

Case number: NAIH / 2020/2546/15.

Subject: Decision

## DECISION

Before the National Data Protection and Freedom of Information Authority (hereinafter referred to as the Authority), the [...] hereinafter referred to as the "Customer") prior to the conclusion of the contracts for the provision of the baby waiting loan, or, during the term of the contracts, the lending, the related discounts, the handling of documents containing personal data in connection with grants, and the lawfulness of information on the processing of data during the granting of a baby loan, the general ex officio data protection to verify compliance with the Data Protection Regulation

In administrative proceedings, the Authority shall take the following decisions:

### I. Finds that the Customer

(1) infringed Article 5 (1) (c) of the General Data Protection Regulation (GDPR);

the principle of data retention in accordance with point

personal data, including health data, in copies of final reports

which were not necessary to achieve the purpose of the processing;

(2) handled the pregnancy books and final reports without legal basis

personal data, including health data, recorded in copies

Article 6 (1) of the GDPR and Article 9 (1) of the GDPR for health data.

Article 1 (1);

(3) did not provide clear and transparent information to those concerned about the baby loan

and the processing of data during the term of the concluded loan agreements

Article 12 (1) of the GDPR.

### II. Instructs Customer to do so within 60 days of this decision becoming final

(1) delete any pregnancy care books and final reports you still have

discard electronic copies, paper copies, and this is done

credit to the Authority.

(2) restructure the baby waiting loan application, as well as concluded during the contract

information management practices in a manner that complies with Article 12 of the GDPR.

transparency requirement under Article 1 (1).

III. Due to the illegal data processing, the Customer shall be entitled to pay the 30th day after the final date of this decision within a day

HUF 35,000,000, ie thirty-five million forints

data protection fine

obliges to pay.

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1055 Budapest

Tel .: +36 1 391-1400

ugyfelszolgalat@naih.hu

Falk Miksa utca 9-11.

Fax: +36 1 391-1410

www.naih.hu

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

(1003200001040425-000000000 Centralized collection account IBAN: HU83 1003 2000 0104 0425 0000 0000)

to be paid for. When transferring the amount, NAIH / 2020/2546. JUDGE. number should be referred to.

If the Customer fails to meet the obligation to pay the fine on time, a late payment surcharge

is obliged to pay. The rate of the late payment interest is the statutory interest, which is the calendar affected by the delay equal to the central bank base rate valid on the first day of the first half of the year.

A II. obligation under point III. non - payment of the fine and the late payment allowance

In that case, the Authority shall order the enforcement of the decision.

Until the expiry of the time limit for bringing an action against the decision, or an administrative action until the final decision of the court, the data involved in the disputed data processing shall not may be deleted or not destroyed.

A II. within 8 days of the implementation of the measures provided for in point together with supporting evidence, shall notify the Authority. To the Customer as evidence, fully document the fact of the deletions and the IT circumstances report (s) and a statement that all copies of such data deleted.

There shall be no administrative appeal against this decision, but it shall be subject to a right of appeal within 30 days of its notification

An action brought before the Metropolitan Court may be challenged in an administrative action within one day. THE The application shall be submitted to the Authority, electronically, which shall forward it together with the case - file to the court. For those who do not receive a full personal tax exemption, there is an administrative lawsuit fee 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.

## EXPLANATORY STATEMENT

### I. Procedure

(1)

The Authority received a notification in the public interest stating that the applicant was expecting a baby took a loan with his spouse from the Client. The Applicant and his / her spouse have requested the Client to suspension of loan repayment. The full copy was copied by the Customer's agent a pregnancy care book to prove that the fetus was 12 weeks old.

(2)

On the basis of the public interest notification, the circumstance giving rise to the initiation of the official inspection came to the To the Authority, so that the Authority, on 24 January 2020, issued NAIH / 2020/1156. the Customer

with the simultaneous notification of the Customer, initiated an official inspection to verify that the Customer whether its general data management practices in relation to baby loans are in line with a GDPR requirements.

(3)

The Authority shall make a statement at the same time as the notification of the initiation of the official control called the Customer. The Client's statement was received by the Authority on 14 February 2020.

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(4)

Based on the Client's statement and additional information revealed during the official inspection it was probable that the Client had breached the provisions of the GDPR, so the Authority is In its case, NAIH / 2020/2546 initiated ex officio data protection proceedings on 28 February 2020. case number. The investigation period covered the period from 1 July 2019 to 28 February 2020.

(5)

In addition to notifying the data protection authority procedure, the Authority will clarify the facts In order to do so, he called on the Client to make a statement, and in his order he reserved the ones already concluded loan transactions performed by the Client on the maternity care books, the adoption paper - based decisions on abortions or stillbirths and electronic copies. The Authority left the seized copies of the documents in the custody of the Client. THE It was necessary to order a seizure because, on the basis of the Client's statement, a the risk that the copies of the records - in the context of the Client 's own review - will be shall be deleted before the end of the official data protection procedure.

(6)

In its statement dated 15 May 2020 (NAIH / 2020/2546/2), the Client informed the Authority that it has complied with the order of seizure, the paper - based and destruction of electronic copies of documents, deletion from systems upon receipt of the order suspended after.

(7)

On 22 June 2020, the Authority issued Regulation NAIH / 2020/2546/3. clarification of the facts in his order no  
In order to do so, he invited the Client to make a statement and send various copies of the documents.

(8)

In the Customer's letter dated 8 July 2020, the deadline for reply is an additional 15

The Authority requested an extension of NAIH / 2020/2546/5. number

in his order. The Client's statement and the requested documents are electronic, with a password

A copy of the protected copies was received by the Authority on 30 July 2020.

(9)

In order to clarify the facts, the Authority should amend NAIH / 2020/2546/9. again in order no

invited the client to make a statement on October 20, 2020. Customer Statement November 2020

He arrived at the Authority on the 25th.

