

Registration number:

Object:

NAIH / 2020/1911.

ex officio decision

DECISION

The National Data Protection and Freedom of Information Authority (hereinafter: the Authority) is the Eger

In the Mayor's Office of the City with County Rights (3300 Eger, Dobó István tér 2 .; hereinafter: the Office)

Eger Cases are documents containing personal data found during the disposal of documents

The editors of the news portal (Immediate Media Ltd., registered office: 3300 Eger, Bartakovics u. 15. 5a., Dr.

Ákos Csarnó managing director; hereinafter referred to as the "News Portal")

in an ex officio data protection authority on 11 March 2020,

that the News Portal by providing a large public without legal basis, as detailed in the explanatory memorandum

made the photographs containing personal data available before the

Article 6 of the General Data Protection Regulation.

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. The court acts in a simplified trial, in which the court is an out-of-court settlement

act in accordance with its rules. The request for a hearing must be indicated in the application. The whole personal

for those who do not benefit from an exemption, the fee for the court review procedure is HUF 30,000;

subject to the right to record material duty. Legal representation is mandatory in proceedings before the Metropolitan Court.

EXPLANATORY STATEMENT

I.

Procedure and clarification of the facts

The Authority was informed by notification that it was found to be personal at the Office during the disposal of documents

Mayor Ádám Mirkóczki forwarded the documents containing the data to the News Portal.

An article was published on the News Portal on January 30, 2020 "Listed the population of Fidesz Eger in Nitra In Zsolt's campaign - Let's Show the Evidence ". In the article about the documents found also includes images that show personal information by editing the images were obscured.

Another article on the case was also published on the News Portal: "Election List Scandal In Eger: Oroján denies, Nyitrai does not respond ", which article - Dr. Zsolt Nyitrai accompanied by images of its letters of recommendation, was first published with the following content: "One we presented a bunch of documents about listing, voter evaluation and most importantly, Nitra About Zsolt's photocopied election signature collection sheets. Here (personal data we have covered): " The article then refers to the masking of personal information by the editorial staff performed, has been removed.

In its order of 11 March 2020, the Authority made a statement in order to clarify the facts and called on the Office and the News Portal to attach documents.

1. Dr. Ákos Csarnó, Editor-in-Chief of the News Portal, received the Authority on March 31, 2020 in his reply, he stated that he had received a letter from an employee of the municipality on 29 January 2020, that an important topic has been found in the Office, so go in because it may be interesting from a media standpoint. He also went in person, where he was received by the mayor and clerk of the City of Eger. One on the laptop they showed the editor the pictures, which were later also on the News Portal page

2 appeared. He saw obscured images and copied them to a flash drive. A note of all this a copy of which was attached to the reply letter sent to the Authority. The record is for 2020.

Clerks of the Mayor's Office of the City of Eger with County Rights, held at 10:30 a.m. on January 29 making copies of documents found during the disposal of documents in his office. In the note on documents found in the office of the Deputy Mayor [...] at 10.30 am on 29 January 2020

The photo was taken by the Mayor Ádám Mirkóczki and the clerk Dr. Dénes András, who

personal data was digitally obscured from photographs. The original recordings are as noted were permanently deleted and the recordings without personal data were made by dr. To Ákos Csarnó, a It was handed over to the editor-in-chief of the news portal on a flash drive on January 29, 2020.

To the Authority's question about who created the images in the article, the editor-in-chief of the News Portal he stated that he had no knowledge of who had taken the pictures. Disclosure of personal information he assumed it could have been made with some software, most likely Paint software.

According to the statement of Dr. Ákos Csarnó, the sketch and pictures forming the basis of the article were received by two colleagues

for processing, editing. The previous version of the article has been changed to indicate that

for personal data were not obscured in the editorial office, but were obscured in the past

pictures, only the editorial staff misunderstood the situation. The article was published by dr. Written by Ákos Csarnó and because

it was a misunderstanding, signaling to correct the text. Their system does not store changes before

versions, only always the end result, so the text on the page is an earlier version of the

He did not send it to the authorities.

2. In its request to the Office, the Authority requested information that the file was discarded

what documents were found on the Office's premises during the the documents or their

its contents were known to those who had access to them; what security measures have been taken by

Office in order to retrieve personal documents containing it

after which unauthorized persons may not have access to it; what is the data transfer to the News Portal like

legal basis and for what purpose; who forwarded the documents to the News Portal and

the manner in which the data were transmitted and the form in which the documents were transmitted to the

For a news portal.

