

Case number:

NAIH / 2019/3854

Object:

decision

ex officio

starting

privacy

official

procedure

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

Directorate of Social and Child Welfare Institutions of Ferencváros (1096 Budapest, Lenhossék

utca 7-9) (hereinafter: the Obligated) on March 8, 2019 at 6:30 p.m.

the official investigation initiated on 28 March 2019 in connection with the data protection incident a

it is closed today due to the circumstances revealed during the inspection

in the data protection authority proceedings

decision.

The Authority

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notes that the Debtor is involved in documents sent to the wrong address

in connection with a data protection incident (hereinafter: data protection incident)

with regard to the processing of personal data by natural persons

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

Regulation (EU) 2016/679 (hereinafter referred to as the General Data Protection Regulation)

The obligation to notify under Article 33 (1);

due to the above violation, the Debtor shall be notified within 30 days from the receipt of this decision

within HUF 100,000, ie HUF 100,000, to pay a data protection fine;

instructs the Debtor to comply with this decision within 30 days of its finalization

take the necessary steps to ensure a possible future

reporting a data protection incident in Article 33 (1) of the General Data Protection Regulation

be completed within the prescribed time limits; and

order the final decision by publishing the identity of the controller

disclosure.

The fine is accounted for by the Authority's forint settlement account for the collection of centralized revenues

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

0425 0000 0000) must be paid by bank transfer. When transferring the amount, NAIH / 2019/3854

JUDGE. number should be referred to.

The measures provided for in point 3 shall be taken by the Debtor from the date of taking the measure

must provide written confirmation, together with the supporting evidence, within

Towards an authority.

If the Debtor fails to meet its obligation to pay the fine within the time limit,

is required to pay a late payment allowance. The rate of the late payment allowance is the statutory interest, which is a

equal to the central bank base rate valid on the first day of the calendar half-year affected by the delay. THE

the Authority's centralized revenue collection forint account

(10032000-01040425-00000000 Centralized direct debit).

Failure to comply with the obligation under point 3 and non-payment of fines and penalties for late payment

In the event of payment, the Authority shall order the enforcement of the decision, the fine and the penalty payment.

There is no administrative remedy against this decision, but it has been available since its notification

Within 30 days, an action brought before the Metropolitan Court may be challenged in an administrative lawsuit. THE

the application must be submitted to the Authority, electronically, together with the case file

forward it to the court. The request for a hearing must be indicated in the application. The entire  
for those who do not benefit from personal exemption, the fee for the judicial review procedure  
HUF 30,000, the lawsuit is subject to the right to record material taxes. In the proceedings before the Metropolitan Court, the  
legal  
representation is mandatory.

IND O K O L ÁS

I.

Facts, history

In connection with the data protection incident reported by the Debtor, the Authority - the general  
Data Protection Regulation 33-34. 28 March 2019 on the obligations set out in Article  
decided to initiate an official inspection in case number NAIH / 2019/2993 on the same day,  
an order clarifying the facts in order to clarify and supplement the information contained in the notification  
sent to the Debtor, whose reply dated 8 April 2019 was received on 11 April 2019  
to the Authority.

The incident report and the reply to the fact-finding order show that the  
the data protection incident took place in such a way that one of the Debtor's employees mistakenly  
mailed a document containing personal data to the wrong recipient, Újpest

To the Social Institution of its municipality, which sees the same task prescribed by law  
in other areas of jurisdiction. The personal data contained in the documents thereby  
unauthorized access by the wrong recipient, thus violating the confidentiality of the data. The  
privacy incident 18 affected customers of the Debtor and their families, including minors  
personal data: identification data, contact details, criminal record,  
data related to criminal offenses or punishment, measure, social identity  
procedures for the protection of children by the Debtor  
other personal data processed in the context of their privacy.

The privacy incident occurred on February 7, 2019, when it was mailed a

documents to the wrong recipient. Wrong recipient after arrival on February 12, 2019

informed the Debtor by telephone that documents had been served on him,

which he is not the addressee of, then took action on the erroneously sent personal data

return of documents containing Shipments for the Debtor are February 2019

Returned on the 20th, the Defendant's position was that the erroneous mailing had become certain at that time, so

the Debtor considered this date to be known (February 20, 2019, 12 noon 0 minutes). The

to report a data protection incident to the Authority on 8 March 2019 at 6 pm

took place on the 16th day, ie on the 16th day following the acquisition of information indicated by the Debtor. THE

Debtor justified the late filing on the grounds that he was a senior official

the returned consignment was not forwarded to him as it was dated 28 February 2019

the Annual Child Protection Alert System Meeting organized by the Debtor,

the organization of which is part of the basic task specified in the Obligated Legislation

closely linked. In view of this, and the fact that the wrong addressee himself is similar

the body performing the tasks only with other competencies, the Debtor primarily in his opinion

performed other tasks without delay and thus only to report the privacy incident

it took place after that.

