

Case number: NAIH / 2019/4424/15.

Subject: Rejection of application, Infringement of the Court's own motion

and imposing an obligation to pay fines

decision

## DECISION

Before the National Data Protection and Freedom of Information Authority (hereinafter referred to as the Authority) [...] and

At the request of [...] (hereinafter together: the Applicants), [...] (hereinafter:

Applicant) and [...] (hereinafter referred to as the "Debtor")

take the following decisions in official proceedings.

I. The Authority 's application against the Applicant

rejects.

I.1. The Authority will determine of its own motion that the Debtor has not complied with the Applicants' personal

request to exercise their right to have their data erased and a legal basis with the Applicant

Manages the Applicants' telephone number data as well as the telephone number data for data management

the principle of purpose limitation and data protection

violated.

I.2. The Authority shall ex officio instruct the Debtor to comply with the [...] and [...]

request to delete mobile phone numbers and all this information

delete it from the register. The fact of the deletion of the data as well as the fact of the deletion of the Applicants as well

notified to the Authority.

I.3. The Authority shall establish ex officio that the Debtor has violated the general data protection

the principle of transparent data management in accordance with Article 5 (1) (a) of this Regulation.

I.2. to take the measures provided for in paragraph 1 from the date on which the decision becomes final

within 15 days of receipt of the supporting evidence.

to the Authority.

II. The Authority shall terminate the Debtor ex officio due to the unlawful data processing carried out by it

HUF 1,500,000, ie one million to five hundred thousand forints

data protection fine

obliges to pay.

No procedural costs were incurred during the official proceedings and therefore no costs were incurred provided by the Authority.

The data protection fine shall govern the initiation of legal proceedings

15 days after the expiry of the time limit or, in the case of a review, by the court

within the Authority's centralized collection account for centralized revenue collection (1003200001040425-00000000

Centralized collection account IBAN: HU83 1003 2000 0104 0425 0000

0000). When transferring the amount, NAIH / 2019/4424. JUDGE. should be to refer to.

If the Debtor fails to meet its obligation to pay the fine on time, it shall be in arrears

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

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

in the event of non-payment of the late payment allowance, the Authority shall order enforcement of the decision.

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

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

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

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

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

its fee is HUF 30,000, the lawsuit is subject to the right to record material fees. Before the Metropolitan Court

legal representation is mandatory in these proceedings.

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

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

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

## EXPLANATORY STATEMENT

### I. Procedure and clarification of the facts

On 21 May 2019, the Applicants submitted a joint application by post in which an inquiry into the data processing of the Applicant was requested.

At the request of the Applicants, the right to information self - determination and the CXII of 2011 on freedom of information Section 60 (1) of the Information Act (hereinafter: the Information Act) data protection authority proceedings have been initiated.

In their application to the Authority, the Applicants complained that the Applicant it did not reply to their request and did not comply with its obligation to cancel. The Applicants requested the Authority to establish the existence of unlawful data processing and to instruct the to comply with the Applicants' request for cancellation.

The Applicants attached to the application the letter written to the Applicant on 01.10.2018. their letter dated a copy of the telephone number of the data subject with their consent to delete their data an application was filed, the execution of which was refused by the Applicant as it continued made calls to the phone numbers you want to delete. Fulfillment of the request

The Applicants submitted their statement to the Authority on 21 May 2019 received no information.

The Authority notified the Applicant in accordance with NAIH / 2019/4424/4. by order no In order to clarify the facts, reference is made to the General Administrative Procedure Act 2016. year CL. (hereinafter: the Act). The Applicant shall meet the Authority within the time limit and submitted its statement by letter dated 10 April 2019 (hereinafter referred to as Declaration of the applicant) and the copies of documents attached to it.

2

The Applicants submitted their request for cancellation to the Applicant, but only the They received a letter from a debtor regarding the management of their telephone numbers. The Applicants In its statement, the Authority established that the Applicant was the Debtor in their case

therefore the case directly affects the right and legitimate interest of the Debtor, therefore the Authority of the Act. With regard to Section 10 (1), it granted the Client the status of a customer.

From the copies of the documents attached by the Debtor, it can be stated that the Debtor receivable from the receivable assigned receivable, the assignment is August 3, 2012 on the day of payment, and the Debtor's reference number 00467065\_00120123

On the basis of a copy of the summons, an attempt was also made to enforce the a their claim to the Applicant I. and Applicant II. with reference to the marital cohabitation, or therefore, the data of both of them are recorded. The Debtor shall make a statement at the request of the Authority attached to the "Joint Data Management Agreement" concluded between him and the Applicant on 02 January 2019. Agreement "(hereinafter referred to as the "Joint Data Controller Agreement ") in the case covered by the request did not exist at the time of the disputed data processing, but the Debtor and the Applicant it follows the practice followed during the period covered by the request.