(10)

The Authority has already concluded loan transactions during the Client's Pregnancy Care

books, adoption decisions, proof of miscarriage or stillbirth

seizure of paper-based and electronic copies of documents on 14 December 2020

terminated by order of.

II. Clarification of the facts

(11)

44/2019 on the baby waiting allowance. (III.12.) Government Decree (hereinafter: Government Decree)

under the baby waiting loan interest subsidized, the transaction interest on behalf of the state to the Treasury  
disbursed to the credit institution.

(12)

Beneficiaries - that is, the spouses with whom the financial institution is expecting a baby loan

are entitled to suspend the repayment of other loans

after the 12th week of pregnancy, including the post-natal period

or if they adopt a child together.

(13)

Beneficiaries are entitled to a non-refundable fee for the second or third child  
childbirth allowance, the amount of which is from the baby-waiting loan for the second child  
30% of the outstanding debt and, in the case of a third child, the remaining balance

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amount corresponding to the loan debt. Childbirth allowance to suspend repayment  
similarly after the 12th week of pregnancy, including the period after childbirth, or  
can be requested in case of adoption.

(14)

An application for suspension of repayment and childbirth allowance must be made to the credit institution  
to be submitted, which must be accompanied by the provisions of Section 9 (2) (b) and (c) of the Government Decree.  
which are as follows:

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the 12th week of pregnancy and the expected date of delivery  
to prove the pregnancy care book, the data content of which is a  
26/2014 on prenatal care (IV. 8.) Annex 1 to the EMMI Decree  
(or after 1 July 2020 in the Government Decree)

a document issued by the treating physician with a specific content);

in the case of a blood child, proof of birth: the birth of the child

birth certificate, official certificate of residence and

tax certificate;

in the case of an adopted child, the final authorizing the adoption

decision, the official identity card of the child and the

tax certificate;

a statement of the beneficiaries in a private document of full probative value stating that

that they live in a household;

in the case of stillbirth or miscarriage, the document certifying that this has taken place,

In client practice, the final report was (from 1 July 2020, fetal death

in the case of a document pursuant to Annex 3 of the Government Decree; stillbirth

on the examination of the dead and the procedure relating to the dead

in the case of a document issued by a government decree, or in the event of the death of a child born alive death certificate).

(15)

The Customer shall use the same procedure to suspend repayment and claim child support

regularized the form. For these requests, the original of the above documents

required the presentation of which he made a copy, not including in a household

because it required the original to be lodged. This

[...] (Hereinafter referred to as the Product Regulations).

(16)

Electronic copies of the above documents will be sent to the Customer by November 1, 2019

prior to that, its predecessors recorded and stored them in their process management systems.

(17)

[...] As of November 1, 2019, the paper-based documents in the customer files in the branches

have been placed.

(18)

With regard to the handling of paper-based documents and copies of documents, since 1 November 2019, the

The practice of the Customer 's bank branches is uniform, it is stated in Annex [...] of the Product Policy and

regulated by its annexes [...].

(19)

The Client in the course of the proceedings referred to the Authority's previous - Data Protection Officers 2019 conference, received from data protection officials, not in the context of video presentations

expressed in question 25 of the "Answered Questions" document that "A

Authority shall accept the making of copies if the employer as data controller is such

develops a practice of making copies only of data that

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otherwise entitled to handle it. In this case, copy the data on the document

data management operation, but not a new data management purpose compared to the original purpose of data collection, but

a way of collecting data for the original purpose of data processing and the related legal basis,

which otherwise helps to ensure the accuracy of the data. "

(20)

The Customer shall list and make available on the [...] website related to the baby waiting loan

documents, including documents governing data management, e.g. [...].

(21)

The Client has informed the Authority that between 1 July 2019 and 30 January 2020 in total

[...] Persons applied for a baby waiting loan from him, of which [...] granted a baby waiting loan to a person,

which represents a total of [...] transactions. [...] Transaction was suspended during the first repayment

after a child and [...] supported couple claimed childbirth allowance for the second or

after the third child.

(22)

Upon receipt of the order of the Authority to initiate an official inspection

reviewed its rules of procedure and the forms requested. Of this

under the abolition of pregnancy books, the adoption permit

copies of decisions, abortions or stillbirths, and



prepared separate model certificates to prove the circumstances, on which the beneficiary declares a  
on the correctness of the data ordered by the Government Decree on the basis of the presented documents.  
In order to prove this, the amended Product Regulations No. [...] are attached to this statement  
in [...] of which the Client has expressly stated that the item to be presented  
documents (maternity care book, adoption decision, stillbirth or birth certificate)  
abortion certificate) is strictly prohibited. In addition to these, the Authority  
the amended annexes [...] and the newly drawn up certificates  
[...] - samples as well.

(23)

The Customer has also reviewed the documents of the baby waiting loan from a data protection point of view,  
which were not affected by the Authority's request. On the implementation of the amendments on 15 May 2020  
informed the Authority, the amended Product Regulations, of [...] application for support and to verify the data in the [...] pregnancy care book  
attached to his statement of 27 July 2020.

(24)

The Client has stated that in respect of the transactions already concluded in the course of which  
In the absence of a legal authorization, copies were made pursuant to Section 9 (2) (b) and (b) of the Government Decree  
(c), decided to make copies of paper-based documents  
on the annulment of the decision, on the recording of the fact of destruction, and on the  
the indication of the information required by law and the deletion of electronic copies of documents, and  
began to do so, which was followed by a seizure order by the Authority  
suspended.

(25)

At the request of the Authority, the Client provided the Authority with the information from 1 July 2019 to 2019.  
1 August 2020 and 1 January 2020 in the period between January 30 and the end of the term  
copies of books.

