

Case number: NAIH / 2019/2472 /

Subject: Decision granting the application

DECISION

The National Data Protection and Freedom of Information Authority (hereinafter: the Authority) has two stakeholders at the request of a natural person (hereinafter: Applicant I. and Applicant II.) the Budapest Környéki

Against the General Court (1146 Budapest, Thököly út 97-101.) (Hereinafter: the Applicant)

List of data related to applicants' association membership and February 22, 2019 leaders

The following data protection proceedings have been initiated in connection with the transmission of the meeting to the participants

makes decisions.

I. The Applicant I. and the Applicant II. grants his application in part and finds that

Applicant I. and Applicant II. personal data pursuant to Article 5 (1) (b) of the GDPR

and infringed Article 6 of the GDPR in breach of the principle of

data has been collected in a separate list for purposes other than the deduction of membership fees, and by third parties made it available to him.

II. Obliges the Applicant to, within 15 (fifteen) days of the final adoption of this decision,

notify all persons who:

They attended an extraordinary senior meeting on February 22, 2019, and the list was deleted

had not previously been notified of his request.

III. The Authority shall initiate proceedings in respect of an application to prohibit an unlawful processing operation

TERMINATION is terminated.

ARC. The Authority rejects the Applicants' application for a fine and ex officio

Due to the unlawful data processing indicated in point I, the present decision is finalized

within 30 days of its divorce

HUF 3,000,000, ie HUF 3 million

data protection fine

obliges to pay.

V. The Authority shall ex officio order the identification of the Applicant for this decision

publication on the Authority's website.

A II. The applicant shall be required to take the measures provided for in paragraph 1 from the time the measure is taken

You must certify in writing within 15 days, together with the supporting evidence, that:

Towards an authority.

The fine is charged to the Authority's forint settlement account for the collection of centralized revenue

(1003200001040425-00000000 Centralized collection account IBAN: HU83 1003 2000 0104 0425 0000

0000). When transferring the amount, NAIH / 2019/2472. JUDGE. should be

to refer to.

If the Applicant fails to meet the obligation to pay the fine within the time limit, it shall be delayed

must pay a supplement. The rate of the late payment interest is the statutory interest, which is in arrears

equal to the central bank base rate valid on the first day of the calendar half-year concerned.

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A II. Failure to comply with the obligation under point (a) and failure to pay fines and penalties for late payment

the Authority shall order the enforcement of the decision.

The Authority draws the Applicant's attention to the fact that it is open to challenge the decision

until the expiry of the time limit for bringing an action or, in the case of an administrative lawsuit, until a final decision of the

court a

data affected by the disputed data processing may not be deleted or destroyed.

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

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

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

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

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

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

Court

legal representation is mandatory.

EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

Applicant I and Applicant II. On 19 March 2019, he submitted an application to the Authority in which it was submitted that on February 22, 2019, at 10:30 a.m., dr. Tamás Gerber, Budapest Neighborhood

The President of the General Court held an extraordinary management meeting at 1146 Budapest, Thököly út 97-101. in the building at 14, where the president or vice - president of 14 district courts, and

the heads of the panel of the tribunal took part. At the meeting, dr. Tamás Gerber informed the

that he had left the Hungarian Association of Judges the previous day (hereinafter: MABIE

or Association) and asked the leaders to speak to the tribunals and district courts

with their judges that they too should consider leaving. To that end, MABIE provided a printed list

About the members of the Pest County Basic Organization. The list - for 51 judges - is the place of employment, the name of the judge

In addition, it contained the tax identification mark of the judge and included the words 'deduction' and 'title'.

columns in which the text "chamber membership fee" is indicated.

The list was produced by filtering the judges' payroll data and as a result

the list is a MABIE member serving in the Budapest District Court

contained the data of the judges in charge, and this data was dr. Tamás Gerber knew and was involved

without the consent of the court leaders.

The applications submitted to the Authority did not contain the information necessary to identify the Applicants data and a firm request for a decision to remedy the alleged infringement, and therefore a

The Authority called on the Applicants to remedy these deficiencies. Applicants to the Authority for rectification at the same time as providing the information necessary for their identification

in their application to the Authority to investigate the breach, the fact of unlawful data processing

requested that a ban on unlawful data processing be prohibited. Applicants also requested an infringement

requested a fine. Applicants further suggested that the Authority consider that

Infotv. Initiate criminal and disciplinary proceedings pursuant to Section 70 (1) with dr. With Tamás Gerber against

Applicants also requested that their personal data be kept confidential,

Applicant II. sent a copy of the list of 51 people distributed at the meeting.