The Debtor and the Claimant referred to each other in the Joint Data Controller Agreement Mandate for contingent agent recovery activity entered into on January 3, 2010 contract and that since 16 July 2012 the Applicant has been the Debtor a CCXXXVII of 2013 on Credit Institutions and Financial Undertakings priority under the law mediator.

The Joint Data Controller Agreement 2.1. '[t] he joint data controller contract shall be concluded in accordance with data protection policy, balancing test, data management information) performs. "

Section 2.2.3 of the Joint Data Protection Agreement. 'The legal basis for data processing is legal basis for the balancing of interests [Article 6 (1) (f) GDPR and Article 9 (2) GDPR paragraph (f)]. [...] Has carried out the balancing test required for the application of the legal basis. '

Section 2.3.4 of the Joint Data Management Agreement. '[...] shall be granted access by [...] operated IT system that handles customers' personal data. [...] Is the Assignment It shall provide access to the IT system until the contract is terminated or terminated. "

Section 2.4.1 of the Joint Data Protection Agreement. "The purpose of data processing is to enable the debtor personal data relating to the management of the claim or, failing that, to initiate legal proceedings necessary. "

Article 6.1-4 of the Joint Data Management Agreement. '[t] he task of [...] is to comply with Articles 13 to 14 of the GDPR. Article

in the context of the prior information obligation under

[...] shall be responsible for preparing and publishing it on [...] 's website.

GDPR 15-21. In the case of the exercise of the rights of the data subject pursuant to Article 1, the reply and fulfillment of the requests.

[...] In the event that [...] is directly related to the exercise of the rights of the data subject requests, [...] shall forward those requests to [...] without delay. THE [...]

he may reply to the request only with the written consent of the person concerned. '

According to the statement of the Debtor and the Applicant, based on their records only (2012. from 15 August 2014) [...] and (from 2 April 2014) [...].

Applicant I. made a telephone call on these telephone numbers to the Debtor and the

To the applicant and provided these contact details for contact purposes and as

3

requested the recall and therefore, in the opinion of the Debtor and the Applicant, consented to this to store your personal information.

The Debtor acknowledged in a statement that the Applicant had forwarded to him the Applicants' 2018. on the basis of the data processing practice between them, which

practice was also enshrined in the Joint Data Management Agreement concluded later on January 2, 2019.

According to the unanimous statement of the Debtor and the Applicant, the telephone number of the Applicants the Debtor within the time limit specified in the General Data Protection Regulation replied, for which a copy of the correspondence with the Applicants was attached.

Response of the Debtor to the Applicant for the data subject's request sent to the Applicant

('the reply letter') also contained information that the Debtor and the

Applicants are also considered to be data controllers, and:

"Personal data (name, address, place of birth, time, mother's name, telephone contact,

event history records of actions taken against you during debt management,

the purpose of processing the sound recordings, financial data) is the claim to be enforced

identification, registration of your person from other persons

the distinction between the claims management procedure, the complaint handling and the enforcement of the claim

legal proceedings (litigation and out-of-court), as well as accounting

fulfillment of their obligations. "

According to the reply, the legal basis for data processing is, on the one hand, Article 6 of the General Data Protection Regulation

Under paragraph 1 (f), the Debtor has a legitimate interest, on the one hand, and general data protection

lawful assignment under Article 6 (1) (b) and (c) of Regulation

The Debtor and the Applicant have attached to their declaration the information provided by the Debtor but

Consideration of the interests of the Applicant on the basis of the Data Controller Agreement.

At the request of the Authority, both the Applicant and the Debtor declared that the Applicant

does not have the power to decide whether the jointly used but

Delete data from the so-called [...] receivables management system operated by the obligor. THE

Debtor said in a statement to the Data Protection Officer all the circumstances of the case

decide on the request for erasure and, if the request is rejected,

inform the person concerned of the reasons for the refusal and of the remedies available to him.