(26)

During the period under review, no copy of the adoption decision was made until a miscarriage or death

A total of 2 copies of the final birth certificate were made, the other two

In this case, the abortion has already been verified with a sample of the certificate prepared by the Client, which only the natural identity data of the pregnant woman, address, for the 12th week of pregnancy

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and the date of the miscarriage or stillbirth and to identify the specialist contain the necessary details and signature.

(27)

In order to verify the actual application of the new, amended certificates, the Customer shall

5 from the period from 1 February to 15 March 2020, signed by the parties concerned, a

a copy of the certificate marked with the number [...] certifying the presentation of the maternity care book made available to him.

### III. Applicable legal provisions

Following the period under review, the Government Decree was amended several times. The Authority is the Government. The provisions of the Regulation in force during the period under review took into account the lawfulness of data processing in its assessment.

Pursuant to Article 2 (1) of the GDPR, the GDPR applies to the processing of data in the present case.

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

GDPR Recital 35: Personal health data include the data subject

health data that provide information on the past,

current or future physical or mental health. These include: a

personal data relating to a natural person which are provided to the individual in accordance with Directive 2011/24 / EU

for the purposes of healthcare referred to in Directive (9) of the European Parliament and of the Council

collected during the registration or provision of such services, the natural person

number, sign or data assigned to it for the individual identification of

a part of the body or a constituent of the body, including genetic data and biological samples

- information derived from testing or examination, and any, such as the data subject

illness, disability, disease risk, medical history, clinical treatment or

information on its physiological or biomedical state, whatever its source, which

it may be, for example, a doctor or other healthcare professional, a hospital, a medical device or in vitro

diagnostic test.

GDPR Article 4 (15): "health data" means the physical or mental health of a natural person

personal data, including health care provided to a natural person

services that provide information on the health of the natural person

status.

GDPR Article 5 (1) (c): Personal data for data processing purposes

they must be appropriate and relevant and limited to what is necessary

("Data saving").

GDPR Article 6 (1) (b) and (c) and (3): Processing of personal data only

is lawful if and to the extent that at least one of the following is met:

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

necessary to take steps at the request of the data subject before concluding the contract;

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

3. The legal basis for the processing referred to in points (c) and (e) of paragraph 1 shall be determined by:

(a) Union law, or

(b) the law of the Member State to which the controller is subject.

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The purpose of the processing shall be defined by reference to this legal basis or in paragraph 1 (e)

such processing must be necessary for reasons of public interest or

task performed in the framework of the exercise of a public authority delegated to a data controller

to implement. This legal basis may include adjustments to the application of the rules contained in this Regulation

provisions governing the lawfulness of data processing by the controller

conditions, the type of data subject to data processing, the data subjects, the legal entities

with which personal data may be communicated and the purposes of such communication for the purposes of data processing

restrictions on the duration of data storage and data processing operations, among others

data management procedures so as to ensure lawful and fair data management

measures, including Annex IX. for other specific data processing situations as defined in Chapter

regarding. Union or Member State law must pursue a public interest objective and be proportionate

for the legitimate aim pursued.

GDPR Article 9 (1): Racial or ethnic origin, political opinion, religion or belief

personal data referring to worldviews or trade union membership, and

genetic and biometric data for the unique identification of natural persons, health

data and on the sexual life or sexual orientation of natural persons

the processing of personal data is prohibited.

GDPR Article 12 (1): The controller shall take appropriate measures to ensure that

referred to in Articles 13 and 14 concerning the processing of personal data

information and Articles 15 to 22. and Article 34 shall be concise, transparent, comprehensible and

in an easily accessible form and in a clear and comprehensible manner, in particular:

for any information addressed to children. The information shall be provided in writing or otherwise,

including, where applicable, the electronic route. Oral information at the request of the data subject

provided that the identity of the data subject has been otherwise established.

Article 58 (2) (b), (d) and (i) GDPR: Acting in the corrective power of the supervisory authority:

(b) reprimand the controller or the processor if his or her data processing activities have infringed this provisions of this Regulation;

(d) instruct the controller or processor to carry out its data processing operations, where applicable in a specified manner and within a specified period, in accordance with the provisions of this Regulation;

(i) impose an administrative fine in accordance with Article 83, depending on the circumstances of the case;

in addition to or instead of the measures referred to in paragraph 1;

Article 83 (1) to (2) and (5) (a) to (b) of the GDPR: 1. Each supervisory authority shall ensure that:

infringements of this Regulation referred to in paragraphs 4, 5 and 6

administrative fines must be effective, proportionate and dissuasive in each case.

2. Administrative fines shall be imposed in accordance with Article 58 (2) (a) to (4), depending on the circumstances of the case.

It shall be imposed in addition to or instead of the measures referred to in points (h) and (j). When deciding that whether it is necessary to impose an administrative fine or the amount of the administrative fine

In each case, due account shall be taken of the following:

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

the scope or purpose of the infringement and the number of persons affected by them and by them

the extent of the damage suffered;

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

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(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

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

whether the controller or processor has reported the breach and, if so, in what detail;

(i) if, prior to the controller or processor concerned,

one of the measures referred to in Article 58 (2) has been imposed

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.

5. Infringements of the following provisions in accordance with paragraph 2 shall not exceed 20 000 000

With an administrative fine of EUR 1 million or, in the case of undertakings, the previous financial year in full

amounting to a maximum of 4% of its annual worldwide turnover,

a higher amount should be charged:

(a) the principles of data processing, including the conditions for consent, in accordance with Articles 5, 6, 7 and 9;

(b) the rights of data subjects under Articles 12 to 22. in accordance with Article

Infotv. Pursuant to Section 2 (2), the general data protection decree is indicated therein

shall apply with the additions provided for in

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

In order to do so, the Authority may initiate ex officio data protection proceedings. The data protection authority

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

rules shall apply with the additions specified in the Infotv. and the general data protection

with derogations under this Regulation.