According to the Office's reply, the following types of documents were found during the rejection:

- Photocopied letters of recommendation with the names, addresses, signatures and personal details of those involved

was listed. About the time and circumstances of making a photocopy

they do not have the information, so it is not possible to know whether to make a copy of the original documents before or after receipt by the local election office

row. However, in the opinion of the Office, given that it is provided by the election office after receipt, strict records management rules apply to the handling of completed recommendation forms, and Office staff received detailed training on how to handle election files

disciplinary and criminal liability - photocopies are not kept by the election office documents.

- Indicating the name, address and political activity or sympathy of the electorate

original documents containing numbers. The documents are apparently some kind of electronic have been printed from a database or program, this is indicated in places on the pages visible icons (e.g. "forward-arrow", "back", etc.). Additional information in handwriting on the documents are located, e.g. "He was not at home".

- The third group of documents is non-personal documents, such as leaflets, the so-called "Reasoning cards", etc.

According to the Office, the documents found during the disposal and their contents are Members of the Scrapping Committee ([...]), Mayor Ádám Mirkóczki, Dr. Dénes Andrásó and [...] could get to know him. After finding the documents, they were first used by Dr. Dénes Andrásó they were kept by a clerk and then [...] and could not be accessed by another person until the police arrest. Amint it became clear that the documents found contained personal data and were police

They can also substantiate the filing of a report and the reporting of a data protection incident, Dr. Andrásó

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Dénes, a clerk, ensured that the documents were closed, so that only he could access them until the [...] have not been handed over. The [...] examined the records, identified personal information and the and then locked the files in a locker in an unused office, they were not accessible to unauthorized persons until the police arrest.

According to the statement of the Office, no personal data was transmitted to the News Portal. THE

The concealment of personal data was performed by the clerk Dr. Dénes Andrásó, Mayor Ádám Mirkóczki in the presence of such a way that - as the Office copier scans documents internally copy it to the network or send it to the official e-mail address, so given the nature of the documents, the notary will do so found it risky - made an electronic copy with a digital camera. The photos copied to a non-networked computer on which you made your personal information unrecognizable then deleted the personal from both the camera and computer storage photographs containing data. Documents that no longer contain personal data are available from dr. He copied it to a pen drive provided by Ákos Csarnó, editor-in-chief, and handed it over to the editor-in-chief. That's what it is Minutes of the proceedings were also drawn up, on the copy of which dr. Ákos Csarnó signed the taking photos without personal data on a flash drive.

The editor-in-chief was invited to the Office [...] by order of Mayor Ádám Mirkóczki and asked to wait for the personal data to be rendered unrecognizable by the clerk. dr. Hall Ákos did not have access to the documents containing personal data, only by the Office received obscured documents.

In its reply, the Office also informed the Authority that the case was currently being police an investigation is underway in which the file has been seized in its entirety.

3. In order to further clarify the facts, the Authority will issue NAIH / 2020/1911/9. in order no he made a further request to the Office asking him to be released by the Authority found in the Office's premises during the disposal of the file, according to his previous statement copies of photographs edited by Dr. Dénes Andrásó

According to him, they were handed over to the editor-in-chief of the News Portal, dr. To Ákos Csarnó. In its reply to the Authority's request dated 2 June 2020, the Office stated that the requested documents are not available to the Office after they have been handed over to the News Portal have been permanently deleted.

4. In addition, in order to clarify the facts, the Authority will issue NAIH / 2020/1911/8. in order no contacted the News Portal to provide the Authority with

According to the statement, on January 29, 2020, dr. For Ákos Csarnó, Mayor Ádám Mirkóczki and Dr.

Copies of all photographs handed over on a flash drive by notary Dénes András, and send the egiugyek.hu on January 30, 2020 "Listed the population of Fidesz Eger in the campaign of Zsolt Nyitrai "We'll show you the evidence!" the editorial version of the article that appears on the page has been published.

Dr. Ákos Csarnó, Editor-in-Chief of the News Portal, stated in his reply to the Authority's order that that the photos on which the article is based are not stored separately, they were deleted after they were inserted into the article.