In its invitation, the Authority also requested information from the Debtor and the

From the Applicant that if the Applicant did not send the application of the data subject to the Debtor, but to the

Applicant who was named data controller in their previous statement, then why

The reply to the Applicant's request began with the sentence that "the

written request to the said company

Article 12 (3) of the General European Data Protection Regulation, hereinafter

within one month of the date referred to in paragraph 1. I shall inform you of the following. "

In connection with the above, the Authority also asked the Debtor that

how the requirement for transparent information was sent to the Applicant

in their reply, if the Debtor replied to the letter in his own name to the person concerned

he did not send it either to the Debtor but to the Applicant. The Debtor has given this question

based on their reply, it was considered clear to the Applicant what exactly it was like

and to whom he received a reply to the letter, as under the referenced clause in the data controller agreement

all letters of complaint will be answered by the Data Protection Officer, presumably

4

for administrative reasons, it may have happened that in the introductory text of the letter the Debtor and not the

Reference was made to the applicant. The Debtor also submitted a letter to the Applicants

It is clear from the content of the loan, based on the indication of the credit number, that they were aware of the

"By the nature of the claim (person entitled, scope of data managed by the holder)", and a

They also complained about the lack of erasure in their letter to the Authority. The Debtor also emphasized

that communication with the Applicants is ongoing as it is about a claim handled for nine years

word, so they also had to know the conditions of data processing.

According to the debtor, he complied with the requirement of transparency by:

- reply letter clearly identified the case in respect of which the Applicants

they complained

- the Applicants had easy access to the reply by post

the wording was, in their view, clear, clear and simple,

the identity of the controllers and the purpose of the processing have been clearly communicated to the

Applicants,

all letters sent by the Debtor shall state that the Applicant shall:

the MNB approved by the Applicants

balance sheet and information sent after

- in the abbreviated information sheet accompanying the reply letter and on the right of appeal information.

## II. Applicable law

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

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

Article 2 (1) of Regulation (EU) No 2016/679 (hereinafter referred to as the General Data Protection Regulation)

The Regulation applies to all or part of personal data

automated processing of non-automated data

which are part of a registration system or which are part of a

intended to be part of a registration system.

According to recital 47 of the General Data Protection Regulation, if the data processing

legal basis is a legitimate interest, a prior balancing of interests must be carried out

it is necessary to determine, inter alia, the legitimate interest, the effect on the data subject and whether

whether the processing is necessary or proportionate and whether a legitimate interest or consideration is required

and whether the right of the data subject is superior.

Personal data pursuant to Article 5 (1) (b) of the General Data Protection Regulation

collected for specified, explicit and legitimate purposes and not processed

in a way incompatible with those objectives. ("Purpose-bound").

Pursuant to Article 5 (1) (c) of the General Data Protection Regulation, personal data are:

they must be appropriate and relevant to the purposes of the processing, and

should be limited to what is necessary ("data saving").

Pursuant to Article 5 (2) of the General Data Protection Regulation, the controller is responsible for

shall be able to demonstrate such compliance

("Accountability").



Processing of personal data under Article 6 (1) of the General Data Protection Regulation

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

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

5

...

(f) processing for the legitimate interests of the controller or of a third party

necessary, unless the interests of the data subject take precedence over those interests

or fundamental rights and freedoms which call for the protection of personal data,

especially if the child concerned.

Pursuant to Article 13 (3) of the General Data Protection Regulation, if the controller a

intends to carry out further processing of personal data for purposes other than those for which they were collected, a

inform the data subject of this different purpose and

any relevant additional information referred to in paragraph

Under Article 17 (1) (b) of the General Data Protection Regulation, the data subject is entitled

that, at his request, the controller deletes his personal data without undue delay

data, and the controller is obliged to provide personal data concerning the data subject

delete it without undue delay if the data subject withdraws the authorization referred to in Article 6 (1) (a).

consent to the processing, and there is no consent to the processing

other legal basis.

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

acting within the corrective power of the competent authority:

(b) reprimands the controller or the processor if he or she is acting in a data-processing capacity

has infringed the provisions of this Regulation;

(c) instruct the controller or processor to comply with this Regulation

the exercise of his rights under 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 this paragraph.

Pursuant to Article 17 (3) of the General Data Protection Regulation, paragraphs 1 and 2 do not apply if data processing is required:

...

e) to file, enforce or defend legal claims.

Pursuant to Article 83 (1) of the General Data Protection Regulation, all supervisory authorities ensure that any infringement of this Regulation referred to in paragraphs 4, 5 and 6 is in accordance with this Article. The administrative fines imposed pursuant to this Regulation shall be effective, proportionate and dissuasive in each case.