The data content of the list examined in the procedure is as follows:

- In the column "Name of organizational unit" e.g. BKT P. K-M. Coll. Polg. 1st degree discipline, Monori District Court, BKT Criminal Chamber, etc. names

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-
-
-
-

In the "Name" column, the names of 51 people

In the "Tax ID" column, the tax IDs in each row

The number "86790" in each row in the column "Subtraction / subtraction (title of deduction)"

In the column "Name of title", in each row the notation "chamber membership fee".

According to the "Declaration of Entry" signed by the Applicant I and signed at the time of joining MABIE, the member undertakes that "the membership fee set for the Association shall be paid regularly from the 1st day of the 20th month

I pay, I agree to have it deducted from my salary. I note that the membership fee

I may reduce my personal income tax base. " The statement shall include the person concerned data necessary for identification (name, place of birth, time, mother's name, address, position), and the designation of MABIE as eligible.

In the case, the Authority Pursuant to Section 60 (1) for the protection of personal data

data protection authority procedure at the request of the data subject

initiated and ordered the closed processing of the Applicants' data.

The Authority notified the Applicant of the initiation of the data protection authority procedure at the same time requested information from the Applicant on the circumstances of the case in order to clarify the facts.

According to the information provided by the Applicant, a request to collect the data included in the list in his capacity as President of the Court, dr. It was issued by Tamás Gerber to establish that the how many members the Association has in the tribunal and which of its leaders are its members. The tax numbers collection was not covered by the request, this data was irrelevant. The list is from the Economic Office made in view of the fact that the court deducts and remits from the salary of the members of the association the membership fee. The data in the list are handled by the Budapest District Court. The members of the association The data of the association are not stored in a separate database, but, as indicated, at the request of the members of the association, the

membership fee is deducted and paid by the tribunal from the salary paid by the tribunal, thus has information on who requested this. The list was destroyed at the executive meeting following. The list was dr. Thomas Gerber only got to know the leaders who are in this they were not sure they could make sure they were registered as MABIE members. The list was attended by the participants of the extraordinary management meeting, dr. Tamás Gerber doesn't have one know if all of them have been viewed.

According to the attendance sheet at the management meeting, dr. Tamás Gerber and 18 district court presidents and head of college attended. Of these, 8 are on the 51-person list.

The President of the Tribunal therefore became aware of the fact that he had 8 senior members, and the fact of the membership of 43 other judges serving in the tribunal.

With the announcement, 18 judges attended the meeting in addition to the president and 51 judges took note information on membership of interest representation. (By definition, the 8 main leaders for their own membership Several managers are serving in the district court he heads judge obtained this information.

The list of data was distributed on paper at the meeting. The fact of distribution evidenced by the e-mail - detailed below - in which dr. Tamás Gerber is the allotted list

calls on the participants to destroy it.

In order to clarify the facts, the Authority requested information from the Applicant that Dr. Gerber

When and what kind of instructions were given by Tamás, he attended the meeting and received the list of court leaders on the management of the list of MABIE member judges.

In response to the order, the Applicant stated that the management of the list

did not give any instructions and at the same time sent a copy of the e-mail requested by the Authority. According to this the following e-mail on February 26, 2019 at 08.12 dr. Tamás Gerber has 17 senders

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"list of MABIE members handed over at the extraordinary management meeting on 22 February, please do not publish destroy!"

The body performing the requested public task.

II. Applicable legal requirements

On the protection of individuals with regard to the processing of personal data and

on the free movement of such data and repealing Directive 95/46 / EC

Article 2 (1) of Regulation (EU) 2016/679 (hereinafter referred to as the GDPR or the General Data Protection Regulation)

The GDPR shall apply to this data processing pursuant to paragraph

The relevant provisions of the GDPR in the present case are the following:

GDPR Article 4 2. "processing" means the automated processing of personal data or files

any operation or set of operations performed in a non-automated manner, such as collection,

record, organize, segment, store, transform or change, query, view,

by use, communication, transmission, distribution or otherwise making available,

harmonization or interconnection, restriction, deletion or destruction;

GDPR Article 4 7. "controller" means any natural or legal person, public authority or agency

or any other body that has the purposes and means of processing personal data independently

or together with others; if the purposes and means of the data processing are

determined by the law of the Member State, the controller or the specific conditions for the designation of the controller

may be determined by Union or Member State law;