Their system does not store the changes, so the editing process is only current end result that appears in the form of an article in front of readers. Attached to his reply letter is printed images of the photographs used therein.

5. The Authority shall subsequently issue NAIH / 2020/1911/12. In his order no. he repeatedly contacted dr.

Ákos Csarnó, Editor-in-Chief of the News Portal, requesting information on the News Portal on January 30, 2020

"Election list scandal in Eger: Oroján denies, Nitra does not respond"

the names and contact details of the authors or editors of the article.

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Dr. Ákos Csarnó, the editor-in-chief of the News Portal, stated that the article

personal data was not covered by them, but by them in the first place

received, only the editorial staff misunderstood the situation. The problem referred to - that is, that

The entry "(we have withheld personal data)" was previously

has been removed - it may have occurred in an editorial manner compared to the situation expected at the time worked. Therefore, like the basic article, this article has been corrected, i.e. the referenced parentheses comment deleted.

II. Applicable legal provisions

Information self-determination for data management covered by the General Data Protection Regulation

CXII of 2011 on the right to freedom of information and freedom of information Section 2 (2) of the Information Act (hereinafter:

the Information Act)

the general data protection regulation in the provisions indicated therein

shall apply mutatis mutandis.

According to Article 4 (1) of the General Data Protection Regulation, "personal data" shall mean any information relating to an identified or identifiable natural person ("data subject"); a natural person can be identified who, directly or indirectly, in particular by an identifier such as a name, number, identifiable by one or more factors relating to the physical, physiological, genetic, mental, economic, cultural or social identity of the natural person. "

According to Article 4 (2) of the General Data Protection Regulation, "processing of personal data: or any operation or operations performed on data files in an automated or non-automated manner such as collection, recording, systematisation, segmentation, storage, transformation or alteration, querying, viewing, using, transmitting, distributing or otherwise making a communication by making available, harmonizing or interconnecting, restricting, deleting, or destruction. "

According to Article 4 (7) of the General Data Protection Regulation, "controller" means the natural or legal person person, public authority, agency or any other body that provides personal data determine the purposes and means of its management, alone or in association with others; if the data management purposes and means are determined by Union or Member State law, the controller or the controller EU or Member State law may also lay down specific criteria for the designation of

Pursuant to Article 6 (1) of the General Data Protection Regulation, the processing of personal data is limited to lawful if and to the extent that at least one of the grounds listed therein exists.

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

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

Unless otherwise provided in the General Data Protection Regulation, data protection was initiated upon request

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

Ákr.) Shall apply with the exceptions specified in the Information Act.

The Ákr. 103. (1) under ex officio proceedings, this law was initiated upon request

shall apply with the derogations provided for in this Chapter.

Subject to paragraph 2, there shall be no place for suspension in ex officio proceedings and the authority shall be suspended

does not decide on the merits at the joint request of the client or clients. There is no place for the procedure

the client fails to comply with the obligation to advance procedural costs.

According to (3), in ex officio proceedings, the administrative time limit only for the suspension of proceedings

duration does not count.

According to paragraph 4, if the authority exceeds twice the time limit in its own-initiative proceedings,

establishing the fact of the infringement and terminating the unlawful conduct or lawful

may not impose any legal consequences other than the obligation to restore the condition. In this case

no new proceedings may be instituted against the same client on the same factual and legal grounds.

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Pursuant to Article 58 (2) (b) of the General Data Protection Regulation, the Authority condemns:

data controller or data processor if its data processing activities have violated the general

provisions of the Data Protection Regulation.

Pursuant to Article 58 (2) (g) of the General Data Protection Regulation, the Authority may

Order the rectification or erasure of personal data in accordance with Article 18, or

restrictions on data processing and in accordance with Article 17 (2) and Article 19

order the notification of the recipients to whom or with whom the personal data have been communicated.

Pursuant to Article 17 (2) of the General Data Protection Regulation, if the controller is made public

has brought personal data and is required to delete it pursuant to paragraph 1 by the available technology

and take reasonable steps, including technical measures, to inform the data controller

data controllers that the data subject has requested them to provide links to the personal data in question or

deletion of a copy or duplicate of such personal data.

