the audio of the telephone conversation

care actually covers deletion as it is known with the Requested telephone conversations

related data management from its data management information, and considering that based on it

all by the concerned customer service of the Respondent

initiated

automatically records a telephone conversation (the machine voice also draws attention to this during the call),

therefore, he also had to record the telephone conversations with the Applicant.

The Respondent does not retain the audio of the telephone conversation with the Applicant

took care of, did not examine whether it is obliged under Article 5 (2) of the GDPR

to keep, and he did all this in such a way that at the time of deletion it was already the current data protection authority

procedure was in progress, so the Respondent had to expect that

he must be able to account for the Applicant's stakeholder requests to the Authority.

The Authority a

carried on

canceled telephone conversations and thus was unable to call the Authority to the Authority

to send, violated Article 5 (2) of the GDPR.

The Authority also mentions here that the Respondent is also engaged in the purchase of receivables

financial institution Hpt. Pursuant to § 288, he is also obliged to preserve it through debt collection

received in connection with the complaints, so the data management information of the Respondent is herewith

due to the above, he found that by being with the Applicant

different aspects of its classification

taking into account

carried on

towards

15

wrong, as the Hpt is only referred to in connection with the activities of the credit institution.

on the obligation to preserve a complaint according to § 288. Obligations prescribed in Hpt

in relation to the failure to fulfill it, i.e. the violation of the preservation obligation

the Authority cannot make findings, because it also performs financial consumer protection tasks

It falls under the jurisdiction of the Hungarian National Bank. The Authority, however, the Respondent is wrong

in relation to its data management information containing information, stated that a

The respondent violated Article 12 (1) of the GDPR and Article 13 of the GDPR.

ARC. 5. Stakeholder requests

Based on Article 12 (1) of the GDPR, the data controller must take appropriate measures

in order to provide concise, transparent, understandable and

provide it in an easily accessible form, clearly and comprehensibly worded. The

information in writing or in another way, including, where applicable, the electronic way

to give

IV.5.1. Stakeholder requests can also be completed orally

4/2020 sent by the Applicant to the Authority. (05.06.) No. Data Management

document entitled procedure for telephone recovery experts 5.1. according to point if

the data subject generally objects to the processing of all his data, to the existence of the claim, then

the administrator must first argue in favor of the existence of the claim in the register

with the help of the data included, that the Respondent has the appropriate legal basis for the personal

in connection with the management of data, and the data subject must be informed that the Requested a

on what legal basis does it manage personal data? If the argument does not lead to a result,

in that case, it is necessary to arrange for the deletion of everything that can be done on the interface. The

the person concerned can be informed about the data to be deleted that has not been done on other interfaces,

that your complaint will be investigated and you will be informed in writing about the assessment of your request.

The GDPR does not rule out providing information orally to the data subject's request, because the GDPR

Paragraph 1 of Article 12 provides for this separately. Despite this, the phone calls to the Applicant

the operators gave the information that you must submit your cancellation request in writing.

Since the GDPR does not apply to the submission of data subject requests

form constraint, therefore neither does the Applicant

entitled, and that the fixed

acceptance of a stakeholder request submitted during a telephone conversation with reference to formal reasons

refused, violated Article 12 (1) of the GDPR.

IV.5.2. Deletion of personal data and access request

Similar to the withdrawal of consent, it is for the affected person to object according to Article 21 of the GDPR

exercising your right also results in a deletion obligation. In such a case, the data controller only

may continue to process personal data based on compelling legitimate reasons.