Article 4 (9) of the GDPR "means any natural or legal person, public authority, agency or

any other body to or with whom personal data are disclosed, whether or not

whether a third party. Public authorities which, in the framework of an individual investigation,

have access to personal data in accordance with the law of a Member State shall not be considered as recipients;

the processing of such data by these public authorities must comply with the data processing

the applicable data protection rules in accordance with its objectives;

GDPR 10. "third party" means any natural or legal person, public authority, agency or

any other body other than the data subject, the controller, the processor or

with persons who, under the direct control of the controller or processor, a

have been authorized to process personal data;

Article 5 GDPR 1. Personal data shall:

(a) it must be processed lawfully and fairly and in a manner which is transparent to the data subject ("lawfulness, fairness and transparency");

(b) collected for specified, explicit and legitimate purposes and not processed

in a way incompatible with those objectives; not in accordance with Article 89 (1)

considered incompatible with the original purpose for the purpose of archiving in the public interest, scientific

and further processing for historical research or statistical purposes ("purpose limitation");

(c) be appropriate and relevant to the purposes for which the data are processed and limited to what is necessary ("data saving");

(d) be accurate and, where necessary, kept up to date; take all reasonable measures

should be done in order to ensure that personal data are inaccurate for the purposes of data processing

deleted or corrected immediately ("accuracy");

(e) stored in a form which permits identification of data subjects for personal purposes only

allows the time necessary to achieve the purposes of data processing; personal information than this

personal data may be stored only for the purposes of archiving in accordance with Article 89 (1) for the purposes of archiving in the public interest, scientific and historical research or statistical purposes, and subject to the implementation of appropriate technical and organizational measures to protect their freedoms ("limited storage capacity");

(f) processed in such a way as to ensure adequate security of personal data, or protection against unlawful handling, accidental loss, destruction or damage ("integrity and confidentiality").

2. The controller shall be responsible for complying with paragraph 1 and shall be able to do so to demonstrate compliance ('accountability').

Article 6 GDPR 1. The processing of personal data shall be lawful only if and to the extent that at least one of the following is met:

(a) the data subject has consented to the processing of his or her personal data for one or more specific purposes;

(b) processing is necessary for the performance of a contract to which one of the parties is a party;

or to take action at the request of the data subject prior to the conclusion of the contract required;

(c) processing is necessary for compliance with a legal obligation to which the controller is subject;

(d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;

(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

(f) processing is necessary for the protection of the legitimate interests of the controller or of a third party, unless those interests take precedence over those interests; or

fundamental rights and freedoms which require the protection of personal data, in particular when the child concerned.

Point (f) of the first subparagraph shall not apply to the performance of their duties by public authorities data management.

Article 6 GDPR 4. Where the processing of data for purposes other than those for which they were collected is not based on the data subject's consent or on Union or Member State law which is a necessary and proportionate measure in a democratic society for the purposes set out in Article 23 (1)

to determine whether data processing for different purposes is compatible with

for the purpose from which the personal data were originally collected, the controller shall take into account, inter alia takes:

(a) the purposes for which the personal data were collected and any links between the purposes for which they are intended to be further processed;

(b) the conditions for the collection of personal data, in particular the relationship between the data subjects and the controller;

(c) the nature of the personal data, in particular that they are personal data within the meaning of Article 9

whether it is a matter of dealing with special categories of

and the processing of criminal data in accordance with Article 10;

(d) the possible consequences for data subjects of the intended data further treatment;

(e) the existence of appropriate safeguards, which may include encryption or pseudonymisation.

Article 13 GPR 3. If the controller has access to personal data for purposes other than those for which they were collected intends to carry out the processing, it must inform the data subject before further processing the different purpose and any relevant additional information referred to in paragraph 2.

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GDPR Article 9 1. Personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership, as well as genetic and biometric data for the unique identification of natural persons, health data and the sexual life or sexual orientation of natural persons personal data relating to handling is prohibited.

2. Paragraph 1 shall not apply if:

(a) the data subject has given his or her explicit consent to the processing of such personal data for one or more specific purposes, unless Union or Member State law provides that the prohibition referred to in paragraph 1 cannot be lifted with the data subject's consent;

(d) the processing is carried out by a foundation for political, ideological, religious or trade union purposes, association or any other non-profit organization with appropriate guarantees

provided that the processing is carried out exclusively by such a body

applies to current or former members or to persons who are regular members of the organization

related to the purposes of the organization and that the personal data of the data subjects

not be made available to persons outside the organization without their consent;

On the right of association, the status in the public interest and the functioning of non - governmental organizations

CLXXV of 2011 on the support of Act (Civil Act)

§ 2. 6. non-governmental organization:

b) the association registered in Hungary - the party, the trade union and the mutual

with the exception of insurance associations,

The Civil tv. Pursuant to Section 15 (3), the membership register of the association is not public.