III. Decision

III.1. Appropriateness of the way in which personal data is anonymised

According to the facts revealed during the official proceedings, during the disposal of documents in one of the premises of the Office a

It can be linked to the 2014 local elections, including various personal data

documents - including name, address, place of birth and date of birth

documents, lists, notes, and name, address, personal identification, and signature are personal

Photocopies of Dr. Zsolt Péter Nyitrai's recommendation sheets containing

According to the notification, these documents were forwarded by the Mayor Ádám Mirkóczki to the

They are news portals.

At the request of the Authority, both the Office and the News Portal stated that

dr. Ákos Csarnó, the editor-in-chief of the News Portal, has already received the obscured images to write the article,

handed over to a pen drive and handed over to him by Mayor Ádám Mirkóczki and Dr. Dénes András

notary.

According to Article 4 (1) of the General Data Protection Regulation, personal data are identified or

any information relating to an identifiable natural person ("data subject"); identifiable by a

a natural person who, directly or indirectly, in particular by means of an identifier such as a name,

number, location data, online identification or physical, physiological, genetic,

on the basis of one or more factors relating to his or her intellectual, economic, cultural or social identity

identifiable.

Images published in the article published by the Authority on egiugyek.hu on January 30, 2020

reviewed - found that personal photos were being obscured

did not meet the requirements for anonymization. One - Dr. Zsolt Péter Nyitrai is a collector of recommendations

The signature of a voter making a recommendation is obscured without obscuring the photo,

while an additional document excerpt from a photograph in another published image - Dr.

Part of the recommendation collection sheet of Zsolt Péter Nyitrai - it can be read on it without obscuring

personal data (a person's personal ID and last name).

III.2. Evaluation of data management through the transfer of personal data

III.2.1. Person of the data controller

According to Article 4 (2) of the General Data Protection Regulation, data processing is carried out on personal data any operation or set of operations, such as communication, transmission or other means by making it available.

Considering that he made about the documents found during the scrapping the anonymisation of personal data on photographs was not complete before they were transmitted, Thus, photographs are taken and, despite anonymization, contain personal data data management was implemented.

On the basis of the documents and declarations in its possession, the Authority concluded that Photographs of documents found during the disposal of documents were taken by the mayor and the clerk personally created and subsequently decided on the personal information in the photographs the manner and extent of anonymisation and their transfer to the News Portal.

However, these acts of the mayor and the clerk a were activities that were in the normal course of business, in this they decided. Based on all this, the Authority is Ádám Mirkóczki

Article 4 of the General Data Protection Regulation.

data management examined.

In the Authority's view, not the Office data management operations in person

Mayor and Dr. Dénes Andrásó

pursuant to Article 7 (7)

III.2.2. Evaluation of data management

In all cases, data processing must comply with the general data protection regulation and may only be used for a specific purpose on an appropriate legal basis.

During the proceedings of the Authority, the data controller is the mayor and notary of the legal basis of the data processing

and its

did not justify its purpose and, in its view, did not even transfer personal data, as

photographs were handed over to the Editor-in-Chief of the News Portal with personal data on them

were obscured.

The contents of the first version of the article were included in the notification received by the Authority and in support of them

According to the attached screenshot, the text of the article that appeared on the News Portal page first means content

that the photo taken of the photocopied testimonials of Dr. Zsolt Péter Nyitrai

data was obscured in the editorial office: "We presented a stack of documents about listing,

on the evaluation of voters and, most importantly, on the photocopied election signature sheets of Zsolt Nyitrai.

Here (we have covered personal data). "

In contrast, Dr. Ákos Csarnó, Editor-in-Chief of the News Portal, stated that

they were shown pictures on a laptop that were later on the News Portal website

appeared. He saw obscured images and copied them to a flash drive. The article above

said earlier version of the statement said his indication had been changed, namely the images

it was not obscured in the editorial office, but was received from the outset only by the editorial staff

set aside the situation.

The mayor and the clerk also stated, in accordance with the News Portal, that the News Portal

only documents that did not contain personal data were transferred.

However, the acceptance of these statements as genuine evidence is doubtful on the basis of the statements

identified data management operations are unrealistic and not part of a normal administrative process

based on:

- the mayor and the clerk take photographs in person and the photographs taken

a record of the acts;

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the record does not contain an official registration number given in an official case

appears to be a registration number;

- the obscuration of personal data on photographs, presumably with an image editing program

they do it themselves; and

- a journalist is called in person to hand over photocopies.