According to the Applicant, he was informed during the telephone conversation that his application

is rejected by the administrator and insists that the interested party submit his request in writing to

To the applicant. The Respondent did not make it available to the Authority with the Applicant

conducted telephone conversations, citing that it does not store such, at the same time a

Applicant with the Respondent's administrator 07.15.2021. about the telephone conversation on

made a sound recording. This audio recording refers to the previous, 20.06.2021. held on the day

about a telephone conversation, and about the stakeholder request submitted during it, in connection with which a

The applicant's administrator informs the applicant that stakeholder requests must be made in writing

submit. However, this only applies to the cancellation request, because the Applicant in this a

in conversation on 20.06.2021. available for the audio of the conversation on the day

asked for his release. After the necessary data reconciliation, the administrator informed that

will be sent. Considering that the Authority has the referred 20.06.2021. made on the day

due to the lack of audio material, the objection and cancellation request referred to by the Applicant a

it was not in a position to examine its performance, and it did not make any findings regarding it.

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institutions

imposes requirements that the financial

However, the requested audio was not sent to the Applicant despite the fact that

data matching and identification took place and the telephone clerk recorded the request, thereby a

The Respondent violated the Applicant's right of access pursuant to Article 15 (3) of the GDPR,

since he did not answer it at all, and thus the Respondent did not explain why

that the Applicant does not comply with the request for access, Article 12 (4) of the GDPR

offended him.

The Respondent stated that the Respondent's employee (telephone operator)

committed an omission because it did not record the Complainant's complaint, but instead requested it in writing to send the objection. According to the Authority's point of view, it cannot be accepted as a reason for bailing out human error, because the Respondent, as a data controller, is responsible for his activities for the careful organization of work processes, which includes stakeholder requests receiving them, answering them within the deadline, and also checking them.

IV.6. The principle of transparency

NAIH-5732-13/2021 was recognized by the Applicant during the official data protection procedure. no in his reply letter that he keeps a backup copy of the Applicant's personal data, however did not inform the Applicant in his letter dated 10.08.2021, only about the cancellation and on the preservation of the inheritance order.

The Hpt. 67/A. § (1) with the IT systems used by financial service providers opposite IT government decree on the protection of the system 5/B. §-the explains in more detail, ie determines how the requirements prescribed in Hpt. must meet the financial enterprises. One such criterion is that the firmware system data backup and restore order to ensure a safe system restore, and this requires to make backups of the system. Backups, copies preparation is a prerequisite for the secure operation of the IT system, as well as the Applicant of the continuation of its receivables purchase activity, and as a result, in the backups in relation to the personal data found, the legal basis for data management is Article 6 (1) of the GDPR obligation according to paragraph c)

The policy of the Requested Party regarding backup copies and their management is not public for those concerned, including the Applicant. The Respondent did not inform the Applicant about whether your personal data is still included in the backup and in which cases

backups may be used, or when you permanently delete them

rescues by the Applicant. However, this is not acceptable because it is the entire process of data management

the transparency stipulated in Article 5 (1) point a) of the GDPR must apply

principle, that is, the data subject about the fact of data processing and related important data processing

circumstances must be informed in all cases.

Due to the above, the Respondent violated Article 5 (1) point a) of the GDPR

principle of transparency.

IV.7. Comments made by the applicant in connection with the deadline extension request

The Authority emphasizes that the Ákr. is not specifically provided for in the deadline extension application

in connection with its assessment, and thus does not provide that in certain cases it

must be entered. Considering that the Respondent did not even justify why he is requesting a deadline-

extension, so basically he could not expect that the Authority would grant his request,

furthermore, the Respondent can only blame himself for making the request for a deadline extension a

written on the last day of the deadline set for the fulfillment of the invitation. According to the position of the Authority

if, due to some justifiable circumstances, the data controller is unable to fulfill the

those requested in the invitation, he is obliged to bring it to the attention of the Authority by clearly stating the circumstances.

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IV.8. Request regarding the disclosure of the decision against the Application

The Authority rejected the Applicant by making public the decision against the Application

related request, since the application of this legal consequence is the right or right of the Applicant

does not directly affect his interests, such a decision of the Authority does not constitute a right or obligation for him

arises, as a result of this - a legal consequence - falling within the scope of enforcing the public interest

with respect to its application, the Applicant is not considered a customer under Art. based on paragraph (1) of § 10,

and since the Ákr. Does not comply with § 35 (1), request in this regard

there is no place for its submission, this part of the submission cannot be interpreted as a request.