Act V of 2013 on the Civil Code (Ptk.) 3:67. § (2) of the members

personal information is not public.

CLXI of 2011 on the organization and administration of courts. Act (hereinafter: Bszi.)

Pursuant to Section 118 (1), the head of a court is the president of the adjudication panel, the tribunal, the administrative and labor court, and the district court.

Article 77 GDPR 1. Without prejudice to other administrative or judicial remedies, all

the person concerned has the right to lodge a complaint with a supervisory authority, in particular the normal one

in the Member State of residence, employment or the place of the alleged infringement, if any

considers that the processing of personal data concerning him or her infringes this Regulation.

The right to self - determination of information covered by the GDPR and the

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

the GDPR shall apply mutatis mutandis to the provisions indicated therein. Section 60 (2)

application for the initiation of an official data protection procedure pursuant to Article 77 (1) of the GDPR

may be submitted in the case provided for in

Infotv. Pursuant to Section 60 (1), the enforcement of the right to the protection of personal data

the Authority shall, at the request of the data subject, initiate a data protection authority procedure.

Unless otherwise provided by the GDPR, the data protection authority proceedings initiated upon request shall be CL of 2016 on general administrative order. Act (hereinafter: Act) shall apply with the exceptions specified in the Information Act.

Infotv. Pursuant to Section 61 (1) (a), in its decision in a data protection official procedure, the Authority as defined in the GDPR in connection with data processing operations covered by the GDPR may apply legal consequences.

Pursuant to Article 83 (2) of the GDPR, administrative fines are imposed according to the circumstances of the case

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in addition to or instead of the measures referred to in Article 58 (2) (a) to (h) and (j)

should be imposed. In deciding whether it is necessary to impose an administrative fine, or a

shall be duly taken into account in each case when setting the amount of the administrative fine

the following must be taken into account:

(a) the nature, gravity and duration of the breach, taking into account the processing in question

the nature, scope or purpose of the infringement and the number of persons affected by and affected by the infringement
the extent of the damage suffered;

(b) the intentional or negligent nature of the infringement;

(c) the mitigation of damage caused to the data subject by the controller or the processor
any measures taken to

(d) the extent of the responsibility of the controller or processor, taking into account the
and the technical and organizational measures taken pursuant to Article 32;

(e) relevant infringements previously committed by the controller or processor;

(f) the supervisory authority to remedy the breach and the possible negative effects of the breach
the degree of cooperation to alleviate

(g) the categories of personal data concerned by the breach;

(h) the manner in which the supervisory authority became aware of the infringement, in particular that:

whether the breach was reported by the controller or processor and, if so, what

in detail;

(i) if previously against the controller or processor concerned, on the same subject matter

- has ordered one of the measures referred to in Article 58 (2), the person in question

compliance with measures;

(j) whether the controller or processor has kept itself approved in accordance with Article 40

codes of conduct or approved certification mechanisms in accordance with Article 42;

and

(k) other aggravating or mitigating factors relevant to the circumstances of the case, such as:

financial gain or avoidance as a direct or indirect consequence of the infringement

loss.

Pursuant to Article 83 (7) of the GDPR, supervisory authorities are referred to in Article 58 (2)

without prejudice to its power to correct, each Member State may

with a public authority or other body with a public-service mission established in that Member State

whether and to what extent an administrative fine may be imposed.

Infotv. Pursuant to Section 61 (4) (b), the amount of the fine is from one hundred thousand to twenty million forints

may apply if the payment of a fine imposed in a decision in an official data protection procedure

obliged budgetary authority.

Infotv. Pursuant to Section 61 (2), the Authority may order its decision - the data controller or

disclosure of the identity of the processor, if the

This decision affects a wide range of persons

by the activities of a body performing a public task

or the gravity of the infringement justifies disclosure.

Infotv 75 / A. The Authority shall exercise the powers provided for in Article 83 (2) to (6) of the GDPR

proportionality, in particular by providing personal data

legislation or a binding act of the European Union

in the event of a first - time infringement, to remedy the infringement - Article 58 of the GDPR.

in particular by alerting the controller or processor

to take action.