Pursuant to Article 83 (2) of the General Data Protection Regulation, administrative fines are imposed by the supervisory authority referred to in Article 58 (2) (a) to (h) and (j), as the case may be, in addition to or instead of measures. When deciding if it is necessary to impose an administrative fine or to determine 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 processing in question, the nature, scope or purpose of the infringement and the number of persons affected by the infringement; the extent of the damage they have suffered;

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

(c) the mitigation of damage caused to the data subject by the controller or the processor or 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 Articles 25 and 32;

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

6

(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 breach has been reported by the controller or processor and, if so, what

in detail;

(i) if previously against the controller or processor concerned, in the same

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

compliance with revolving 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,

for example, the financial gain obtained as a direct or indirect consequence of the infringement; or

avoided loss.

Pursuant to Article 18 (2) of the General Data Protection Regulation, where the processing is

subject to paragraph 1, such personal data, with the exception of storage, shall be subject only to

with the consent of the data subject, or to bring, assert or enforce legal claims

to protect the rights of another natural or legal person, or

Important public interest of the Union or of a Member State.

Pursuant to Article 83 (5) of the General Data Protection Regulation, the following provisions apply

an administrative fine of up to EUR 20 000 000 in accordance with paragraph 2

or, in the case of undertakings, the total worldwide turnover in the preceding business year

up to a maximum of 4%, with the higher of the two amounts

to impose:

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

appropriately;

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

Infotv. Pursuant to Section 2 (2) of the European Parliament (EU) 2016/679

and Council Regulation (hereinafter referred to as the General Data Protection Regulation)

the general data protection regulation in accordance with Articles III-V. and VI / A. Chapter and Section 3 (3), (4),

6, 11, 12, 13, 16, 17, 21, 23-24. Section 4 (5), Section 5 (3) to (5), (7) and (8)

§ 13 (2), § 23, § 25, § 25 / G. § (3), (4) and (6)

in paragraph 25 / H. § (2), 25 / M. § (2), 25 / N. §, 51 / A.

§ (1), Articles 52-54. § 55 (1) - (2), 56-60. §, 60 / A. §

(1) - (3) and (6), Section 61 (1) (a) and (c), Section 61 (2) and (3)

paragraph 4 (b) and paragraphs 6 to 10, paragraphs 62 to 71. § 72

in Section 75 (1) - (5), Section 75 / A. With the additions specified in § and Annex 1

should be used.

Infotv. Pursuant to Section 61 (6), an action is open for appealing against the decision

until the expiry of the time limit or, in the case of an administrative decision, until the final decision of the court

data affected by data processing may not be erased or destroyed.

### III. Authority decision

#### III.1. Applicants' request for deletion of data

7

The Debtor and the Applicant do not have the legal authorization of the Applicants' telephone number

to manage your data.

The legal basis for the processing of the Applicants' telephone number data for the Debtor and the Applicant is a

Applicants had their consent given on 15 August 2012 and 02 April 2014, this a

Both Debtor and Applicant acknowledged. From the nature of the right to information self-determination

data subjects have the right to request the deletion of data processed with their consent.

The Applicants 10.10.2018. In their letter dated

delete their phone numbers, so their consent to manage their phone numbers has been revoked.

### III.2. Requested decision-making power over the management of telephone number data

According to the declarations sent by the Debtor and the Requested Authority, joint data management activity in relation to the data processing objected to by the Applicants. With the request in the case concerned during the period of the impugned data processing, i.e. the data subject submitted by the Applicants forwarded a copy to the Authority at the time of the decision of the controller on the basis of the request. The "Joint Data Controller Agreement" did not yet exist as of January 2, 2019. Of this notwithstanding the statement of the Debtor and the Claimant, the contract is prior to its conclusion reflects their data management practices. The contract 6.4. According to point 1, the Applicant is obliged to Forward the Requested to the affected party only with the written consent of the Debtor you can reply to the request. Article 26 (3) of the General Data Protection Regulation regardless of the terms of the agreement on the joint data controller contract for each controller and against each controller rights under the General Data Protection Regulation.

The statements of the Applicant and the Debtor clearly support the fact that

The applicants' application was not decided jointly. The Applicant is not eligible from the so-called [...] receivables management system shared

delete data, decide on requests from data subjects for data deletion or in the decision-making process

To participate. On this basis, it is in accordance with Article 4 (7) of the General Data Protection Regulation

According to the definition, the Debtor and the Applicant are not considered to be a joint / parallel data controller, but the Requested data processor.

The Authority did not find any violation committed by the Applicant as a data processor, which would conflict with the general data protection regulation.

In view of the above, the Authority rejected the Applicants' request for a declaration that

Request unlawful data processing and instruct you to comply with the cancellation request.