Infotv. Section 61 (6): Until the expiry of the time limit for bringing an action against the decision,

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

data cannot be deleted or destroyed.

Infotv. Section 71 (2): The Authority shall obtain a document or data lawfully obtained in the course of its proceedings you may use another means of proof in another procedure.

Infotv. 75 / A. §, the Authority shall comply with Article 83 (2) to (6) of the General Data Protection Regulation

shall exercise its powers in accordance with the principle of proportionality, in particular by:

legislation on the processing of personal data or a binding act of the European Union

for the first time in the event of a breach of the rules laid down in

in accordance with Article 58 of the General Data Protection Regulation, in particular the controller or

by alerting the data controller.

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Section 9 (2) (b) and (c) of the Government Decree (in force between 1 July 2019 and 29 February 2020)

time status): The loan agreement contains the beneficiaries

(b) a statement that the 12th week of pregnancy and the expected date of confinement

they are certified by the Pregnancy Care Book and contribute to the processing of this data,

(c) a statement that, if not after the birth or adoption of the child

claim family benefits or, if they are claimed at a family

the child's birth certificate, official certificate proving the address and tax certificate,

or, in the case of an adopted child, the final decision authorizing the adoption;

present an official identity card and tax certificate proving the address of the adopted child, and

shall be declared in a private document of full probative value

living in a household, or in the event of the death of a fetus instead of the former

a document with a specified content on the examination of the body in the event of stillbirth and with the dead

or a child born alive

in the event of his death, a death certificate certifying that this has taken place, within a maximum of 60 days

presented to the credit institution and consent to the processing of that data.

Government Decree Section 14 (1) and (4): Beneficiaries to suspend repayment

eligible

(a) after the fetus has completed at least 12 weeks of gestation, if the gestation is due to the

on or after the date of submission of the loan and at the latest from the disbursement of the loan

reaches the 12th week of pregnancy within a period of 5 years, or

(b) adopted after the entry into force of this Regulation and adopted jointly by the beneficiaries

after the child, if the decision authorizing the adoption is submitted after the loan application has been submitted, but it will become final no later than 5 years after the disbursement of the loan.

4. An application for suspension of repayment shall be submitted to the credit institution. Attached to the application the documents specified in Section 9 (2) (b) and (c), respectively.

Section 19 (1), (2), (5), (7), (8) of the Government Decree: The supported persons in paragraph (2) meets certain conditions

(a) for their second child, 30% of the outstanding debt under this Regulation amount

(b) in the case of their third child, corresponding to the total outstanding debt under this Regulation amount

are entitled to a non-refundable childbirth allowance.

(2) Childbirth allowance

(a) in the event of pregnancy occurring at or after the date on which the loan application is submitted, may be claimed after the fetus has completed at least 12 weeks of gestation, and

(b) adopted after the entry into force of this Regulation and adopted jointly by the beneficiaries may be applied for after a child if the decision authorizing the adoption of the loan application becomes final after.

(5) An application for childbirth allowance shall be submitted to the credit institution. Attached to the application the documents specified in Section 9 (2) (b) and (c), respectively.

(7) The credit institution shall determine the fulfillment of the eligibility conditions on the basis of the submitted certificates.

(8) In the case of the use of childbirth allowance with regard to the fetus, the childbirth allowance the expected date of confinement must be indicated when determining the allowance.

Decree 26/2014 on prenatal care. (IV. 8.) of the EMMI Decree 1 the contents of a pregnancy care book.



About the identification methods that replace the personal identification number and the use of identification codes

XX of 1996 Section 7 (2) of the Act (hereinafter: the Act): The data controller appointed by law

does not authorize the use of an identification code, the identification code specified in Section 6 can only be used by the citizen

in accordance with Article 4 (11) of Regulation (EU) 2016/679 of the European Parliament and of the Council

with your consent or with the consent given in the administrative order.

The Szatz. § 23 determines which bodies are entitled to manage the TAJ number and for what purpose.

ARC. Decision:

IV.1. The need to process personal data recorded in the pregnancy care book

(28) Pursuant to Section 9 (2) (b) of the Government Decree - in force at the time of initiating the official proceedings

the beneficiaries must declare at the time of concluding the loan agreement that:

the 12th week of pregnancy and the expected date of delivery with a pregnancy care book

verify and consent to the processing of this data. The 12th week of pregnancy and a

proof of the expected date of confinement is required if the fetus is 12 weeks old

the supported couple wishes to claim a discount, ie to suspend the repayment, or

childbirth allowance.

(29) Section 14 (4) and Section 19 (5) of the Government Decree provide that the repayment

an application for the suspension of childbirth or the use of childbirth allowance a

must be submitted to a credit institution providing a baby waiting loan, to which the Government Decree must be attached

Documents pursuant to Section 9 (2) (b) and (c). The Government Decree does not define that submission

how the term is to be understood, as a presentation at the bank branch when submitting the application or as a document

a copy to the application. Subject to Section 9 (2) (b) of the Government Decree

which is expected only after the 12th week of pregnancy and childbirth

and that from 13 June 2020 the Government Decree § 9 (2)

the above data may also be substantiated by a certificate issued by an obstetrician in accordance with

submission is to be construed as a presentation in the narrower sense.

(30) What data should be recorded and what data can be recorded in the case of maternity care

26/2014 on Pregnancy Care. (IV. 8.) EMMI Decree (hereinafter: EMMI

Regulation). In the pregnancy care book, the pregnant woman is natural

In addition to the personal identification data, the social security number will be indicated

sign, place of residence, place of residence, place of work, occupation, education, telephone number, a

the name and address of the next of kin (page 1). They shall also indicate:

data on those involved in maternity care, ie various data on the area nurse, general practitioner, obstetrician or midwife, e.g.

name, address, phone number, email address

(Page 2).