Infotv. § 61. (6) Until the expiry of the time limit for bringing an action open to challenge the decision, or

in the case of the initiation of an administrative lawsuit, the disputed data processing is involved until the final decision of the court

data cannot be deleted or destroyed.

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Infotv. Pursuant to Section 61 (2), the Authority may order its decision - the data controller or

disclosure of the identity of the processor, if the

This Decision affects a wide range of persons through the activities of a body performing public tasks

or the gravity of the infringement justifies disclosure.

III. Decision of the Authority

The Authority's procedure is to retrieve the list data from a database containing judges' payroll data

to investigate the collection, handling and transmission of

Because, according to the applicant's statement, the instruction to query the tax identification number is not

negligence was included in the sorted list and therefore its query

circumstances (purpose, legal basis, etc.) were not examined separately by the Authority, but as part of the data subject.

According to the Authority, the data subject in the case under investigation is the Applicant, as the

instructions for sorting by dr. It was issued by Tamás Gerber in his capacity as chairman of the court

convened a meeting in that capacity and then provided information to those present in that capacity

forwarded.

III.1. Querying data on association membership

Although the list includes the term "chamber membership fee," in the absence of a judicial chamber as an institution

the data also refers to MABIE membership, according to the applicant's declaration.

According to MABIE's Articles of Association: "2. § The Association operates on the principle of self - government, general and

professional, representing the interests of all judges, court clerks (hereinafter: judges), employees

advocacy and advocacy NGO.

[...]

§ 3 The purpose of the Association is to protect the independence of the judiciary, the standard of judicial application and by improving the conditions of the rule of law, the judiciary is adequate social recognition, strengthening, continuous improvement of the living and working conditions of judges, a supporting the efficient and democratic functioning of the judiciary and local government, development.

[...]”

MABIE can be considered a trade union for the purposes of the articles of association, the data on the membership of the association is accordingly personal data is special data. The GDPR does not use the concept of special data, but designates those listed in Article 1 (1) as special categories of personal data (Article For the sake of clarity, the term "special data" is used in this Decision) and Article 9 (2)

however, it allows for the processing of such data under certain conditions in the cases listed. E conditions are met in addition to the requirements of Article 6 of the GDPR and are necessary to that the processing can be considered lawful. Article 9 (2) is possible

In particular, points (a) (consent of the person concerned) and (d), according to which a processing of special data if it is for political, worldview, religious or trade union purposes foundation, association or any other non-profit organization with appropriate guarantees provided that the processing is carried out exclusively in that way

applies to current or former members of the body or to persons who are regular members of the body related to the purposes of the organization and that the personal data of the data subjects shall not be made available to persons outside the organization without their consent.

Because based on the established facts, the members are selected according to a certain criteria the production and use of the list is not part of MABIE's data management activities,

thus, the applicability of Article 9 (2) (d) of the GDPR did not arise either.

The content of the statement of consent for the deduction of the membership fee from the MABIE members is their content may be considered as a data processing consent provision granted to the employer. The membership fee

The statutory order for the transfer of data is only available from MABIE

using the information in the model declaration in its prospectus.

As explained above, the fact of membership of an advocacy association itself is a special fact, so the

He applied by deducting the association 's membership fee from the employee' s salary

handles special data on membership of an advocacy association.

The extent of the data subject's contribution therefore extends to the deduction of the membership fee in respect of the employer,

the membership fee of the member's association is deducted from the salary by the Judicial Economic Office and to the Association

transmits. The Applicant's data on interest representation membership is deducted from the membership fee to manage.

However, this authorization does not mean that the data processed for the purpose of deduction is different

they could also be used for this purpose. By judging the lawfulness of any data processing

the fundamental provisions of the GDPR must be taken into account in all cases, in particular

the principle of purposeful data processing as set out in Article 5 (1) (b) of the Regulation. E

personal data may be collected only for specified, explicit and legitimate purposes, and

data may also be processed only in a way compatible with that purpose.

Taking into account this principle, the Applicant, as an employer, is obliged to:

information about employees about it in accordance with the relevant data protection rules

manage and, above all, ensure that only one piece of data within your work organization is

get to know who is entitled to do so necessarily in order to achieve the given purpose of data processing

participate.

In the Authority's view, accordingly, on the one hand, it concerns the membership of interest groups

the data can only be accessed by payroll officers within the employer's organization, and

the employer must take appropriate organizational and technical measures to ensure that:

this data should not be accessed by others, even the driver, without a proper legitimate purpose.