### III.3. Response to the applicants' request and the principle of transparency

The Debtor has responded to the relevant request received by the Applicant, on the basis of which the

Dated November 08, 2018, rejecting applicants' request to cancel their phone number

In its reply, the Commission informed the Applicants that Article 17 (3) of the General Data Protection Regulation with reference to paragraph (e) does not comply with the request for cancellation because of the personal data necessary for the submission, enforcement or protection of legal claims, and the Debtor in accordance with Article 12 (4) of the General Data Protection Regulation a judicial redress against the rejection of an application for cancellation; and recourse to the Authority also provided information on the possibility of

8

According to the Debtor's statement, he responded in the framework of joint data management with the Applicant the request received by the Applicant. However, it is no longer included in the reply letter an indication that the Debtor is responding to a request from a data subject sent to the Applicant. THE For the applicants, the letter did not contain any information that a

The Applicant forwarded the application of the Applicants concerned to the obligor. Because of this, the Applicants said they assumed that they had not received a reply to their data subject's request to the Applicant.

In the Authority 's view, the Debtor' s argument that the requirement for transparent information has been met, as it is not relevant whether the Applicants were aware of the nature of the claim (person entitled, the range of data processed by the rightholder) but that the organization acting as the rightholder's agent whether your telephone number activity has been reviewed. From the petition of the Applicants and the it is also clear from their application that they were not aware of who decide on their application.

The response received from the Debtor made the data processing even more opaque for them by Due to an administrative error alleged by the debtor, it was not indicated that the reply received was It refers to a letter sent to the Applicant and therefore the Applicant will not send a separate letter as he decide on their application.

By mentioning the Applicant as a data controller, the Debtor

made the reply even more opaque, as it did

the Requested would indeed be a data controller, then the data controller is general

as defined in Article 4 (7) of the Data Protection Regulation

could have decided on its own application or with the Debtor.

Nor can the Debtor's argument that the requirement of transparency be met with it be accepted

satisfied that the letters sent to the Applicants always stated and indicated that the

The obligor is an intermediary approved by the MNB, as they cannot be deducted from it

conclusions on the quality of the Applicant's data controller or data processor

regarding. The Debtor's reference to the content of the response is also inappropriate

it would not have been affected by whether the Debtor or the Applicant signed, as it is not the signatory

person is objectionable in the present case, but the fact that they were not informed of the

Applicants that the response letter is a response to the application submitted to the Applicant. At this

the fact that, in the Debtor's opinion, the Applicants should have been aware does not change the fact either

should be with the circumstances of the data processing, given that, in their view, "the

communication "with the Applicants due to a claim handled for more than nine years as it

transparency must apply throughout the data management process. Transparency

it must be transparent to the person concerned which personal

your data, which data controllers, how they handle it and, in this case, which company deletes your request for cancellation

rejected, and due to the decision of the Debtor, not only the Debtor but also the Applicant

continues to process your personal data, as the data is in the Debtor's records for which

provide access to the Applicant.

In view of the fact that the Debtor did not provide adequate advance notice to the Applicants

information on the identity of the controller authorized to deal with requests for cancellation and the

it became clear to the Applicants that the Debtor's reply letter had been submitted to the Applicant

following a request from the data subject, the Authority found that

Debtor has breached Article 5 (1) (a) of the General Data Protection Regulation

the principle of transparent data management.

9

III.4. The legal basis for the processing of the Applicant's telephone number data is the withdrawal of consent following

III.4.1. In the case of consent-based data management, the general principle must be taken into account

Article 5 (11) of the Data Protection Regulation, according to which one of the conceptual elements of consent is

volunteering, a decision based on one's own decision. This information self-determination it

means that, with the exception of statutory data processing, everyone has their personal data

it is up to you to decide whether to give your personal data to someone else, or

nor, not only, about the consent, but without the obligation to state reasons

you can also decide to revoke it.

Pursuant to Article 17 (1) (b) of the General Data Protection Regulation

data shall be deleted after the withdrawal of consent, unless otherwise required for data processing

legal basis.

The Debtor in the decision to reject the data processing after the withdrawal of consent

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

and stated that the processing of data for the purpose of bringing legal actions,

necessary to enforce or protect, on the other hand, referred to the general data protection

Article 6 (1) (b) and (c) of this Regulation

Personal data pursuant to Article 17 (3) (e) of the General Data Protection Regulation

its further storage and handling, despite the data subject's request for erasure, may be considered lawful

if necessary for the submission, enforcement or defense of legal claims

van.

