

Case number: NAIH-1951-6/2022.

(NAIH-6929/2021.)

Subject: decision establishing a violation of law

H A T A R O Z A T

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

[...] represented by an individual lawyer ([...]) (seat: [...]; tax number: [...]; hereinafter: Client)

used by the "Contribution

statement for the consent-based management of the owner's personal data".

data management related to the data sheet (hereinafter: data sheet) and related to it

information to natural persons regarding the management of personal data

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

2016/679 (EU) on the repeal of Regulation (hereinafter: general

data protection regulation) initiated ex officio to investigate the compliance of the data protection authority

makes the following decisions in the procedure:

1. The Authority determines that, during the period under review, the Customer provided such personal data as -

telephone number, e-mail address - it also obliged those concerned to report housing cooperatives

CXV of 2004 Act (hereinafter: Lszt.) § 43 on the information sheet,

whose treatment is mandatory in Lszt. does not prescribe, the Authority determines that the Customer

violated Article 6 (1) of the General Data Protection Regulation.

2. The Authority determines that the Customer's data management instructions did not comply with it

data protection requirements, thereby violating Article 13 of the General Data Protection Regulation

Paragraphs (1)-(2).

3. The Authority instructs the Customer to only include personal data on the information sheet

oblige the affected parties to report, which the Lszt. must be managed based on

4. The Authority instructs the Client to provide adequate data management

information for those concerned about its circumstances.

5. The Authority in 1-2. due to violations established in point

200,000 HUF, i.e. two hundred thousand forints

data protection fine

obliges the Customer to pay.

* * *

This decision makes the Customer to take the measures prescribed in points 3 and 4 final

must be in writing within 30 days of the divorce - the supporting evidence

along with its submission - certify to the Authority.

The data protection fine shall be paid within 30 days of this decision becoming final

Authority's centralized revenue collection target settlement HUF account (10032000-

01040425-00000000 Centralized direct debit account IBAN: HU83 1003 2000 0104 0425

0000 0000) must be paid. When transferring the amount, NAIH-1951/2022. FINE. for number

must be referred to.

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If the Customer does not fulfill the obligation to pay the fine within the deadline, the above

must pay a late fee to the account number. The amount of the late fee is the legal one

interest, which is the central bank interest valid on the first day of the calendar semester affected by the delay

equal to the base interest rate.

Non-fulfillment of the obligations according to points 3 and 4, as well as the data protection fine and a in case of non-payment of late payment, the Authority orders the execution of the decision.

There is no place for administrative appeal against this decision, but from the announcement within 30 days from the date of issue, with a letter of claim addressed to the Capital Tribunal can be challenged in a lawsuit. The claim must be submitted to the Authority electronically¹, which forwards it to the court together with the case documents. The request for the holding of the trial is submitted by the must be indicated in the application. For those who do not receive full personal tax exemption the fee for the administrative lawsuit is HUF 30,000, the lawsuit is subject to the right to record the fee. The capital city Legal representation is mandatory in court proceedings.

I N D O C O L A S

I. History

On April 15, 2019, a notification was received by the Authority, in which the notifier stated that complained that in his letter dated November 30, 2018 - and more after that times, for example on May 2, 2019 - requested information from the Customer via e-mail, and from its representative, regarding the handling of his personal data, but not for his letters received an answer. The whistleblower also objected to the Customer filling out the information sheet requested with reference to the general data protection regulation, in connection with which the 2018. in his letters dated December 12 and May 2, 2019 - via e-mail - also with questions addressed to the Customer, to which he did not receive a meaningful response.

In the case, point f) of Article 57 (1) of the General Data Protection Ordinance, respectively CXII of 2011 on information self-determination and freedom of information. law (hereinafter: Infotv.) based on point a) of paragraph (3) of § 38, NAIH/2019/3622. number an investigation procedure was initiated.

According to the Customer's statement in the investigation procedure, the General Data Protection Regulation after the start date of the application of its rules, the Customer, in order to a to be able to fully fulfill its obligations prescribed by law, he contacted us

with [...] (hereinafter: [...]). [...] several packages for housing cooperatives

compiled, in which the documents found fully satisfy the provisions,

of which the

housing cooperatives are obliged based on the data protection provisions

to meet. The Customer fulfilled his legal obligation in such a way that from [...]

purchased the necessary regulations and other documents.

According to the statement submitted by the Client in the investigation procedure, the whistleblower on November 29, 2018.

contacted the Customer by e-mail on In response to this letter from the Customer [...]

the chairman of the board replied in his letter dated December 28, 2018. According to his statement

1 The NAIH_K01 form is used to initiate the administrative lawsuit: NAIH_K01 form (16.09.2019)

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

The form is available from the following link: <https://www.naih.hu/kozig-hatarozat-birosagi-felulvizsgalata>

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being

(charterer,

members

owned

beneficiary)

the President of the Client gave a full answer to the questions contained in the letter of the whistleblower, even a

he also sent the regulations listed in the letter and the requested link.