On the other hand, the data may not be used for purposes other than consent.

The fact of interest representation membership is the special data of the data subject, the possession of which is fundamental right of the data subject.

Although, according to its Articles of Association, MABIE and Civil tv. so TV Civil. § 2 6. b)

According to the Authority, the member of the association is a trade union

information on membership of an advocacy organization is set out in Article 9 (2) of the GDPR

protection, ie the communication of the relevant data from the data subject, unless otherwise provided by law

not required by the employer, the relevant data of the data subject's consent

in the absence of which it is not known by the employer.

The Civil Code. 3:67. § (2) and the Civil TV. Pursuant to Section 15 (3), the register of members of the association,

the personal data of the members are not public, so the employer does not use this source

you can find out about the fact of membership, subject to the other legal basis in the GDPR

to find out the membership information.

According to the Applicant's statement, the request for the collection of data included in the list

in his capacity as President of the Court, dr. It was issued by Tamás Gerber to establish that the

how many members the Association has in the tribunal and which of its leaders are its members. In the case under investigation

a separate data management operation was a specific aspect of the association membership data

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in order to comply with the legal requirement - deduction of the membership fee

has achieved a different data processing purpose from data processing, so a separate legal basis for this

would have been necessary for the following reasons.

The GDPR in Article 6 (4) allows personal data to be processed

be handled by the controller for purposes other than its original purpose, provided that the data is processed

compatible with the original purpose for which the personal data were originally processed

collected. In this case, the data controller must take into account several aspects, which are:

highlights, in an indicative list in Article 6 (4) of the GDPR, the circumstances in which

which it considers most important to consider.

So only the processing of personal data for purposes other than the original purpose for which they were collected

it is permitted if the data processing is compatible with the original purposes of the data processing.

Otherwise, a separate legal basis different from the one that allowed it is needed

the collection of personal data.

In the present case, it can be stated that the Applicant deducted the original data processing purpose - deduction of the membership fee -

handled / queried data on interest membership for other purposes. That is the goal

should have applied Article 6 (4) of the GDPR and

to determine whether the original and different purposes of the data processing are compatible.

In the present case, the Applicant should have taken into account that the parties concerned and the

the relationship between the data controller in the employment relationship is subordinate (Article 6 (4) (b) GDPR),

and that the request concerns a special category of personal data (Article 6 (4) GDPR

should have considered the implications of the processing

(Article 6 (4) (d) GDPR), taking into account the above

explained that the employee could not be applied for membership of a trade union

communication of relevant data.

If, on the basis of these considerations, the Applicant had concluded that:

compatible with the new purpose of the data management, in which case the new data management purpose and for this

Applicants and other interested parties shall be informed of all relevant information in accordance with Article 13 of the GDPR.

should have provided information under Article Incompatible data management purpose

and in the case of new data processing is clearly not possible, as it is appropriate and valid there is no legal basis.

In considering the circumstances listed above, the controller, like the Authority, shall:

would have concluded that the data on association membership for the purpose for which intended to use, could not have been queried.

Because the processing for a purpose other than the purpose for which the data were collected is not with the consent of the data subject or

was based on EU or Member State law (Article 6 (4) GDPR) or the Applicant a

did not perform the required discretion, the processing of the data obtained during the query was not a

Legal basis in accordance with Article 6 (1) of the GDPR.

Although data processing based on a legitimate interest (Article 6 (1) (f) GDPR) does not apply to public

data processing by public authorities in the performance of their tasks, in this case not a public authority task

data processing during the provision of

According to the Applicant, the purpose of the sorting was to "lead managers who are not in this

they were sure they could make sure they were registered as members of MABIE ".

Obtaining information from the data subject on whether or not he or she is a member of the advocacy

association, is clearly not the way in which the data can be disclosed without his knowledge to the employer.

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the supervising supervisor queries it from the file otherwise managed for other purposes, with the data of other members

together. This information can be obtained directly by the person concerned directly from the Association,

or you can see for yourself from the payroll document.

In the Authority 's view, it is therefore incompatible with the original objective set out above if

the exercise of the employer's authority from the database used for payroll use for other purposes

instructs you to query for interest representation membership, and a

manages the queried data by listing it.

According to the applicant's declaration, the tax identification number was affixed "accidentally" next to the data on the

representation of interests. The handling of this data on the list is therefore

it clearly had no verifiable purpose, so the illegality of the indication and transmission is different
can be stated without examination.