(31) At the time of childbirth or in addition to the pregnancy being diagnosed by an obstetrician or gynecologist

in which week the pregnant woman appeared - from which it can be calculated that the 12th week of pregnancy

when it was loaded - a number of additional details will be recorded in the maternity care book,

some of which are health data. The pregnancy care book contains the pregnant woman

blood group, risk classification of pregnancy, data on previous births and pregnancies (section 3).

side). These data include that if a pregnant woman has already given birth,

when was she born, in what week of pregnancy, how many grams was the newborn born, what was it like

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whether the location - cranial location, pelvic location, transverse location - was there any

complication during labor, vaginal delivery - with episiotomy or barrier protection, or

by pliers or vacuum extraction - or by cesarean section, or that the child

what state of health you are in when you are re-admitted.

(32) Data on 'unsuccessful pregnancies' indicate the year in which the pregnancy was diagnosed.

how many weeks and how the pregnancy was terminated: whether it was due to an artificial or spontaneous miscarriage

angina or ectopic pregnancy in a pregnant woman.

(33) In addition to the above, the history of illness,

surgeries - developmental disorders in the parents' family, inherited diseases,

drug sensitivity and test results (page 4). The dentist will also be recorded

Finding of the examination (page 4), records of those involved in the care of the pregnant woman (pages 8-13), in which it is recorded when, in what week of pregnancy, the size of the pregnant woman was body weight, blood pressure, heart rate, abdominal circumference and the position of the fundus, as well as symptoms observed during the studies and the therapy or measure recommended for them.

(34) Also included in the Pregnancy Care Book (pages 6-7) according to the EMMI Regulation

free, mandatory examinations - e.g. various blood tests, urine tests, ultrasound

examinations or genetic testing (page 14) if the pregnant woman is 37 years of age at conception

assessment and any specialist comments and when it was made

the first day of the last menstrual period, usually how long a menstrual cycle is and what the birth is expected date.

(35) The Authority notes that there is no explicit heading in the Pregnancy Care Book in which

it could be indicated when the 12th week of pregnancy was loaded, it can only be calculated

may be from when, in what week of pregnancy the proof of pregnancy occurred.

This should or may be listed in two places in the pregnancy care book, first inside it

on page 7, which is completed by the nurse, and on page 7, "UH

completed by the examining obstetrician and gynecologist.

(36) As acknowledged by the customer, it was generally accepted by the customer during the period considered

about a women's pregnancy care book who, along with their spouses, applied for a baby-waiting loan

intended to take advantage of the suspension of childbirth or childbirth allowance

made a copy for the 12th week of her pregnancy, sometimes to a different extent.

(37) The Authority examined the pregnancy books provided by the Client

made copies showing that [...] the practice of each account was not uniform

the extent to which a copy of the pregnancy care book has been made. Some [...]

accounts copied the entire pregnancy care book, others only natural

pages containing personal information and the expected date of delivery. Also a copy

attached is the Client, which is made exclusively from the page of the pregnancy care book on which the doctor will indicate the expected date of delivery. However, there are also copies were made which did not contain the pages on which the expected date of confinement was given or from which the 12th week of pregnancy could have been calculated.

(38) The data content of the copies of the pregnancy care books of each beneficiary varies according to the depending on the personal circumstances of the spouses, the number of their children or the fact that a at what stage of pregnancy did the Client turn to suspend the repayment, and

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application for childbirth allowance, as the more advanced the pregnancy, the more several test results are recorded in the pregnancy care book.

(39) In addition to the data specified in the EMMI Regulation, nurses and GPs are unique comments have also been made in the pregnancy care books, e.g. how many days was the the menstrual cycle of a pregnant woman at the age of 15 or the age of her first child breastfed.

(40) The processing of data listed in the above paragraphs, in particular health data, is not necessary to ensure that the 12th week of pregnancy and the expected date of confinement are supported by the Customer to certify toward the Customer, i.e., the Customer's Pregnancy Books data processed in copies - not including the expected date of delivery and the time the pregnancy is completed are not appropriate for the purpose of the processing and are not relevant, they go far beyond the required data range and the Authority therefore concludes that that the Customer has violated the principle of data protection pursuant to Article 5 (1) (c) GDPR.

#### IV.2. Management of personal information in copies of pregnancy books

legal basis

(41) Certain conditions for the use of the baby - waiting loan and related aid are a Government Decree, in addition to in accordance with Section 4 (4) of the Government Decree a loan agreement may be concluded only with claimants who are covered by the credit institution's general internal rules

according to which it qualifies as creditworthy to take out the requested loan.

(42) Pursuant to Section 9 (2) (b) of the Government Decree in force during the period under review, the repayment for the 12th week of pregnancy

and the expected date of confinement must be proved by the pregnancy record book if the

to submit a request for validation of benefits to the Customer

takes place before birth.

(43) The processing of this data by the Client is necessary in order to be able to ascertain the

the eligibility of applications for discounts and benefits

can provide access to the data, ie the management of this data between him and the

necessary to fulfill the contracts concluded between the beneficiaries. That doesn't change that

nor that as a condition for the use of the subsidy the processing of these data by the Government Decree

makes it binding on the Customer within the framework of the contractual relationship. Therefore, the

data on the 12th week of pregnancy and the expected date of confinement, which

the legal basis for the processing of a pregnant woman's personal data under Article 6 of the GDPR is Article 6 (1) of the GDPR

paragraph (b).

(44) It should also be emphasized that the fact of pregnancy is in itself the health of the pregnant person

the number of weeks of pregnancy and when it is expected to occur

to give birth. According to Article 9 of the GDPR, personal data are special

and their handling is, in principle, prohibited. Health data legally

they can only be dealt with if one of the legal bases set out in Article 6 (1) of the GDPR

In addition, the circumstance under Article 9 (2) of the GDPR also applies.