Based on all this, it can be assumed that during the meeting with the editor-in-chief of Dr. Ákos Csarnó, the original records were viewed and anonymized copies were handed over.

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Although the Authority could not verify the veracity of the statements, it was probative

considers the statement in the first version of the article to be stronger and more

that is, that the News Portal obscures the personal data contained in the copy of the recommendation forms

took place in the editorial office.

The statements of the News Portal also indicate that the illegal data transfer took place

their system does not store the pre-modified version, nor does it store the photos used in the article.

it is unrealistic for an image appearing in an article to be deleted immediately after it has been inserted into the article, and one

Only the published version of this article is stored.

The transmission of a copy containing personal data is also indicated by the fact that the article published in

For photos taken from testimonials, the data opacity is different in the image editing program

occurred by means of.

Despite the Authority 's position set out above, Mirkóczki' s further difficulty in proving this

Mayor Ádám and Dr. Dénes Andrásó do not find a violation.

III.3. Data management through the disclosure of personal data transmitted

evaluation

III.3.1. Person of the data controller

According to Article 4 (2) of the General Data Protection Regulation, the communication of personal data is dissemination or by way of making it available in another way. Accordingly, the

Information provided to a news portal that contains personal data due to incomplete anonymization

photographs are made available to the general public in an article published on the Internet

is considered as data management.

On data management, ie making personal data available to the general public,

The News Portal has decided to publish it on the Internet, but the

knowledge of photographs containing personal data due to anonymisation. The Authority will therefore

the News Portal with regard to the data management carried out by the disclosure of personal data

considered a controller under Article 4 (7) of the General Data Protection Regulation.

III.3.2. Evaluation of data management

The News Portal has not substantiated the legal basis of the data processing with regard to the disclosure, nor its

purpose. In this regard, the Authority shall, on the basis of the documents and declarations in its possession

found that personal data was made about documents found during the disposal of documents

the News Portal by publishing photographs containing

infringed Article 6 of the General Data Protection Regulation.

III.4. Legal consequences

The Authority finds, pursuant to Article 58 (2) (b) of the General Data Protection Regulation, that

the News Portal has violated Article 6 of the General Data Protection Regulation by making it personal

photographs transmitted with data with unchanged data content to the general public

published on its website.

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ARC. Other issues

Infotv. Pursuant to Section 38 (2), the Authority is responsible for the protection of personal data and the

monitoring the exercise of the right of access to data in the public interest and in the public interest

and facilitating the free movement of personal data within the European Union.

According to paragraph (2a) of the same section, in the general data protection decree, the supervisory authority

the entities under the jurisdiction of Hungary

as defined in the General Data Protection Regulation and this Act

exercise.

The competence of the Authority extends to the entire territory of the country.

The decision is based on Ákr. 80.-81. § and Infotv. They are based on Section 61 (1). The decision is based on Ákr. § 82
Shall become final upon its communication pursuant to paragraph 1. The Ákr. § 112 and § 116 (1), respectively
pursuant to Section 114 (1), there is an administrative action against the decision
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 (1), it is against the decision of the Authority
administrative lawsuit falls within the jurisdiction of the court, the lawsuit is subject to the Kp. Section 13 (3) (a) (aa)
The Metropolitan Court has exclusive jurisdiction under A Kp. Section 27 (1)
(b), legal representation is mandatory in litigation falling within the jurisdiction of the Tribunal. Kp. Section 39 (6)
unless otherwise provided by law, the date of filing of the application
has no suspensory effect on the entry into force of an administrative act.

A Kp. Section 29 (1) and with this regard Pp. Applicable in accordance with § 604, electronic
CCXXII of 2015 on the general rules of public administration and trust services. Section 9 (1) of the Act
The client's legal representative is required to communicate electronically in accordance with paragraph 1 (b).
The time and place of the submission of the application is Section 39 (1). The
information on a simplified lawsuit Section 77 (1) - (2) and Section 124 (1) and (2)
based on paragraph 5 (c) and paragraph 5 respectively. The amount of the fee for an administrative lawsuit is
XCIII of 1990 on levies. Act (hereinafter: Itv.) 45 / A. § (1). The
from the advance payment of the fee, the Itv. Section 59 (1) and Section 62 (1) (h) exempt
initiating proceedings.

Budapest, August 5, 2020

Dr. Attila Péterfalvi

President

c. professor