On the basis of the above, the Authority concludes that the data processing carried out by the
during which dr. Tamás Gerber concerns interest representation membership and the tax identification mark
asked for data from the data processed in order to deduct the membership fee from the salary, nor
nor did it have a justifiable purpose or an appropriate legal basis. By doing so, the Applicant violated the
Article 5 (1) (b) and Article 6 (1) of the GDPR.

III.2. Transmission of data on association membership

Following the illegal interrogation, dr. Tamás Gerber for advocacy membership
communicated the relevant data and the tax identification number to the executives attending the executive meeting.
The Authority found that this data processing is also considered to be different from the original purpose, thus
the legitimate aim explained above and a separate legal basis have also become a requirement for this data processing
would be.

The Bisz. Pursuant to Section 118 (1), the Chief Justice of the Tribunal shall appoint the Presidents of the District Courts,
superiors of district courts to judges serving in the district court.

The Applicant did not indicate any verifiable purpose of this data processing. The sort
the reason stated that some leaders were curious about their membership
in fact, even if there had been such a request, it does not in any way justify its intention to do so
in addition to the data of the 8 main persons participating in the meeting and at the same time the data of the other 43 persons
on the list
why it was justified to communicate to others.

The Applicant did not have the right to disclose the data on the list as a separate data management purpose
appropriate legal basis. As with the query, there was no stakeholder consent to the communication
(Article 6 (1) (a) GDPR) in respect of Applicants as not
nor should it have complied with the conditions of Article 6 (4)

data transmission. However, it is also necessary to indicate that, as these were special data,

Article 9 of the GDPR should also have complied with data processing, in view of the present case

the data could have been processed only with the consent of the data subject.

A III. The consideration required for the application of the specific data management purpose set out in point 1

nor has it been verified by the data controller for the application of this data processing purpose. If the Applicant

The primary purpose of the data management of the

sorting of data, the controller should have complied with the above in this respect

requirements.

On the basis of the above, the Authority concludes that the data processing carried out by the

during which dr. Tamás Gerber is the deduction of the interest representation membership fee from the salary

nor did it communicate to third parties the data selected from its holdings

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nor did it have a justifiable purpose or an appropriate legal basis. Recipients to learn about the data

they were not eligible.

The Applicant thereby infringed Article 5 (1) (b) and Article 6 (1) of the GDPR.

paragraph.

On the basis of all the above, it can be stated with regard to the data of the Applicants that the Applicant I.

his membership and tax identification number 19, attended the meeting

unlawfully acquainted with him, including the exercise of the employer's authority of the Applicant I. THE

Applicant II. his membership and tax identification number 18 at the meeting

illegally discovered by another person involved.

III.3. The Applicant stated that he did not know who had viewed the list,

however, it was in the possession of the participants in printed form. Dr. Tamás Gerber February 2019

On 26 December at 08.12, he sent an e-mail to 17 people requesting that the list be deleted from the

recipients. Out of the 17 recipients, the attendance sheet of the meeting does not include 3 people as well as the attendance

4 of the participants in the form are not included in the e-mail recipients.

It can therefore be concluded that the Applicant did not request the deletion of exactly the data to whom have been in the possession of those and there are those who have attended the meeting who have not been informed of your request. In view of the above, the Authority ordered ex officio of the operative part of this Decision. to take action to delete the data for any person who attended the meeting but concerned the deletion of the list he had not been summoned before.

III.4. The Authority shall initiate proceedings in respect of an application to prohibit an unlawful processing operation as the procedure has become devoid of purpose, the Applicant shall no longer He continues. According to the Applicant's statement, the list was deleted after the meeting, the Applicant a no longer handles sorted data.

III.5. The Applicants recommended that the Infotv. Pursuant to Section 70 (1), criminal or instituting disciplinary proceedings against the President of the Applicant. Because it's relevant well separated from the requests of both Applicants to the Authority as a kind of proposal the Authority did not rule on the matter. However, the Authority notes that the initiation of the proceedings in question does not directly affect the rights or legitimate interests of the Applicant, such a decision of the Authority shall not create any right or obligation for it In this respect, the Applicant does not qualify as a customer in accordance with Ákr. Pursuant to Section 10 (1), or - whereas the Ákr. Does not comply with Section 35 (1) for the submission of an application in this respect there is no place, this part of the application cannot be interpreted as an application.