According to the Customer's statement submitted in the investigation procedure, the whistleblower made the correct reference

to the Customer's letter dated May 2, 2019 to the Supervisory Board

got no answer. In this context, it was attached by the notifier on January 19, 2018

handed in a document called the owner and resident register, in which the declarant all

voluntarily provided certain personal data without coercion or threat. His statement

the Customer processes these personal data based on the consent of the right holder,

of which the notifier is also aware. The Customer exceeds this with the notifier

does not manage any other personal data that can be associated with it.

According to the Customer's statement submitted in the investigation procedure, the Customer cooperated with a

[...] has a data protection policy, which also includes information. The

the owners received a shortened version of the data protection policy. It states that

the purpose of data management is the Lszt. On the basis of § 43, the properties in the housing association

its owners/users

register

in order to enforce ownership/user rights and obligations. The client

legal obligation to

operation of properties for which

knowledge of these data is essential.

According to the Customer's statement submitted in the investigation procedure, as well as the information sheet

included - referring back to the general data protection regulation, the Lszt., and the Customer

to the statutes in effect, which contain what information the owner of the apartment is required to provide

to enter after acquiring ownership - filling in the information sheet is mandatory. If it is

the person concerned does not fill in the information sheet, the consequence of that is the cooperative membership

exclusion based on a general meeting resolution. In addition, if the owner does not provide the requested

data and a payment order procedure against it, then execution must be initiated, and for this in

the necessary data must be obtained, in which case a data acquisition cost will be incurred. In this

in that case, the legal basis is the procedure itself, and the fee is determined by the law.

The Customer's statutes require the communication of all data except for the telephone number and e-mail, a

phone number and email address are required for easier contact.

"Owner and

According to the statement submitted by the Customer in the investigation procedure, a

residence register" and the

owner's personal data

the difference between the documents named "consent-based management".

it can be summarized that the document named "Owner and resident register" is already

general data protection

period

was in use and, in addition to personal data, also data relating to the property

contain. The Customer is Lszt. is entitled to manage the data written in the documents based on § 43.

On the data sheet, in the section entitled "Additional personal data" to the owners

they have the opportunity to provide any data, the Customer does not request any additional information

providing personal data.

According to the Customer's statement submitted in the investigation procedure, the Customer has no [...]

does not perform data management, it is wrongly listed on the data sheet because the Customer has changed

took the sample of [...] without. With [...], the Customer and the owner are tripartite

has a contract, the customer pays for the water measured on the main meter, while it is located in the individual apartments

the owner pays the [...] for water measured on the side meter. In case the owner

he does not pay for the amount of water consumed and measured in his apartment, and he does not report it to [...],

based on the consumption measured on the main meter, the Customer pays [...]. Instead of the owner

the Housing Cooperative reclaims the amount paid from the non-paying owner through litigation. THE

[...] in the course of his service activities, he reads the main meter and records it with the water meter

owners and register the measured consumption.

prior to the application of the rules of the decree

"Declaration of contribution

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The Authority established in the investigation procedure that the Customer's personal data

also obliged the affected parties and the reporting party to provide information, which only the affected parties have to provide

based on your consent, in violation of Article 6 of the General Data Protection Regulation.

Furthermore, given that the Customer's data management instructions did not comply with the of the requirement of transparency, the Authority found that the Customer violated it Article 5 (1) point a) of the General Data Protection Regulation.

The Authority also found that the Customer violated general data protection Article 15 of the Decree by failing to comply with the Complainant's request dated November 29, 2018 your request for access to your personal data.

Therefore, the Authority dated May 26, 2020, NAIH/2020/41/8. in his letter with case file no points b) and c) of Article 58 (2) of the General Data Protection Regulation, as well as the Infotv. Section 56 (1) called on the Customer to handle the owners and the notifier's personal data, provide appropriate and transparent information, and also fulfill the request for access to the personal data of the whistleblower your request, or provide appropriate information regarding data management to your questions.

After reviewing what was written in the Customer's reply letter, the Authority found that the whistleblower was not received adequate information, and furthermore, that the Customer did not respond to the Authority's notice completed in full. The Authority therefore, Article 58 (2) of the General Data Protection Regulation b) and c) of paragraph 1, as well as Infotv. Based on § 56, paragraph (1), July 31, 2020.

dated NAIH/2020/41/12. in his letter with file number, he repeatedly called on the Client to to provide the notifier and the Authority with adequate information that a exactly which personal data of the whistleblower is processed based on his consent. The Authority also asked the Client to inform the notifier of all the questions he asked about the data management issue and send him the information notice prepared at the request of the Authority sheet, as it still did not meet the requirements of the General Data Protection Regulation.

After reviewing what was written in the Customer's latest reply letter, the Authority found that it is The customer duly informed the notifier about the handling of his personal data, however, a the attached data sheet and the data management information contained therein still do not comply

data protection requirements. The Authority is therefore Article 58 of the General Data Protection Regulation (2) points b) and c), as well as Infotv. October 2020 based on Section 56 (1).