III.4.2. Legal basis under Article 6 (1) (b) and (c) of the General Data Protection Regulation

III.4.2.1. The Debtor's data management is not based on a legal obligation, as it is a factoring activity

and the resulting recovery is not a legal obligation but a decision of the claimant



therefore cannot be accepted as a legal basis for the processing of telephone number data

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

III.4.2.2. The Authority considers that Article 6 (1) (b) of the General Data Protection Regulation

with the exception of certain pre - contractual steps

applicable if it is necessary for the performance of the contract, so it is not possible to extend this

legal basis for data processing operations for which he has caused a breach of contract by the data subject

resulting from the normal duty of cooperation of the Contracting Parties to remedy this situation

necessary to go beyond what is necessary. Within the scope of performance of the contract

further steps may be taken when the controller who has concluded the contract with the data subject

therefore, who, in the event of a delay in performance by the other party to the contract, calls on the person concerned to

for fulfillment. However, according to Article 6 (1) (b) of the General Data Protection Regulation

the contractual legal basis is no longer applicable in the event that the concessionaire fails to do so

enforcement proceedings in order to enforce his claim against the data subject

launch.

According to the justification of Act V of 2013 on the Civil Code for the transfer of claims

it is based on the same logic as the transfer of ownership, i.e. the assignment

in fact, it is nothing more than a transfer of ownership of a claim. With the assignment a

the claim is separated from the original legal relationship from which it arises and the assignee is exclusively a

claim and not the assignor in respect of the fundamental relationship. By

that the assignment separates the claim from the fundamental legal relationship and the assignee

the assignment of the claim by the assignee or the related

10

data processing is no longer carried out for the performance of the contract from which the claim is made

originally originated, since in this case the concessionaire is not his own but the

the claim acquired by assignment should be enforced in favor of the assignor. The

by assignment, if for consideration, to the assignor

will be fully or partially recovered depending on the purchase price. The transferor is in order to sell its claim against the customer to another third party, e.g. is looking for a debt management company, and the data transfer for this purpose is in the legitimate interest of the transferor and not in the performance of the underlying contract, since a claim becomes independent of the contract upon assignment.

In view of the above, Article 6 (1) (b) of the General Data Protection Regulation invoked by the Debtor cannot be accepted as a legal basis for the processing of the Applicants' telephone number data.

#### III.4.3. Proof of the existence of a legal basis for a legitimate interest, consideration of interests

The existence of a legitimate interest is justified by a balance of interests in the general data protection recital 47 of the basic Regulation.

The Debtor attached to his statement the balance of interests he had carried out (hereinafter: consideration of interest), which according to the document is dated 30 August 2018. The

Based on the balance of interests, the Debtor has determined that "our company has been described above the legitimate interests of the data subject outweigh the legitimate interests of the data subject. "

on the basis of a balance of interests. Applicants' right to protection of privacy is a general rule precedes the economic interest of the Debtor. In contrast, the Debtor overestimated its own business interests against the right of the Applicants to protect their privacy.

Given that the processing of the data requested to be deleted is not required by law for the Debtor, and in the absence of a proper consideration of the interests of the telephone number data is the general data protection under Article 6 (1) (f) of that Regulation. The Obligated by the a

The request of the applicants was not complied with, in breach of Article 17 of the General Data Protection Regulation Paragraph 1 (b) because it did not guarantee the Applicants the right to cancel enforcement.

The Authority found that the balance of interests did not comply with the general data protection rules requirements of this Regulation. The Authority, with the balancing of interests prepared by the Debtor in addition to the overestimation of its own business interest, highlights the following fundamental shortcomings:

III.4.4.1. The balancing of interests refers to the contact as common to the data controller and the data subject

However, that statement does not support the condition that the

handling telephone numbers, as contact can be made in writing, and in many cases even

contact mode is recommended, given that telephone calls are unlike postal

Letters sent by post shall be considered as formal notice in legal proceedings or

The installment payment agreements referred to in the balance of interests shall also be concluded in writing by the parties.

III.4.4.2. The balance of interests is controversial because it refers on page 7 to “legal

The concept of enforcement, based on the practice of Working Group 29, includes claims management

activity also...”, in contrast, page 8 emphasizes that “receivables management

activity is an independent data processing independent of the legal procedures regulated by law”, which

Due to the balance of interests, the scope of personal data processed may differ from the claims management

proceedings and legal proceedings. However, the balance of interests does not explain in detail what

justifies that the rights of data subjects may be more restricted in the management of claims

as in the case of data processing in cases that have entered the legal proceedings.

11

III.4.4.3. The Authority considers that the telephone number is necessary for enforcement

unreasonable because the management of the Applicants' telephone number to recover the claim and the

It is not essential to keep in touch with applicants, as the Debtor

it also manages the Applicants' address details in order to contact the Applicants.