III.6. The Authority found that the Applicant - by providing no legal basis, deviated from the purpose managed the data of the Applicants regarding the membership representation and the tax identification mark, or communicated this information to other persons without a legal basis, in breach of Article 5 (1) of the GDPR. Article 6 (1). The Authority granted the Applicants' request in part and condemns the Applicant pursuant to Article 58 (2) (b) of the GDPR. Pursuant to Article 58 (2) (g) of the GDPR, the Authority instructs the Applicant to ensure that the data transmitted are also deleted in respect of the persons who delete the data

have not previously been informed of your application.

The Authority rejected the Applicants' request for a fine, as e

the application of a sanction does not directly affect the rights or legitimate interests of the Applicants,

such a decision of the Authority shall not create any right or obligation for them. Because of this

With regard to the application of a sanction falling within the scope of the public interest,

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With regard to the imposition of fines, the Applicants do not qualify as customers in accordance with Ákr. Section 10 (1)

or as the Act no. Does not comply with Section 35 (1) in this regard

there is no place to file an application, this part of the petition cannot be interpreted as an application.

However, the Authority examined of its own motion whether it was justified in respect of the applicant

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

75 / A. §, it considered of its own motion all the relevant circumstances of the case and found that

in the case of detected infringements, the warning is neither a disproportionate nor a dissuasive sanction,

because, in the Authority 's view, the infringement committed by the Applicant is considered to be serious and therefore

the imposition of a fine is necessary in respect of the Applicant specifically or for similar data processing

in order to prevent further infringements.

The requested budgetary body, the imposition of the fine, shall inform the Infotv. Section 61 (4) allows.

The Authority considered the following factors to be relevant for the imposition of the fine:

The infringement

- concerned a fundamental provision of the GDPR
- for a special category of personal data
- by a public authority
- was committed intentionally, and
- cannot be remedied later, as the data was made available to 19 people.

The Authority assessed as a mitigating circumstance the measure taken by the Applicant, which - still

before the start of the official procedure, he asked some of the recipients to delete the information provided.

Despite the fact that the present case concerns an infringement involving two parties, it is unlawful

data processing also involved a further 49 persons who were not involved in the proceedings as applicants, thus the amount of the fine was set accordingly.

The data protection fine imposed shall not exceed the maximum of the fine that may be imposed, the amount shall be within the budget

only 15% of the fine that can be imposed on the body.

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

III.7. The Authority shall inform Infotv. Pursuant to Section 61 (2) a) and c), the data controller shall that is, the disclosure of the Applicant's identification data for the purpose of because the gravity of the infringement justifies disclosure.

Based on the above, the Authority has decided in accordance with the operative part.

ARC. Other issues

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

The decision is based on Ákr. 80-81. § and Infotv. It is based on Section 61 (1). The order of the Ákr. Section 47 (1) based on point (c). The decision and the order of the Ákr. Pursuant to Section 82 (1) it becomes final. The Ákr. Pursuant to Section 112, Section 116 (1) and Section 114 (1) a

There is an administrative remedy against the decision. Contrary to the order is

Ákr. § 112, and § 116 (1) and (3) d), and Ákr. Pursuant to Section 114 (1)

there is an independent remedy through an administrative lawsuit.

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

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

the Metropolitan Court has exclusive jurisdiction. 2016 on Civil Procedure

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

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

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

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

CCXXII of 2015 on the general rules of public administration and trust services. Section 9 of the Act

Under paragraph 1 (b), the client's legal representative is required to communicate electronically.

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

Information on the possibility of requesting the maintenance of the It is based on § 77 (1) - (2). THE

the amount of the fee for an administrative lawsuit in accordance with Act XCIII of 1990 on Fees. Act (hereinafter:

Itv.) 45 / A. § (1). From the advance payment of the fee, the Itv. Section 59 (1)

and Section 62 (1) (h) shall release the party initiating the proceedings.

If the obligated customer does not duly demonstrate compliance with the required obligations, the Authority shall:

considers that it has not fulfilled its obligations within the time allowed. The Ákr. According to § 132, if a

the obligor has not complied with the obligation contained in the final decision of the authority, it shall be enforceable.

The Ákr. Section 133 of the Enforcement - unless otherwise provided by law or government decree

ordered by the decision-making authority. The Ákr. Under section 134 of the enforcement - if

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

unless otherwise provided - by the state tax authority. Infotv. Section 61 (7)

to carry out a specific act contained in a decision of the Authority

the decision as to the obligation to conduct, tolerate or stop

shall be carried out by the Authority.

Budapest, July 17, 2019

Dr. Attila Péterfalvi

President

c. professor