(45) Article 9 (2) of the GDPR does not contain an exception which is explicitly a contract

would allow the processing of health data in order to meet the Article 9 (2) of the GDPR

According to point (a), health data may be processed if one or more specific data subjects are involved

express consent. Pursuant to Section 9 (2) of the Government Decree, the spouses a  
they must expressly state in the loan agreement that the 12th week of pregnancy  
consent to the processing of data on the loading and expected date of confinement,  
that is, the Government Decree apparently regulates the legal basis for the processing of health data. THE  
The Authority is of the opinion that the contribution is voluntary as one of the contributions  
whether the condition of validity is fully enforced during the data processing, since a  
without prior consent at the time of conclusion of the contract  
no loan agreement would be concluded.

(46) The Client may not review or act on the laws of the Member States which govern it  
on the contrary, the Authority finds that in the case of spouses who have  
they wish to take advantage of the benefits provided for in the Government Decree in view of their fetuses,  
for the 12th week of pregnancy and the expected date of confinement  
data.

(47) The Client shall lawfully manage the data contained in the pregnancy care book a  
natural identity and contact details of the spouses and the pregnant woman  
data on the occupation and education of the Client, the management of which is the responsibility of the Client and the  
necessary for the performance of the contract between the spouses, including before the conclusion of the contract  
credit assessment - on the other hand, to fulfill its various legal obligations, e.g. money laundering and  
contributing to the prevention and deterrence of terrorist financing. These  
the Client has an appropriate purpose and legal basis for its management.

(48) The Authority shall include a copy of the TAJ number of the pregnant woman in the copy of the pregnancy care book  
considers it necessary to emphasize that the TAJ number is according to  
an identification code that is handled and transmitted only by rules specified by law  
that is, the data controller who is not authorized by law to use the TAJ number may  
only with the consent of the GDPR concerned in accordance with Article 4 (11). The Szatz. § 23  
it also determines which bodies are authorized to manage the TAJ number, for what purpose,

however, no financial institutions are listed among them, nor is there any other sectoral law

authorizes them, and the parties concerned have not verifiably consented to the TAJ

for their handling by the Customer, ie they are managed by the Customer without a legal basis.

(49) Section III.1 of the Decision. The treatment of the health data described in point (44) (45) shall be governed by the provisions of paragraph (44), with the addition that the processing of such data shall not only be governed by Article 9 of the GDPR.

None of the circumstances set out in Article 2 (2) apply, but also to the Customer

It does not have a legal basis under Article 6 of the GDPR. In the Pregnancy Book

pregnant women have not been shown to have consented to the processing of

they are not necessary for the performance of the loan agreement - not including the pregnancy

12th week and the expected date of delivery - their handling by the Client

not necessary to fulfill its legal obligation. In addition, the Customer is in the public interest

does not perform a task, does not exercise public power, the processing of data by the data subjects or other natural

protection of personal vital interests is not necessary, as well as the Customer these

cannot show a legitimate interest in the management of the data subject

rights and freedoms.

(50) The findings made in the previous paragraph in relation to Article 6 (1) of the GDPR are as follows:

personal data not mentioned so far, which do not qualify as health data - who is the pregnant woman

also apply to your GP, nurse or dentist.

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(51) In the Authority's view, the Client should have recognized that the Government Decree

It shall apply subject to the provisions of the GDPR and in conjunction with the application of this legislation

a prudent, proportionate data management practice in line with the principles of data management

to form.

(52) On the basis of the above, the Authority concludes that by the 12th week of pregnancy, the expected

with the exception of the data referred to in point (47) of the Decision

all additional data in pregnancy books, including health data

the Client did not have an adequate legal basis to deal with the transaction, in breach of Article 6 (1) of the GDPR.

as well as Article 9 (1) of the GDPR for health data.

IV.3. The need and legal basis for the processing of the data recorded in the final reports

(53) Pursuant to Section 9 (2) (c) of the Government Decree - in force during the period under review - the subsidized persons must also declare their commitment, dead, at the time of concluding the loan agreement

in the case of a birth or abortion, a certificate certifying that this has taken place within a maximum of 60 days a presented to the credit institution and consent to the processing of that data.

(54) Section 14 (4) and Section 19 (5) of the Government Decree provide that the repayment

an application for the suspension of childbirth or the use of childbirth allowance a

must be submitted to a credit institution providing a baby waiting loan, to which the Government Decree must be attached

Documents pursuant to Section 9 (2) (b) and (c). The Government Decree does not define that submission

how the term is to be understood, as a presentation at the bank branch when submitting the application or as a document

a copy to the application. Section 9 (2) (c) of the Government Decree expressly

provides for the presentation, not the copying, of the documents listed there.

(55) The Client made a copy of the final report on the miscarriage of two subsidized women

period in order to verify the above. The final report is a natural identity for women

In addition to the data, it includes the tests performed, the therapy used and the tests performed

description of the intervention. On the health status of women, the examinations, their results, what has been done

information on interventions, as well as the fact of miscarriage, is provided for in Article 4 (15) of the GDPR

health data which are not necessary for the fact of a miscarriage

are inappropriate and irrelevant to achieve the purpose of the data processing, therefore a

Authority finds that by handling these, the Client has violated Article 5 (1) of the GDPR

(c).

(56) The Authority notes that, as explained in point (49) of this Decision, the Client does not

in addition to the fact of the abortion and the date thereof, in the final report



in breach of Article 6 (1) of the GDPR,

and Article 9 (1).