A telephone number handled in the absence of consent is not required to be a legal entity against Applicants

claims, as it requires the following personal data:

-

Act CXXX of 2016 on Civil Procedure. Act (hereinafter: Pp.) § 7. 3.

in the case of a natural person: place of residence (in the absence of a place of residence

place of residence), address for service (if different from place of residence or stay), place of birth

place and time, mother's name. A Pp. Pursuant to Section 170 (1) (b), the application is introductory

The names of the parties, the position of the litigation, the identification data of the plaintiff, the identity of the defendant, at least his place of residence. This list is supplemented by the Civil on the forms to be used in legal proceedings and administrative court proceedings 1.4 of Annex 1 to IM Decree 21/2017 (XII.22.) with the defendant's birth name.

-

Section 20 (1) (a) of Act L of 2009 on the order for payment procedure from the personal data of the debtors to initiate the order for payment procedure the name of the debtor is required, Pp. but at least a place of residence.

-

Act LIII of 1994 on Judicial Enforcement. Section 11 (2) - (3) of the Act determine which personal data the applicant for enforcement is required to provide to the enforcement authority when submitting the application. This information is as follows: name of debtor, required for identification data (place of birth, time, name of mother), place of residence of the debtor, depending on the circumstances of the case, the place of employment and the location of the property to be enforced, and in the case of real estate execution, the real estate registration data. This information is in the possession of the court the executor can proceed with the enforcement proceedings.

In view of the above, it can be concluded that the Debtor is bound by Article 5 (1) of the General Data Protection Regulation. It also infringed the provision of paragraph 1 (c), namely the principle of data saving, by it is not necessary to manage telephone number data for the purpose indicated as the basis for data management.

III.4.4.4. In the Authority's view, the statement that telephone communication is incorrect it is clearly suited to ensuring an efficient and effective procedure, as it is only in that

This is true if the data subject also prefers telephone communication and for this reason shows cooperative behavior when contacting by telephone, i.e., voluntary consent

enter to manage your phone number information. In order to cooperate effectively with the data subject, the data subject should also be able to choose to communicate in writing if he or she does not wish to do so

receive phone calls and SMS messages. In the Authority 's view, there is no data controller interest in the balancing of interests that is relevant to the privacy of the data subject would take precedence over his right to protection. The balance of interests does not mention it the interests of the controller which could preclude the protection of the privacy of the data subject on the contrary, the balance of interests emphasizes in several places that it is primarily the the telephone number data is being handled in the interests of the data subject, which is clearly out of place. As the purpose of the data processing specified by the Debtor cannot be considered appropriate, therefore the processing of the Data Subject is covered by Article 5 of the General Data Protection Regulation It also infringed the provision under paragraph 1 (b), namely the principle of purpose.

12

With reference to the above, the Authority has determined that the Debtor may not rely on Article 6 (1) (f) of the General Data Protection Regulation as it has not substantiated its legitimate interest in the management of telephone numbers why the legitimate interests of the data subject are exceeded. Thus, after the withdrawal of consent, it is not The other legal basis set out in Article 6 (1) of the General Data Protection Regulation is this processing of personal data, therefore Article 17 (1) (b) of the General Data Protection Regulation the Debtor must delete the telephone numbers in accordance with

### III.5 Legal Consequences

The Authority rejects the Applicants' application against the Applicant and the general ex officio pursuant to Article 58 (2) (b) of the Data Protection Regulation Obligated because his data processing activities violated Article 5 of the General Data Protection Regulation. Article 17 (1) (a) and (b) and (c), Article 17 (1) and In accordance with Article 58 (2) (c) of this Regulation, instructs the Debtor to cell phone numbers delete phone numbers from all records. The Debtor is certify to the Authority that the data has been deleted and that the deletion has been notified to the Applicant. The Authority has examined whether it is justified to impose a data protection fine on the Debtor. E

Article 83 (2) of the GDPR and Infotv. 75 / A. § considered by the

all the circumstances of the case. In view of the circumstances of the case and the fact that the Debtor did not for the first time infringe the provisions of the General Data Protection Regulation (NAIH / 2019/2114), therefore, the Authority found that in the case of the infringements detected in the present proceedings, a warning is neither a disproportionate nor a dissuasive sanction, including the imposition of a fine required

The Authority examined of its own motion whether a data protection fine against the Debtor was justified.

imposition. In this context, the Authority shall comply with Article 83 (2) of the General Data Protection Regulation and Infotv.75 / A. § considered ex officio all the circumstances of the case and found that a in the case of an infringement detected in the present proceedings, the warning is neither proportionate nor dissuasive therefore a fine should be imposed.