Dated the 30th day of NAIH/2020/41/15. he repeatedly called on the Client with his letter with case file number to provide appropriate and transparent information about data management on the data sheet and create a new information sheet.

The Authority NAIH/2020/41/15. set a deadline of 30 days in his notice with case file number for the Customer to take appropriate measures for lawful data management and provide information about it. Noting that the Authority's letter is

The customer received it on November 24, 2020, the deadline expired on December 23, 2020. The

In accordance with the customer's request, on January 20, 2021, the Authority extended the NAIH/2020/41/15. case file number

to take action

specified deadline, given that, according to the Customer's statement, the modifications

it will take more time to transfer. Based on this, the Customer had until January 22, 2021

to respond to the Authority's request.

The Authority also informed the Client that if the Client January 2021

By the 22nd day, the Authority does not comply with NAIH/2020/41/15. in his summons with file number

as stated, the Authority - appreciating that the Customer initiated the

modification of the information sheet, considering that it was purchased from this association - 2021.

established in his notice

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after the 8th day after January 22nd, the necessary further measures will be decided

about doing it.

The Client received this letter from the Authority on February 1, 2021. In his reply he wrote,

in view of the fact that after the expiry of the deadline set out in the Authority's letter

became aware of, so the information sheet could not be amended January 22, 2021.

until the 8th day after

The Authority NAIH/2020/41/15. 30-day deadline established in the notice of case file number

on December 23, 2020, then 30 from this day and extended by 8 days

deadline expired on January 30, 2021. According to the Authority's point of view, that was enough time

Available to the customer to modify the information sheet, also bearing in mind that a

The authority called for its general data protection for the first time on May 26, 2020

to amend the regulation accordingly.

On the basis of the above, since in accordance with the Authority's calls to remedy the infringement, no

took place, the Authority is Infotv. Section 55. (1) point a) subpoint b) and Infotv. 58.

Based on § (2) point a), the investigation was closed and ex officio by the data protection authority

started a procedure for the data management related to the notification sheet affected by the notification, and with that

regarding related information. The present procedure is effective from May 25, 2018 of the examined period

for the period up to the day of its initiation, September 1, 2021, the investigation in this

it covered the data sheet used in the period.

The Authority is Infotv. In view of Section 71 (2) in this official data protection procedure

used by the previous NAIH/2019/3622. lawfully during the investigation procedure initiated under No

also obtained documents and data.

II. Clarification of the facts

1. The Authority dated September 1, 2021, NAIH-6929-1/2021. case file number

informed the Customer in its order that the data protection official procedure will take place on that day

and invited him to make a statement.

Subsequently, the Authority dated 14 October 2021, NAIH-6929-4/2021. file number,

then dated 20 December 2021, NAIH-6929-6/2021. file number, finally 2022.

dated February 7, NAIH-1951-3/2022. he called in his order no

up

the Customer to make a statement

2. On September 21, 2021, November 3, 2021, January 17, 2022, the Customer

and in letters dated March 10, 2022, responded to the orders of the Authority.

According to the Customer's statement, the purpose of the information sheet is for the Customer to comply with the general of the data protection regulation and reviews the contact details previously provided by the members data and check it after the data sheet has been filled in by the members, respectively review the contact information previously provided.

According to his statement, the purpose of data management is property owners, property users, and members record of the enforcement of owner, user, member rights and obligations in order to The legal basis for data management is the Lszt., the Customer's statutes, and the data subject contribution.

According to his statement, it is not mandatory to return the information sheet, the invitation to do so is was based on a mistake, the provision of data is voluntary. The Customer therefore re-creates the document, correcting the error in it.

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According to his statement, the owners' phone number and e-mail address are used as contact information serves to inform the owners about the Client's matters concerning him can reach (for example, unexpected water, or a sewer crack, flooding in the apartment). This is the Customer is done in the legitimate interest. According to his statement, given that the disclosure of data is voluntary, if the owner does not provide these data, no sanctions will be incurred after you.

According to his statement, in the "additional personal data" field to be entered on the information sheet for example, the bank account number can be entered as additional personal data in order to the payment obligations of the owners can be identified by the Customer, thus it is accurate be able to keep records of the fulfillment of obligations. If not specified here personal data of the co-owner, it has no consequences, because a The provision of personal data other than those prescribed by law is voluntary.

The customer manager defined the recipients of the personal data on the information sheet

officials, the accounting worker, an official third party, a data processor

employees. According to the Customer's statement, the Customer's officials are the general

Article 6 (1) point c) of the data protection decree and Lszt. Based on § 43, paragraph (6).

manage the personal data of the owners. The bookkeeping is based on an assignment contract [...]

is carried out, and the Customer of this company is Article 6 (1) point b) of the General Data Protection Regulation

forwards personal data (name, address) based on For the utility provider a

Issuing utility bills is a contractual obligation, so it is forwarded on the basis of a contract

the Customer provides personal data to them. For the water meters, for the water works by the owner

the completed form is signed and sealed by the President of the Client, it contains the owner's name

and address.