#### IV.4. Information on data management during the application and granting of a baby waiting loan

transparency

(57) The Client provides information in several different documents when applying for a baby loan, respectively on the processing of data in the event of the conclusion of a loan agreement, which documents on the Customer 's website, under the [...] tab, collected in a clickable form and grouped under [...] addresses are easily accessible.

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(58) The Authority shall assess the adequacy of the information provided by the Client on the processing of personal data a examined on the basis of the following documents: [...] prospectus; [...] Prospectus (a hereinafter referred to as the "Privacy Notice"); [...] (Hereinafter: the Application Form); [...] (hereinafter: Business Rules).

(59) According to the Code of Conduct [...], the purpose, legal basis and processing of personal data the detailed rules, the data management rights of the Clients on the website and at the bank branches detailed in the privacy notices provided. The Terms of Business expressly a no further information on the processing of data in connection with a baby loan contain.

(60) The [...] prospectus covers the general data processing activities carried out by [...], thus also for the data management performed by the Client in connection with the baby waiting loan - in which intends to provide data subjects with information on the aspects of the processing of their personal data.

(61) Section [...] of the prospectus sets out the possible processing of data by group members. objectives in a general way, such as "interest in a service, requesting a service procedure "or" conclusion of a contract, performance of a contract ". Data management is possible its legal bases are listed in point [...]. The scope of data managed under the heading is data managed categories are described, for example [...].

(62) In Section [...], the Data Protection Notice describes the

the possible purposes of data processing, which are detailed in [...].

(63) In [...], the Customer defines the processed data for data management purposes, their

"Legal entities", the legal basis for the processing and the retention period

in connection with the service. This means that the prospectus is not broken down into individual financials

products separately, e.g. mortgage loan, personal loan, baby loan, family

home creation discount, etc. As a result, any personal data or personal information

data category is listed among the data managed for which you have some type of credit or

necessary for the performance of the contract by the Client during the provision of a cash loan.

(64) In the Authority's view, the definition of the purpose of data processing alone is 'with the Bank

data processing required for the performance of a contract "is too broad, not specific, precise and

final, it is difficult to determine the elements of the contract and

related data management is included because e.g. [...] the provision and provision of the service

named as a separate data management purpose for the customer, although the general meaning of the words, and

Ptk. according to the concept of contract, performance of the contract is nothing more than under contract

provision of a service to be performed.

(65) In the Authority's view, in order to make data management transparent to the Client

set more specific data management goals, such as the 12th week of pregnancy and

the purpose of processing personal data relating to the expected date of delivery is to be provided by the Customer

be able to verify the legitimacy of the claim or subsequently check if the beneficiary is eligible

persons wish to take advantage of the benefits provided for in the Government Decree with regard to their fetuses. THE

Authority does not dispute whether the suspension of repayment or childbirth allowance

is provided within the contractual relationship during the performance of the contract, but the

in the absence of a sufficiently specific definition of data management purposes for data subjects

it is clear why they have to make some of their data available to the Customer.

(66) In the Authority's view, the data and categories of data processed in the Data Protection Prospectus [...]

its listing in this way does not meet the requirement of transparency either, since there it is

Approximately all personal information that the Customer has any credit is listed

or in connection with a loan agreement. As a result, it is difficult for those concerned to be convinced

that the fulfillment of their credit or loan agreement with the Customer, certain aspects thereof

exactly what information they will need to provide. In the present case, for example, a

Beneficiaries do not have to provide a

details of their property insurance or details of their property sold to the Client within five years, as

these data are irrelevant to the credit they use, while, for example, fetal data is one

they are not relevant in a personal loan agreement. In this regard, the Authority also

notes that it is not entirely clear exactly what data the Client understands

fetal data, as the fetus is not yet legal, the 12th week of pregnancy and the

data on the expected date of delivery are maternal health data.

(67) In addition, the Data Protection Notice states that the purpose of data processing is to:

fulfillment of the reporting obligation to the Hungarian State Treasury (hereinafter: MÁK).

It is not clear from the Privacy Notice that such a reporting obligation is

When it exists for a customer, what kind of contract it affects.

(68) Section 26 of the Government Decree also prescribes the obligation to provide information to MÁK for inspection purposes, and

specifies which of the persons supported or the child born

must transfer your personal data to the Customer. As defined in the Privacy Notice

the scope of data does not correspond to the scope of data specified in the Government Decree, e.g. the Data Management

does not indicate the identity card of the supported persons, travel

document or card format driving license number as data to be transmitted [Government.

Section 26 (1) (bd) of the Decree].

(69) The Application Form shall indicate the identity of the applicants for the loan, the credit assessment

necessary personal data, data of the requested loan, statements according to the Government Decree, which are necessary to establish the eligibility conditions, and [...].

(70) Under the heading "[...]", the Client essentially agrees with the contract, its conclusion and conditions.

provides information on a total of [...] points. The Government has been inserted in [...].

statements on data processing pursuant to Section 9 (2) of the Decree. According to point [...]

and [consent to the processing of their personal data]. In the Authority 's view,

privacy statements should have been separated by the Customer from other contractual statements

provisions in the interests of transparency. Furthermore, the wording of point [...] is incorrect

may give the impression to those concerned that their personal data provided on the Application Form

their consent is the legal basis for their management.

(71) In the light of the above, the [...] prospectus, the Privacy Notice and the Application Form

The information provided by the customer on the handling of personal data is not transparent, not sufficiently

specific and not suitable for those concerned to know and see through the personal

the process for handling their data and be aware of exactly which Customer is

for what purpose and on what legal basis they process their personal data. The Authority finds that

Customer does not provide clear and transparent information to those concerned about the baby waiting loan

and the processing of data during the term of the concluded loan agreements

Article 12 (1) of the GDPR

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IV.5. Legal consequences

(72)

The Authority finds that the Client has violated Article 5 (1) (c) GDPR, Article 6

Article 9 (1) and Article 12 (1).