IV.9. Legal consequences

IV.9.1. The Authority partially granted the Applicant's request, and GDPR Article 58 (2)

b) condemns the Applicant for violating:

- points a) and b) of Article 5 (1) of the GDPR,

- Article 5 (2) of the GDPR,

- Article 6 (1) of the GDPR,

- paragraphs (1) and (4) of Article 12 of the GDPR,

- Article 13 of the GDPR and

- Article 15 (3) of the GDPR.

III.9.2. Due to the above violations, it became necessary to establish a legal consequence, which the

Authority decided by acting in discretionary power based on legislation.

The Authority ex officio examined whether a data protection fine against the Application was justified

imposition. In this context, the Authority has Article 83 (2) of the GDPR and Infotv.75/A. on the basis of §

ex officio considered all the circumstances of the case and found that during the present proceedings

in the case of a detected violation, the warning is neither a proportionate nor a dissuasive sanction,

therefore it is necessary to impose a fine.

When imposing the fine, the Authority took the following factors as aggravating factors

taking into account:

1. The violation is serious because the Respondent committed several fundamental violations. (GDPR

Article 83(2)(a)

2. The violation is serious, as it significantly affected the Applicant's sphere of interest due to the fact that

the Respondent tried to collect a claim on it, for the fulfillment of which the Civil Code. 7:96. §

Based on paragraph (1), he is not obliged. The seriousness of the violation is especially enhanced by the fact that

the Applicant's grieving process for his deceased relative was made difficult by

He pleaded that the Applicant had to deal with a matter that he already had

rightly considered closed, considering the Civil Code. related provisions. The Applicant a

In his phone call to the Respondent, he specifically referred to the fact that the Respondent

illegal data processing affected the Applicant's grieving process in a bad way,

for the Respondent's letter of notice upset him just when he was in mourning

he calmed down. For reasons attributable to the Respondent, the Applicant had to notify several times

to the Respondent, that for the purpose referred to by him (claims management), the Applicant

may not legally process your personal data. (GDPR Article 83 (2) point a)

3. Illegal data management over a long period of time (May 25, 2018 and August 11, 2021

date, until the deletion of unlawfully processed personal data) existed. (GDPR Article 83 (2)

paragraph point a)

4. The infringement caused by data processing without a legal basis is partly intentional on the part of the Respondent

caused by his conduct, as his obligation under Article 5 (2) of the GDPR

its fulfillment cannot be attributed to the telephone operator's failure to which it refers.

(GDPR Article 83 (2) point b)

5. The Respondent canceled the telephone conversations with the Applicant, its employees

he referred to an error instead of taking responsibility, because of these it can be concluded that he did not

cooperated with the Authority. (GDPR Article 83 (2) point f)

6. The Authority has previously

The Applicant has been repeatedly condemned by the GDPR

due to violation of its provisions as follows:

- Article 12 (2) of the GDPR and Article 5 (1) of the GDPR when providing information

for violation of point a) of paragraph NAIH/2019/1841. in decision no.

also due to the violation of Article 5 (1) point a) of the GDPR, the NAIH

3957-1/2021, and NAIH/2020/308 due to violation of Article 15 of the GDPR.

in decision no., furthermore

- the Respondent has already been prosecuted for violating Article 6 (1) of the GDPR

NAIH/2019/2566/8., NAIH/2020/5552., NAIH/2020/152/2.

and NAIH-3957-1/2021. in decisions no. since it is for the purpose of claims management
data processing was carried out with reference to an inappropriate legal basis.