According to his statement, the Customer's employee performs data processing, which means that a

uploads personal data to the program used by the Customer. This person is the Customer

is employed as an employee, therefore the Customer does not have a separate data processing contract

at your disposal.

According to his statement, on the data sheet, he was wrongly marked as the data controller

water works. According to the contract, the Customer transmits personal data to the water works, who

processes them.

According to the information sheet, "it is not required or obliged to provide personal data

on the basis of the effective Statute or SZMSZ". According to the Customer's declaration in this regard

the sentence is not clear. The statutes and Lszt. Based on § 43, paragraph (1) a

member/owner is obliged to provide his address and in the real estate register by anyone

personal data and the public data of non-natural persons can be viewed. The

the correct part of the text was accidentally crossed out on the data sheet, everything else is personal

data is provided voluntarily.

Failure to fill out the information form will result in disqualification. This

legal consequence was based on a mistake, considering that the provision of personal data is voluntary, failure to do so does not result in exclusion from housing cooperative membership.

According to the information sheet, if the person concerned does not fill out the information sheet, it is another one as a consequence, the Customer will reimburse him for the missing data due to the failure to report costs incurred due to obtaining data. The Customer's statement in this regard according to some of the personal data requested on the information sheet, certain legal procedures are required (payment order, execution) for the effective execution. Based on the principle of volunteering a co-owner may decide not to provide these personal data, however why

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these are necessary for the procedure and are purchased for a fee, therefore a costs are validated by the Customer during the review.

According to the information sheet, if the person concerned does not fill out the information sheet, it will be added as a consequence, the Customer initiates a procedure for imposing a fine for violation of regulations. The

According to the customer's statement in this regard, this point has no legal basis, it is new such wording will not be included in the document.

According to the Customer's statement, they received information about the data management related to the information sheet information to those concerned that the necessary was indicated on the information sheet enlightenment, information. In addition to this, in the 2019 general meeting materials, a separate three pages of information with the rules of the general data protection regulation were included related tasks.

According to his statement, the Client has 167 members, three owners are not cooperative members. THE the cooperative also has two offices, but their owners are also not cooperative members. The the information sheet was filled out by all co-owners with one exception.

According to his statement, the data sheets purchased from [...] were filled in by the members in September 2018 It started on the 25th and the completed data sheets had to be submitted by the 30th of November 2018. The together with information sheets, the information contained in the purchased documents was issued, which

contained incorrect information in several cases. Because of the wrong information, both the informant filling in forms and data management must be considered based on voluntary consent in 2018. from September 25.

According to his statement, the Client is the Lszt. § 43 and 6.2 of the Customer's Articles of Association. according to point handles personal data. It is not mentioned in the law or the constitution e-mail address and telephone number, these personal data are owned by them is stored by the housing association, who provided them voluntarily.

Furthermore, according to his statement, the Authority NAIH/2019/3622. in its investigation procedure reserves the statements presented, does not wish to supplement them.

III. Applicable legal provisions

Based on Article 2 (1) of the General Data Protection Regulation, the general data protection regulation must be applied to personal data in part or in whole in an automated manner processing, as well as those personal data in a non-automated manner which are part of a registration system or which they want to make it part of a registration system.

Infotv. Pursuant to § 2, paragraph (2), the general data protection regulation is indicated there shall be applied with the additions specified in the provisions.

Infotv. According to § 38, paragraph (2), the Authority is responsible for the protection of personal data, and the right to access data of public interest and public interest control and promotion of the validity of personal data in the European Union facilitating its free flow within.

Infotv. Based on Section 38 (2a) of the General Data Protection Regulation, the supervisory tasks and powers established for the authority under the jurisdiction of Hungary in the general data protection regulation and this law with regard to legal entities belonging to is exercised by the Authority as specified.

any relating to a natural person ("data subject").

Infotv. Pursuant to § 38, paragraph (3) point b), according to § 38, paragraphs (2) and (2a)

within the scope of his duties, as defined in this law, especially at the request of the data subject and

conducts a data protection official procedure ex officio.

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

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.

The Akr. On the basis of § 103, paragraph (1) of this law in ex officio proceedings

its provisions on initiated procedures shall be applied with the exceptions contained in this chapter.

In the absence of a different provision of the General Data Protection Regulation, the request was initiated

for official data protection procedure, Art. provisions shall be applied in Infotv

with certain deviations.

Pursuant to Article 4, point 1 of the General Data Protection Regulation: ""personal data": identified

or identifiable

information;

the natural person who, directly or indirectly, in particular, can be identified

an identifier such as name, number, location data, online identifier or a

physical, physiological, genetic, intellectual, economic, cultural or social natural person

can be identified based on one or more factors relating to its identity."

According to Article 4, point 2 of the General Data Protection Regulation: ""data management": the personal

any performed on data or data files in an automated or non-automated manner

operation or a set of operations, such as collection, recording, organization, segmentation, storage,

transformation or change, query, insight, use, transmission of communication,

by means of distribution or other means of making available, coordination or

connection, restriction, deletion or destruction."