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On 8 March 2019, the Debtor filed a lawsuit against the data protection incident

risk analysis provided by the European Union Network and Information Security Agency

based on its methodological guidelines. The risk analysis took into account that the wrong consignee,

who may have obtained the personal data of the Újpest Municipality Social Unauthorized

It was an institution for which collegiality or the fact that it was identical in activity

considered a risk mitigating factor. In addition, he also took into account the documents

Returned to the Debtor "intact" and that, although the scope of the data is significant, it

only a few, up to two people, got to know their colleagues and also Social Work

They are subject to a Code of Ethics and are therefore bound by professional secrecy. As a result of the analysis, a

Defendant found that the incident was of medium risk.

In order to remedy the data protection incident, the Debtor has introduced double addressing control and measures to maintain emergency privacy training. The Debtor held that on this measures are sufficient in view of the identity of the wrong addressee (which he sees in another area of competence the same tasks and whose staff are bound by professional secrecy) and that the returned incorrectly sent items “intact” to the Debtor.

The Debtor considered that it was not necessary to inform the parties concerned, given that: has taken further measures following the data protection incident to ensure that the high risk to the rights and freedoms of the data subject is unlikely to continue is realized. As such a measure, it considered that the consignments had been returned to the by wrong recipient. In any case, the Debtor considered the data protection incident medium risk, ie not high risk, in which case it would oblige those concerned to inform.

The Debtor is an independently operating and managed local government budget institution, of which the IX. District Ferencváros Municipality to take care of.<sup>1</sup>

The Authority closed the inspection and, as it found an infringement within its competence, initiated the official procedure in which it took this decision.

II.

Applicable legal provisions

CL of 2016 on General Administrative Procedure. (hereinafter: the Act)

the authority, within the limits of its competence, checks the provisions of the law compliance with the provisions of this Regulation and the enforcement of the enforceable decision.

He is involved in the reported incident pursuant to Article 2 (1) of the General Data Protection Regulation the general data protection regulation applies to data processing.

Article 4 (12) of the General Data Protection Regulation defines what constitutes data protection

"security incident" means a breach of security which  
accidental or unlawful destruction of personal data stored or otherwise processed,  
loss, alteration, unauthorized disclosure or unauthorized disclosure  
results in access.

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Organizational and Operational Regulations of the Directorate of Social and Child Welfare Institutions of Ferencváros  
(FESZGYI);

1.3. point

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According to Article 33 (1) and (2) of the General Data Protection Regulation, the data protection incident  
the controller without undue delay and, if possible, no later than 72 hours after  
the data protection incident becomes known to the competent supervisory authority in accordance with Article 55  
unless the data protection incident is not likely to pose a risk to the  
the rights and freedoms of natural persons. If the notification is not made 72  
within one hour, it shall be accompanied by the reasons for the delay. The data processor  
without undue delay after becoming aware of the data protection incident  
notifies the controller.

Act CXII of 2011 on the right to information self-determination and freedom of information. law  
(hereinafter: Infotv.) pursuant to Section 2 (2) of the General Data Protection Decree there  
shall apply with the additions set out in the provisions set out in

The Ákr. Pursuant to Section 101 (1) (a), if the authority has committed an infringement during the official inspection  
experience, initiates its official proceedings. Infotv. Section 38 (3) and Section 60 (1)  
based on the Infotv. Personal data within the scope of its duties under Section 38 (2) and (2a)  
ex officio in order to enforce the right to protection of personal data.

The Ákr. Pursuant to Section 103 (1) of the Act concerning the procedures initiated upon request  
provisions of Art. It shall apply with the exceptions set out in Sections 103 and 104.

Infotv. Pursuant to Section 61 (1) (a), the Authority shall comply with Section 2 (2) and (4)

in the context of certain data processing operations in the General Data Protection Regulation

may apply certain legal consequences.

Pursuant to Article 83 (7) of the Regulation, supervisory authorities pursuant to Article 58 (2)

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

public or other public-sector body established in that Member State

whether and to what extent an administrative fine may be imposed on the body. Infotv. § 61

Paragraph 4 (b), the amount of the fine may range from one hundred thousand to twenty million forints if the

is obliged to pay a fine imposed in a decision taken in a data protection authority proceeding

budgetary authority in the case of a fine imposed under Article 83 of the General Data Protection Regulation.