(73) Pursuant to Article 58 (2) (d) of the GDPR, the Authority instructs the Client to

electronic records of final care books and final reports available to them

delete copies, destroy paper-based copies, and credit for doing so

to the Authority.

(74) Pursuant to Article 58 (2) (d) of the GDPR, the Authority instructs the Client to restructure the application for a baby waiting loan and data management during the concluded contracts information practices in a manner consistent with Article 12 (1) of the GDPR transparency requirements.

(75) The Authority has examined whether it is justified to impose a data protection fine on the Customer. E In particular, the Authority considered all the circumstances of the case under Article 83 (2) of the GDPR. In view of the circumstances of the case, the Authority found that it had been identified in the present proceedings in case of infringement - Infotv. 75 / A. § - warning is disproportionate and dissuasive sanction, it is therefore necessary to impose a fine.

(76) In particular, the Authority took into account that the nature of the infringements committed by the in accordance with Article 83 (5) (a) and (b) of the GDPR constitute an infringement falling within the category of fines.

(77) In setting the fine, the Authority took into account the following as aggravating circumstances:

- Infringements committed by Customer are considered serious infringements as follows

[Article 83 (2) (a) GDPR]:

She

Infringements found - breach of the principle of data protection, legal basis without prejudice to the transparency of data processing and the transparency of information, were of a continuous nature, given that during the period considered persisted .;

She

The infringement affects a large number of parties concerned [Article 83 (2) (a) GDPR]:

- personal data taken in connection with the baby waiting loan

Infringement by inadequate information on the management of

Customer is all expecting a loan agreement or expecting a baby

affects a customer in need of a loan. The Client did it during an official inspection

According to the statement, [...] person requested a baby waiting period during the study period

a loan, of which the Client has entered into a contract with [...] persons;

- the health data in the pregnancy care book is illegal

treatment involved a total of [...] women during the study period.

She

The subject of the present case is a financial arrangement in which the Client

contractual partners are families or in any special life situation

women who are in their most personal life situation during childbearing

they come into contact with the Client to ensure the existential future of their family

in order to. The Authority shall attach the documents attached to the circumstances of the present case

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on the basis of which he concluded that the private sector was particularly infringed by having children

personal and health data relating to such numbers are of a general nature

his treatment.

- Customer has a significant amount of personal information that is a special category

prepared health data on pregnancy books without a legal basis

copies and the two final reports [Article 83 (2) (g) GDPR];

(78) The Authority took into account as mitigating circumstances:

- In connection with the personal data handled by the Client in the copies of the pregnancy care books

admitted to them - not including the 12th week of pregnancy and the expected birth

unlawfully handled and ordered the erasure of the copies,

or destruction. [Article 83 (2) (c) GDPR];

- Customer has reviewed its applicable data management practices and terminated the

copying pregnancy books and final reports for the future. Sample certificates

which are suitable for introduction and application in the future

line can again be used to process data in the context of a baby waiting loan

in respect of aid which is not necessary to achieve the purpose of the processing and which

has no legal basis for dealing with it. [Article 83 (2) (f) GDPR];

- The Government Decree did not fully regulate the issues of data management, it did not decide clearly indicate how the data will be handled (eg submission under the word presentation or copying), thus creating an uncertain legal situation in matters of data processing created at baby-waiting loan financial institutions, including the Client. The Authority considers it necessary to note that in such a case the data controller is concerned with the processing data protection legislation needs to be even more careful when making decisions and in particular to enforce data protection principles. [Article 83 (2) GDPR paragraph (b) and (k)].

(79) In setting the fine, the Authority also took into account the fact that the Client did not do so previously relevant data breaches. GDPR Article 83 (2) (e)]

(80) The Authority did not consider Article 83 (2) (d) and (h) of the GDPR to be relevant for the imposition of fines. (i), (j), as they cannot be interpreted in the context of the specific case.

(81) The total amount of the Client's balance sheet in 2019 was HUF [...] million, HUF [...] million.

(82) The amount of the fine was determined by the Authority in accordance with its statutory discretion.

V. Other issues:

(83) The powers of the Authority are limited to Infotv. Section 38 (2) and (2a), its jurisdiction is covers the whole country.

(84) The decision is based on Article 80.-81. § and Infotv. It is based on Section 61 (1). The decision is based on Ákr. 82. § (1), it becomes final with its communication.

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(85) Art. § 112 and § 116 (1) and § 114 (1), respectively there is an administrative remedy against him.

(86) 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 (1) by decision of the Authority

The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (3) a)

Pursuant to point (aa) of the Act, the Metropolitan Court has exclusive jurisdiction. A Kp. Section 27 (1)

Legal representation shall be mandatory in proceedings falling within the jurisdiction of the General Court under paragraph 1 (b).

A Kp. Pursuant to Section 39 (6), the filing of an application is an administrative act  
has no suspensive effect.

(87) 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 referred to as the Customer's legal representative pursuant to Section 9 (1) (b) of the E-Administration Act  
obliged to communicate electronically.

(88) The date and place of the application were set by Kp. 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.) 45 / 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.

(89) If the obligor fails to provide adequate evidence of compliance with the required obligation, the Authority will:

it considers that it has failed to fulfill its obligations within the prescribed period. 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 decision of the Authority Pursuant to Section 82 (1), it becomes final with the communication. The Ákr.  
133, unless otherwise provided by law or government decree

- ordered by the decision-making authority. The Ákr. Pursuant to § 134 - enforcement if law,

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

does not have - the state tax authority implements it. Infotv. Pursuant to Section 60 (7) a

To carry out a specific act contained in a decision of an authority, specified



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

shall be carried out by the Authority.

Budapest, December 16, 2020

Dr. Attila Péterfalvi

President

c. professor