Based on Article 4, point 7 of the General Data Protection Regulation: ""data controller": the natural

or legal person, public authority, agency or any other body that a

the purposes and means of processing personal data independently or together with others

define; if the purposes and means of data management are determined by EU or member state law

and, the data manager or the special aspects regarding the designation of the data manager

it can also be determined by EU or member state law."

Pursuant to Article 4, Point 8 of the General Data Protection Regulation: "'data processor": the a

natural or legal person, public authority, agency or any other body,

which processes personal data on behalf of the controller."

According to Article 4, point 11 of the General Data Protection Regulation: "'consent of the data subject": az

of the will of the person concerned, based on voluntary, specific and adequate information and clear

declaration by which the relevant statement or confirmation is unambiguously expressed

indicates by action that he gives his consent to the processing of his personal data."

Based on Article 5 (1) of the General Data Protection Regulation: "Personal data:

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

conduct ("legality, 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");

c) they must be appropriate and relevant for the purposes of data management, and a

they must be limited to what is necessary ("data sparing");

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too

with attention

to implement measures

d) they must be accurate and, if necessary, up-to-date; take all reasonable measures

must be done in order to ensure that it is inaccurate and personal in terms of the purposes of data management

data to be deleted or corrected immediately ("accuracy");

e) must be stored in a form that allows the identification of the data subjects only a

enables the processing of personal data for the time necessary to achieve its goals; the personal

data can only be stored for a longer period if a

archiving in the public interest in accordance with Article 89 (1) for the management of personal data

purpose, will take place for scientific and historical research purposes or for statistical purposes, e

in order to protect the rights and freedoms of the data subjects

technical and organizational

("limited

storability');

f) must be handled in such a way that appropriate technical or organizational measures

adequate security of personal data should be ensured by using

unauthorized or illegal handling, accidental loss or destruction

including protection against damage ("integrity and confidentiality")."

Pursuant to Article 5 (2) of the General Data Protection Regulation: "The data controller is responsible

for compliance with paragraph (1) and must be able to demonstrate such compliance

("accountability")."

According to Article 6 (1) of the General Data Protection Regulation: "Management of personal data

it is only legal if and to the extent that at least one of the following is fulfilled:

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

for its treatment;

b) data management is necessary for the performance of a contract to which the data subject is a party

party, or the steps taken at the request of the data subject prior to the conclusion of the contract

necessary to do;

- c) data management is necessary to fulfill the legal obligation of the data controller;
- d) the data processing is for the vital interests of the data subject or another natural person necessary for its protection;
- e) data processing is in the public interest or the data controller is authorized by a public authority necessary for the execution of a task performed in the context of its exercise;
- f) data management to enforce the legitimate interests of the data controller or a third party necessary, unless the interests of the person concerned take precedence over these interests or fundamental rights and freedoms that make personal data protection necessary, especially if a child is involved.

Point f) of the first subparagraph does not apply to the performance of their duties by public authorities for data management during

Based on Article 7 of the General Data Protection Regulation: "(1) If data management is based on consent, the data controller must be able to prove that the data subject is personal consented to the processing of his data.

(2) If the data subject gives his consent in the context of a written statement that is different also applies to cases, the request for consent is clearly separated from these other cases must be presented in a distinguishable manner, in an understandable and easily accessible form, clear and with simple language. Any such statement containing the consent of the data subject part that violates this regulation is not binding.

(3) The data subject is entitled to withdraw his consent at any time. The consent its withdrawal does not affect the consent-based data management prior to the withdrawal legality. Before giving consent, the data subject must be informed of this. THE withdrawal of consent should be possible in the same simple way as giving.

(4) In determining whether the consent is voluntary, the maximum possible must take into account the fact, among other things, that the fulfillment of the contract

- including the provision of services - whether such personal data has been set as a condition consent to its management, which are not necessary for the performance of the contract."

Based on Article 58 (2) of the General Data Protection Regulation: "The supervisory authority acting in its corrective capacity:

a) warns the data manager or the data processor that some planned data processing

its activities are likely to violate the provisions of this regulation;

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

violated the provisions of this regulation;

c) instructs the data manager or the data processor to comply with this regulation for the data subject your request to exercise your rights under;

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

in a specified manner and within a specified period of time - harmonises this regulation

with its provisions;

e) instructs the data controller to inform the data subject about the data protection incident;

f) temporarily or permanently restricts data management, including data management also its prohibition;

g) in accordance with the provisions of Articles 16, 17 and 18, orders personal data

rectification or deletion, or limitation of data management, as well as Article 17 (2)

and in accordance with Article 19, orders the notification of those recipients,

with whom or to which the personal data was disclosed;

h) revokes the certificate or instructs the certification body to comply with Articles 42 and 43

to withdraw a duly issued certificate or instruct the certification body not to

issue the certificate if the conditions for certification are not or are no longer met;

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

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

j) orders the flow of data to a recipient in a third country or an international organization

suspension."