In imposing the fine, the Authority took into account the following factors:

- Unlawful data processing has a significant impact on the Applicants' privacy, as the

Applicants received regular phone calls, even after the withdrawal of their consent

despite the fact that the Applicants clearly rejected this method of contact. (general

Article 83 (2) (a) of the Data Protection Regulation)

The infringement is serious because it affects the exercise of a data subject 's right (cancellation), and

By processing his data, he is obliged to violate several articles of the General Data Protection Regulation, including

also committed an infringement of a fundamental principle. (Article 83 (2) (a) of the General Data Protection Regulation)

- Intentional conduct in connection with the handling of Mandatory Telephone Numbers,

caused by its data management practices. (Article 83 (2) (b) of the General Data Protection Regulation)

- The Debtor has already been convicted of a breach of the General Data Protection Regulation

was published in NAIH / 2019/2114/7. no. The Debtor has committed several violations, including

infringed Article 5 (1) (a) of the General Data Protection Regulation. On this

In breach of this decision, the Debtor is not the affected party

in connection with the right to decide on the answer, but other

did not properly inform the data subject about the conditions of data processing. So the Debtor a

13

cited NAIH / 2019/2114/7. s. In the present case, as in the present case,

infringed the same provision of the General Data Protection Regulation, ie did not comply with

Article 5 (1) (a) of the General Data Protection Regulation. However, the

the same rule causing violation of conduct, activity is different, so the repetition of the Authority

taken into account but not assessed as an aggravating circumstance. The Debtor a

NAIH / 2019/2114/7. s. duly complied with the provisions of this Decision. (general privacy policy)

Article 83 (2) (e) and (i) of the Regulation)

- Depending on the nature of the infringement - infringement of the rights of the persons concerned - the maximum amount of the fine that may be imposed is

EUR 20 000 000 pursuant to Article 83 (5) (b) of the General Data Protection Regulation, and

up to 4% of total world market turnover in the preceding business year. (General Data Protection Regulation

Article 83 (5) (a)

- Based on the Debtor's income statement for 2018, the pre-tax profit is 400,000,000

It was HUF. The data protection fine imposed is a token amount and does not exceed the fine that may be imposed maximum. (Article 83 (5) (a) of the General Data Protection Regulation)

Article 83 (2) of the General Data Protection Regulation applies to the imposition of fines.

The following provisions of paragraph 1 were not taken into account because, in its view, the were not relevant in the present case: points (c), (d), (f), (h) and (k).

By imposing a fine, the Authority's specific preventive purpose is to encourage the Debtor to to review phone number data handling as well as affected requests

data management practices related to the response and handling of The Authority shall impose

in determining the amount of the fine, the fine was taken into account in addition to the purpose of the special retaliation also for the general preventive purpose to be achieved, with which - to deter the Debtor from another violation

in the direction of the lawfulness of the data management practices of all market participants

wants to achieve its movement. There was a legitimate interest as a legal basis, not an unconstrained, any rule applicable to the case or case in the interest of the data controller, but the lawful one precise substantiation of the reference to the interest is also required.

First of all, the Authority took into account that the violations committed by the Debtor are general in accordance with Article 83 (5) (a) and (b) of the Data Protection Regulation constitute an infringement falling within the category of fines.

ARC. Rules of procedure

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

The Ákr. Pursuant to § 112 and § 116 (1) and § 114 (1) and the order is subject to administrative redress.

\*\*\*

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

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

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

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

applicable - legal representation is obligatory in a lawsuit within the jurisdiction of the court pursuant to § 72.

14

Kp. Pursuant to Section 39 (6), unless otherwise provided by law, the application has no suspensory effect on the entry into force of the administrative act.

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

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

hereinafter: the e-administration Act), the client's legal representative pursuant to Section 9 (1) (b) obliged to communicate electronically.

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



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

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

(hereinafter: Itv.) 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.

If the obligor does not duly prove the fulfillment of the prescribed obligations, the Authority shall:

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

A debtor fails to comply with an obligation contained in a final decision of the Authority

executable. The decision of the Authority Pursuant to Section 82 (1), the communication shall become final

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

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

a law, government decree, or local government decree in a municipal authority matter

unless otherwise provided - by the state tax authority. Infotv. Section 60 (7)

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

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

shall be carried out by the Authority.

Budapest, November 11, 2019

Dr. Attila Péterfalvi

President

c. professor

15

16

17

18

19