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

the data controller or processor acting under the corrective powers of the competent authority if

breached the provisions of the Regulation or Article 83

impose an administrative fine accordingly, depending on the circumstances of the case

in addition to or instead of the measures referred to in Paragraph 2 of the same Article

In accordance with point (d), the supervisory authority, acting in its corrective capacity, shall instruct the controller

or the processor to carry out its data processing operations, where appropriate in a specified manner and

bring it into line with the provisions of this Regulation.

The conditions for the imposition of an administrative fine are set out in Article 83 of the General Data Protection Regulation.

contained in Article. Infotv. 75 / A. § 83 of the General Data Protection Regulation.

taking into account the principle of proportionality

in particular in the legislation on the processing of personal data

or requirements laid down in a binding act of the European Union

Article 58 of the General Data Protection Regulation

in particular by alerting the controller or processor.

Infotv. Pursuant to Section 61 (2) (b), the Authority may order its decision - the  
by publishing the identification data of the data controller or the data processor  
in the context of the activities of a public body.

The Ákr. Pursuant to Section 104 (1) (a), the Authority shall ex officio in its area of competence  
initiate proceedings if it becomes aware of a circumstance giving rise to such proceedings;  
under paragraph 3 of the same paragraph, the ex officio procedure is the first procedural act  
starts on the day of the execution of the contract, the notification of the initiation to the known customer may be omitted if the  
the authority shall take a decision within eight days of the initiation of the procedure.

III.

#### Decision

Based on the facts revealed, the Authority concluded that the reported data protection incident  
in connection with which the Debtor has performed a risk analysis, taking into account which  
took appropriate measures to remedy the incident and ensured that those involved  
the risk to his rights and freedoms is no longer realized.

However, the Authority found that the data protection incident had not been reported to  
within the time limit set by the General Data Protection Regulation, ie an unjustified delay  
and, if possible, no later than 72 hours after becoming aware of the privacy incident  
got there. The Debtor stated that the documents about the incident were sent incorrectly  
became aware of his return on February 20, 2019. In the Authority's view, this has already been done  
prior to, on 12 February 2019, the Debtor became aware when the erroneous

The employee of the Debtor contacted the addressee by telephone, during which it was identified that the  
return of the consignment is justified as they were sent incorrectly to the consignee.

The Authority has determined on the basis of the above that the Debtor's knowledge and data protection  
24 days have elapsed since the incident was reported. Date indicated in the Debtor's declaration - 2019.  
February 20 - 16 days have elapsed since the incident became known and the  
incident to the Authority. The Debtor shall certify the delay



he relied primarily on other urgent and core tasks

therefore, the head of the body was not informed of the incident or

Not for notification to the Authority.

The Authority did not accept the Debtor's justification for the delay, as the general data protection

In order to comply with the notification obligation provided for in Article 33 of this Regulation, the controller shall:

take action on the basis of the first alert and determine whether an incident has in fact occurred,

and, if possible, to conduct an investigation within 72 hours, as well as evidence and other relevant information

collect details. However, after the data controller with reasonable certainty

established the fact of the incident, that is to say, in the present case, on 12 February 2019, a

upon notification by the addressee of the erroneous post - the conditions laid down in Article 33 (1)

without undue delay and, if possible, within 72 hours

must notify the supervisory authority. Prior to the timely reporting of the incident, the

nor can it be an obstacle if accurate information is not available, as is general

Article 33 (4) of the Data Protection Regulation allows for the notification to be

take place intermittently. The Authority also emphasizes that in the event of an incident

the superior at the appropriate management level shall be notified immediately to deal with the incident

and may be reported as necessary in accordance with Articles 33 and 34, as appropriate.<sup>2</sup>

Cf. on the protection of individuals with regard to the processing of personal data and on the free movement of such data

Working Party on Data Protection set up under Article 29 of Directive 95/46 / EC of the European Parliament and of the

Council WP 250rev.01

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Based on the above, the Authority found that the Debtor had violated the general

obligation under Article 33 (1) of the Data Protection Regulation, as the data protection

did not report the incident without undue delay after becoming aware of it.

The Authority also instructed the Debtor to take the necessary action

measures to report a possible future data protection incident

within the time limit provided for in Article 33 (1) of the General Data Protection Regulation.

The Authority shall decide on the fine to be imposed in accordance with Article 83 (2) of the Regulation

considered all the circumstances of the case. When deciding if it is necessary

the imposition of an administrative fine or the setting of the amount of an administrative fine,

he took into account the following.