Pursuant to Article 77 (1) of the General Data Protection Regulation, other administrative

or without prejudice to judicial remedies, all interested parties are entitled to file a complaint

with a supervisory authority - in particular your usual place of residence, place of work or

in the Member State where the alleged infringement took place - if, according to the judgment of the data subject, the

the processing of relevant personal data violates this regulation.

According to Article 83 (2) and (5) of the General Data Protection Regulation: "[...]

(2) The administrative fines, depending on the circumstances of the given case, are subject to Article 58 (2)

must be imposed in addition to or instead of the measures mentioned in points a)-h) and j) of paragraph

When deciding whether it is necessary to impose an administrative fine or a

sufficiently in each case when determining the amount of the administrative fine

the following should be taken into account:

a) the nature, severity and duration of the infringement, taking into account the data management in question

nature, scope or purpose, as well as the number of persons affected by the infringement, as well as the

the extent of the damage they have suffered;

b) the intentional or negligent nature of the infringement;

c) mitigating the damage suffered by the data controller or the data processor

any action taken in order to;

d) the degree of responsibility of the data manager or data processor, taking into account the a

technical and organizational measures undertaken on the basis of Articles 25 and 32;

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

f) with the supervisory authority to remedy the violation and the possible negative effects of the violation

extent of cooperation to mitigate;

g) categories of personal data affected by the infringement;

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

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

j) whether the data manager or the data processor has complied with Article 40 to approved codes of conduct or approved certification under Article 42 for mechanisms; as well as

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

[...]

(5) Violation of the following provisions - in accordance with paragraph (2) - at most 20 with an administrative fine of EUR 000,000 or, in the case of businesses, the previous one shall be subject to an amount of no more than 4% of the total annual world market turnover of a financial year, by imposing the higher of the two amounts:

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

b) the rights of the data subjects in Articles 12–22. in accordance with Article;

c) personal data for a recipient in a third country or an international organization 44–49. in accordance with Article;

d) IX. obligations according to the law of the Member States adopted on the basis of chapter;

e) the instruction of the supervisory authority according to Article 58 (2), and data management temporary or permanent restriction or suspension of data flow

failure to comply with its notice or access in violation of Article 58 (1).

failure to provide.

[...]"

Infotv. On the basis of § 71, paragraph (2): "The Authority lawfully acquired during its procedures document, data or other means of proof can be used in other proceedings."

The Lszt. Pursuant to § 43: "(1) The articles of association may stipulate that the owner of the apartment is obliged to announce to the board:

- a) the change of ownership with regard to your apartment,
- b) your address, your personal data that can be viewed by anyone in the real estate register, respectively the public data of the non-natural person,
- c) the person renting or using his apartment (hereinafter together: tenant) corresponds to point b).
your data,
- d) the number of people living in your apartment,
- e) in the case of usufructuary property, the name of the usufructuary.

(2) The articles of association may stipulate that the notification of the data specified in paragraph (1).
its obligation is applicable to the member with the right of use.

(3) The reporting of the data referred to in points c) and d) of paragraph (1) may be required if the utility service, as well as the fee for central heating and hot water service, is charged to the tenant, or it must be divided among the members according to the number of residents. The member must a tenant on the notification of the data concerning him - if the statute obliges him to do so contains - inform.

(4) If in the case referred to in paragraph (3), the tenant - a written request from the board of directors despite - he does not fulfill his payment obligation, the amount of the arrears the relevant member has an obligation to pay for its payment. Upon written notice, and the detailed regulations on the payment of the arrears must be in the articles of association to establish.

(5) The basic rules require the notification referred to in paragraph (1) to take possession of the apartment, or following the registration of the ownership of the apartment in the real estate register

You can set a deadline of 15-60 days.

(6) The board of directors is authorized to use the data referred to in paragraph (1).

keep records. The board is solely responsible for the registered data

service provider, the central heating and hot water provider, and the court information.

(7) If the member or former member, or the tenant or former tenant for the housing association outstanding debt, as well as for utility services, central heating and hot water he settled his outstanding fee debt for the service, the board notified him and the debt-related data must be deleted immediately."

ARC. Decision

1. Led by the Customer based on the definitions of the general data protection regulation with a natural person included in the register and requested by him on the information sheet related data as personal data, any operation performed on personal data and it is considered data management.

Article 5 of the General Data Protection Regulation contains the main principles that a must be taken into account when handling personal data, and which are constantly must apply during data management. Article 5 (2) of the General Data Protection Regulation pursuant to the requirement of accountability according to para for compliance with data protection principles and must be able to comply for verification. Based on this, the data controller is obliged to document and record the data management, so that its legality can be proven afterwards.

Purpose-bound according to Article 5(1)(b) of the General Data Protection Regulation following the principle of data management, the management of personal data is only defined and clear and may be done for a legitimate purpose. In the present case, taking into account the Lszt. § 43. is so legal

data management purposes are property owners, property users, cooperative members

register of owners, users,

enforcement of rights and obligations

in order to

An additional requirement for the legality of data management is that the data management is general

it may be referred to a legal basis according to Article 6 (1) of the Data Protection Regulation

beer.