The Authority emphasizes here that NAIH/2019/1814. established in decision no
GDPR article 5 paragraph (1) point a) is also a breach of security
it is about failure to provide information about rescue, so the Authority is specifically for this reason
previously condemned the Petitioner.
NAIH/2019/2566/8. No. and NAIH/2020/5552. was not included in decisions no
line for fines, while NAIH/2020/152/2. HUF 1,000,000 in decision no
a data protection fine was imposed, and NAIH-3957-1/2021. no
HUF 1,000,000 in decision NAIH/2019/1841. HUF 500,000 in decision no. a
NAIH/2020/308. to pay a HUF 2,000,000 data protection fine in its decision no
the Authority obliged the Applicant. (GDPR Article 83(2)(e) and (i))
Given that the Respondent has repeatedly violated the same provisions of the GDPR, Article 5 of the GDPR.
and in the case of Article (1) point a) it was violated in more than one, quantified in three cases
and as detailed above, therefore, the Authority rejects this recurring illegal behavior,
and the fact that in the present procedure, the violation of eight provisions of the GDPR
established, took it into account with special weight when imposing the fine, and in view of this, the
In the case of previously imposed data protection fines against a request
significantly larger
decided to impose a fine of
Based on the Respondent's 2020 report, its pre-tax profit was HUF […]. The imposed
data protection fine does not exceed the maximum fine that can be imposed. (GDPR Article 83 (5) a)
point)
By imposing a fine, the special preventive goal of the Authority is to encourage the Applicant
to review its data management practices and ensure that your personal data is protected in the future
enforcement of the right to data protection.

Violations committed by the Respondent according to Article 83 (5) point a) of the GDPR

are considered violations of the category of higher fines. The nature of the violations

based on the upper limit of the fine that can be imposed based on GDPR Article 83 (5) points a) and b) 20

000,000 EUR, or a maximum of 4% of the total world market turnover of the previous financial year.

The Authority follows the provisions of Article 83 (2) of the GDPR regarding the imposition of fines

did not take into account its provisions, because they were not relevant in the case at hand: c), d), g), h),

points j), k).

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A. Other questions:

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

covers the entire territory of the country.

The decision is in Art. 80-81 § and Infotv. It is based on paragraph (1) of § 61. The decision is in Art. 82.

Based on paragraph (1) of § §, it becomes final upon its communication. The Akr. § 112 and § 116 (1)

paragraph or § 114, paragraph (1) against the decision by means of an administrative lawsuit

there is room for a legal remedy.

* * *

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 point a) of section 12 (2), the Authority

the administrative lawsuit against his decision falls under the jurisdiction of the court, the lawsuit is referred to the Kp. Section

13 (11)

based on paragraph 1, the Metropolitan Court is exclusively competent. On the Civil Procedure Code

solo CXXX of 2016 to the law (hereinafter: Pp.) - the Kp. Based on § 26, paragraph (1).

legal representation in a lawsuit within the jurisdiction of the court based on § 72

obligatory. Cp. According to § 39, paragraph (6) - if the law does not provide otherwise - the statement of claim

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

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

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

hereinafter: E-administration act) according to § 9, paragraph (1), point b) of the customer's legal representative

obliged to maintain electronic contact.

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

information on the possibility of a request to hold a hearing in Kp. 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 Respondent does not adequately certify the fulfillment of the prescribed obligation, the Authority

considers that the obligation has not been fulfilled within the deadline. The Akr. According to § 132, if a

the obligee has not complied with the obligation contained in the final decision of the authority, it can be enforced.

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

Pursuant to § 133, enforcement - unless otherwise provided by law or government decree

- ordered by the decision-making authority. The Akr. Pursuant to § 134, the execution - if it is a law,

government decree or, in the case of municipal authority, a local government decree otherwise

does not have - the state tax authority undertakes.

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

administrative deadline, therefore the Ákr. On the basis of point b) of § 51, he pays HUF ten thousand to the Applicant.

dated: Budapest, February 11, 2022.

Dr. Attila Péterfalvi

president

c. professor