The IX. District Established by Ferencváros Municipality

budgetary body (Directorate of Social and Child Welfare Institutions of Ferencváros

(FESZGYI) Organizational and Operational Regulations; 1.3. point), for which the Infotv. Section 61 (4)

Pursuant to paragraph 1 (b), the amount of the fine may range from one hundred thousand to twenty million forints. The Debtor

prior to that, a breach of legal provisions on the protection of personal data

has not yet been condemned by the Authority.

In determining the sanction applied, the Authority took into account that it was involved in the incident

the processing of personal data is higher due to the nature of the data and the number of data subjects

there is a risk of unauthorized access to them

for those concerned. The scope and nature of the personal data processed and the range of data subjects

(vulnerable, minors) also support the processing of such data

data controllers must exercise extreme caution and this category of personal data

In the event of a data breach, more severe sanctions may be justified.

The Authority also took into account that the Debtor is not just a data protection incident

It did not comply with its notification to the Authority without undue delay, but

taking measures in this regard, in particular risk analysis, is limited to

on the 24th day after becoming aware of the incident, on March 8, 2019. This

data protection incidents provided to the Authority could be identified

from the relevant part of the registration document. Incident management (concerned

the exact scope of the data, other circumstances, the cause of the incident)

the actual risks of the incident to the rights and freedoms of individuals

nor can they be adequately assessed, which is a risk in itself.

The Authority took into account as an attenuating circumstance that, on the basis of the facts revealed, when

the incident was reported to the Data Protection Officer by the Data Protection Officer

immediately initiated the internal procedure for the incident

incident-related obligations. This fact suggests

that the reason for the late notification was a negligent omission by an organizational unit

therefore, the violation cannot be traced back to the system level of the Debtor

there is no suspicion of intent in connection with the infringement. The Authority

In addition, it also took into account that the Debtor, although not without undue delay, did

reported the data protection incident to the Authority and the other data protection incidents

on the reporting of data protection incidents under Regulation (EU) 2016/679

It was also recognized as a position by the Data Protection Board.

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It also follows from the measures taken following the

arising from the General Data Protection Regulation in the event of a data protection incident

obligations.

The Authority also took into account the fact that the Debtor cooperated with the Authority in the matter

during the investigation, although this conduct - as it did not comply with legal obligations

too - not specifically assessed as an attenuating circumstance.

Based on the above, the Authority considers it necessary to impose a fine, Infotv. 75 / A. §

application of a warning would not be an appropriate legal consequence in the present case. The imposed

fine according to Infotv. Pursuant to Section 61 (4), the minimum amount of a fine that may be imposed.

This public task of the budgetary body performing the obligated public task and the management of the infringing data

in connection with the provision of The Authority therefore Section 61 (2) (b)

ordered the decision on the basis of the data of the data controller, ie the Debtor

publication.

ARC.

Other issues

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

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

there is an administrative remedy against him.

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), the Authority

The administrative lawsuit against the decision of the Criminal Court falls within the jurisdiction of the court. Section 13 (11)

The Metropolitan Court shall have exclusive jurisdiction pursuant to On civil procedure

on the 2016 CXXX. Act (hereinafter: Pp.) - the Kp. Pursuant to Section 26 (1)

applicable - legal representation in a lawsuit falling within the jurisdiction of the tribunal pursuant to § 72

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

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

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

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

hereinafter: E-Administration Act), the customer is legal in accordance with Section 9 (1) (b)

representative is required to communicate electronically.

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

Information on the possibility of requesting a hearing is provided in the CM. Section 77 (1) - (2)

based on. The amount of the fee for an administrative lawsuit shall be determined in accordance with Act XCIII of 1990 on

Fees. law

(hereinafter: Itv.) 44 / A. § (1). From the advance payment of the fee is

Itv. Section 59 (1) and Section 62 (1) (h) shall release the party instituting the proceedings.

The Ákr. According to § 132, if the debtor does not comply with the obligation contained in the final decision of the authority

fulfilled, it is enforceable. The decision of the Authority With the communication pursuant to Section 82 (1)

it becomes final. The Ákr. The Ákr. Section 133 enforcement - if you are a law

Government decree does not provide otherwise - it is ordered by the decision-making authority. The Ákr. § 134

enforcement - if by law, government decree or municipal authority matter

local government decree does not provide otherwise - it is carried out by the state tax authority. The

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Infotv. Pursuant to Section 60 (7), a specific act included in the decision of the Authority

obligation to perform, to behave, to tolerate or to stop

implementation of the decision shall be carried out by the Authority.

Budapest, May 21, 2019

Dr. Attila Péterfalvi

President

c. professor

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