The articles of incorporation of the Customer as a housing cooperative are provided for in Art. Paragraph (1) of § 43

on the management of personal data according to, consequently, the owner is obliged to do so

to report your personal data. In this case, the legal basis for data management is the general one

the legal basis of the legal obligation according to Article 6 (1) point c) of the Data Protection Regulation, that is

Lst. With regard to personal data according to Section 43 (1).

However, the telephone number and e-mail address requested on the information sheet - although for the purpose of contact a

The Authority considers the processing of this personal data acceptable, given that it

Lst. the management of this personal data is not mandatory, basically the owner

can be handled on the basis of his consent, as if the owner does not consent e

to manage personal data, so no disadvantage can befall him. According to the position of the Authority, it is

and the marking of "additional personal data" on the data sheet is in Lszt. Section 43 (1)

is unnecessary, as no other personal data can be provided

obligate the owner. The registration of this personal data is therefore basically voluntary,

can be carried out based on informed consent.

member

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At the same time, the application of other legal grounds is not excluded, such as, for example, the

the basic rules of housing cooperatives - based on a majority decision - stipulate the non-mandatory

management of personal data to be registered. In such a case, considering the Lszt. on it

to the rule according to which to amend the articles of association a

to the vote of those present

with a two-thirds majority, the legal basis for data management is general data protection

can be the legal basis of a legitimate interest according to Article 6 (1) point f) of the Decree. The reason for this is that a

housing association as data controller and the interest of the two-thirds majority of those present

in this case - taking into account the result of the vote - it is preceded by those housing association members

the right to the protection of personal data, who did not vote for the articles of association

its provisions on the management of personal data.

Given that, during the period under review, the Customer provided personal data such as telephone number,

e-mail address - was also required to be entered on the information sheet, which is mandatory

treatment by the Lszt. does not prescribe, the Authority determines that the Customer has violated it

Article 6 (1) of the General Data Protection Regulation.

According to the Customer's statement, the phone number and e-mail address of the owners are currently available

providing it is voluntary, and if the owner does not provide this data,

does not entail any sanctions.

2. Another important requirement is that the Customer, as a data controller, is provided with appropriate information

must provide information about its data management to the data subjects. Regarding appropriate information

requirements are contained in Article 13 of the General Data Protection Regulation. It's common

Article 13 (1)-(2) of the Data Protection Regulation defines what information

must be made available to those concerned about data management.

An essential requirement of adequate information is that it must be about the given, specific data management

to provide information. Thus, in the case - as in the present case - when the informant

page also includes data management information, it is not possible to indicate an organization that

which does not perform data management. Thus, if [...] has no role in data management,

it could not have been displayed in the prospectus as a data controller. In the same way

from the point of view of the registration of the owners' personal data, [...] has no role either

in data management, so it also needs to be deleted. The Lszt. Based on § 43, paragraph (6).

The board of the Housing Cooperative is exclusively public regarding the registered data service provider, the central heating and hot water provider, and the court information. Consequently, utility service providers in such a context as that recipients of data transmission may appear.

Another requirement is that the information sheet must clearly indicate which one the processing of personal data is mandatory and which ones are subject to the data subject's consent are to be handled on the page.

Regarding the abbreviated data management information provided to the owners a

The authority's position is that there is a mixture of several data management processes, for example the data management related to the register of owners, as well as with the Client's employees related data management. However, it is necessary based on the requirement of transparency to separate the individual data management, per data management purpose, and each of them information and data management conditions must also be displayed separately information, so that data management is clear and transparent.

Given that the Customer's data management instructions did not comply with the above requirements, the Authority determines that the Customer has violated the general Article 13 (1)-(2) of the Data Protection Regulation.

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In relation to the new information on data management, the Authority states that it also several independent data management purposes appear, such as Lszt. Section 43 (1) registration of personal data, invoicing-related data management and camera data management. It cannot be determined precisely in connection with the latter two data management the purpose of data management, as well as the circumstances of data management, and therefore also to these data managements separate, according to Article 13 (1)-(2) of all general data protection regulations

information deviating from data management information must be provided.

The Authority also draws attention to the fact that, according to the Customer's statement, a owners Lszt. According to § 43, paragraph (1), the Customer shall submit his data to the Lszt. at your disposal founded, the articles of association also provide for the management of this personal data, while the information 6 of the General Data Protection Regulation as the legal basis for the processing of this personal data. points a), b), c) and f) of Article (1) also appear. However, this information is not sufficient the data protection requirements, because the Lszt. Personal data according to § 43, paragraph (1). the legal basis for its processing is according to Article 6 (1) point c) of the General Data Protection Regulation legal obligation under Lszt. Due to the regulation according to § 43, paragraph (1). The optional the legal basis of the personal data to be processed is the consent of the data subject as described above, respectively other legal grounds, such as the legitimate interests of the data controller. For this reason, the modified data management information does not comply with Article 13 (1)-(2) of the General Data Protection Regulation.

Sun. Legal actions

The Authority based on Article 58 (2) point b) of the General Data Protection Regulation establishes that during the examined period the Customer provided such personal data - telephone number, e-mail address - also obliged those concerned to notify the Lszt. Pursuant to § 43, the informant sheet, which must be handled by Lszt. does not prescribe, the Authority determines that it is The customer violated Article 6 (1) of the General Data Protection Regulation.

The Authority based on Article 58 (2) point b) of the General Data Protection Regulation determines that the Customer's data management instructions did not comply with data protection requirements, thereby violating Article 13 (1)-(2) of the General Data Protection Regulation paragraph.

The Authority instructs on the basis of Article 58(2)(d) of the General Data Protection Regulation the Customer to report only such personal data on the information sheet oblige the parties concerned, which the Lszt. must be managed based on

The Authority instructs on the basis of Article 58(2)(d) of the General Data Protection Regulation

the Customer to provide appropriate, covering all circumstances of data management information for those concerned.

The Authority examined whether the imposition of a data protection fine against the Customer is justified.

In this context, the Authority is in accordance with Article 83 (2) of the General Data Protection Regulation and Infotv.

75/A. based on §, considered all the circumstances of the case and found that the present procedure

in the case of violations discovered during the investigation, the warning is neither proportionate nor dissuasive sanction, therefore a fine must be imposed.

When determining the amount of the fine, the Authority first of all took into account that

the violation committed by the Customer is Article 83 (5) b) of the General Data Protection Regulation according to point 1, it is classified as a violation belonging to the category of higher fines.

The Authority as an aggravating circumstance when determining the amount of the data protection fine took into account that

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- the whistleblower is the informant

was excluded due to refusal to fill out the form

from a housing cooperative [General Data Protection Regulation Article 83 (2) point a)];

- the housing association consists of 167 members, so the newsletter with illegal content, and

data management covered a relatively large number of data subjects [general data protection decree Article 83(2)(a)];

- the violation was caused by the Customer's careless behavior [general data protection

Article 83 (2) point b) of the Decree].

The Authority as a mitigating circumstance when determining the amount of the data protection fine

took into account that

- to condemn the Customer for violating the general data protection regulation

did not take place [General Data Protection Regulation Article 83 (2) point e)];

- the personal data affected by the infringement, the telephone number and e-mail address, do not belong to

to the special category of personal data [General Data Protection Regulation Article 83

(2) point (g)];

- the Authority exceeded the administrative deadline [General Data Protection Regulation Article 83 (2) paragraph (k)].

When determining the data protection fine imposed on the Customer, the Authority does not considered relevant Article 83 (2) points h), i) and j) of the General Data Protection Regulation circumstances, as they cannot be interpreted in relation to the specific case.

The Customer's pre-tax profit for 2020 was HUF 728,000,
the Authority determined the amount of the data protection fine.

VI. 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.

This decision of the Authority is based on Art. 80-81. § and Infotv. It is based on paragraph (1) of § 61. THE decision of the Akr. Based on § 82, paragraph (1), it becomes final upon its publication. The Akr. § 112, and § 116, paragraph (1) and (4), point d), and on the basis of § 114, paragraph (1) a decision can be appealed through an administrative lawsuit.

* * *

The Akr. According to § 135, the debtor is in arrears corresponding to the legal interest he is obliged to pay a supplement if he does not fulfill his obligation to pay money within the deadline. Act V of 2013 on the Civil Code 6:48 Based on paragraph (1) of § in case of money owed, the obligee is in default starting from the date of equal to the central bank base rate valid on the first day of the calendar semester affected by the delay is obliged to pay late interest.

The rules of the administrative trial are set out in Act I of 2017 on the Administrative Procedure hereinafter: Kp.) is defined. The Kp. Based on § 12, paragraph (1), by decision of the Authority

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

Based on subparagraph a) of point a), the Metropolitan Court is exclusively competent. The Kp. Section 27

According to point b) of paragraph (1) in a legal dispute in which the court exclusively

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competent, legal representation is mandatory. The Kp. According to § 39, paragraph (6), 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 Section 29 and, in view of this, CXXX of 2016 on the Code of Civil Procedure.

applicable according to § 604 of the Act, electronic administration and trust services

CCXXII of 2015 on its general rules. according to § 9 (1) point b) of the Act, the

the client's legal representative is 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. From the advance payment of the fee

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

half.

If the Customer fulfills the required obligations and payment obligations

does not prove it in any way, the Authority considers that the obligation is not fulfilled within the deadline

fulfilled. The Akr. According to § 132, if the Client has included in the final decision of the Authority

he did not fulfill his obligations, it is enforceable. The Authority's decision in Art. Section 82 (1)

according to paragraph, it becomes final with the communication. The Akr. Pursuant to § 133, the execution –

if the law or government decree does not provide otherwise - it is ordered by the decision-making authority

away. The Akr. Pursuant to § 134, enforcement - if you are a law or government decree

in municipal authority cases, the decree of the local government does not provide otherwise - that is

is carried out by the state tax authority.

Dated: Budapest, August 11, 2022.

Dr. Attila Péterfalvi

c. professor

president