

Case number: NAIH / 2020/6484 /...

Administrator: [...]

Subject: Decision

## DECISION

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

against the applicant (hereinafter referred to as the "Applicant") [hereinafter referred to as the

Applicant) received on 31 August 2020

In the data protection authority proceedings initiated following the application of the

Applicant

gives the place of your application, and

I.

notes that the Applicant has not properly complied with the Applicant's 2020

request for the exercise of his right of access dated 23 June

violated the Applicant's processing of personal data of natural persons

and the free movement of such data, and

Regulation (EU) 2016/679 repealing Directive 95/46 / EC (a

hereinafter "the General Data Protection Regulation") Article 15 (1) (a) and (c) to (d);

II.

obliges the Applicant to do so within 15 days of the decision becoming final

provide the Applicant with Article 15 (1) (a) of the General Data Protection Regulation; (c) complete information in accordance

with points d) handled by the Applicant

personal information. The required action shall be taken by the Applicant for the action

must be in writing within 8 days of its submission - the supporting evidence

together with the submission of the application to the Authority

information

(complete

to the extent)

and

the

its

posting

certificate

by sending a copy to the Authority.

III.

Due to the above violation, the Authority will inform the Applicant that another data protection violation in determining the legal consequences of the present infringement as will take greater account of the precedent - it will issue a warning.

There is no administrative remedy against the decision, but no later than 30 days after notification within one day of the application filed with the Metropolitan Court in an administrative lawsuit 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. Indicate the request for a hearing in the application must. For non-personal tax exemptions, judicial review

the fee for the proceedings is HUF 30,000, the lawsuit is subject to the right to record fees. Before the Metropolitan Court legal representation is mandatory in these proceedings.

## EXPLANATORY STATEMENT

### I. Facts

On 31 August 2020, the Applicant submitted an application to the Authority stating that by letter dated 23 June 2020, requested the processing of your personal data information from the Applicant by indicating the item by the Applicant electronically processed data. The Applicant requested a reply from the Applicant by post sending. According to the return receipt attached by the Applicant, the Applicant has access

received his application on 29 July 2020. The Applicant objected to the Applicant's legislation

did not reply to his request within the time allowed by the

In the light of the above, the Applicant has applied to the Authority to order the

Requested to fulfill your access request.

In order to clarify the facts, the Authority in its order of 9 September 2020

Pursuant to § 63, he summoned the Applicant to make a statement.

It was sent to the Authority by order of the Applicant in a reply received on 28 September 2020

information. The Applicant stated that although the Applicant's letter is June 2020

It is dated 23 July, and was not actually dispatched until 23 July 2020. The Applicant a

In support of its statement, it attached a document certifying the tracking of items by Magyar Posta. THE

Applicant added that it had been sent to Applicant on 25 August 2020

provided in the reply letter received by the Applicant on 26 August 2020.

Attached to the Applicant's application is a copy of the Applicant's contracts, the person being treated is personal

list of data, the Applicant's group-level privacy policy and customer data management

Magyar Posta regarding the information of the Applicant and the Applicant

data retrieved from the tracking service and a mailing order to inform the Applicant

a copy of the reply and the content of the reply provided to the Applicant.

Based on the attached documents, the Applicant provided the following information to the Applicant.

On the one hand, he referred to attaching a list of personal data processed in connection with the Applicant, and on the other hand

stated that it only handles the range of personal data provided by the Applicant. Data management purpose, legal basis, duration, data processors used and other recipients a

The Applicant provided the link to the data management information to the Applicant. In addition, the

Applicant emphasized that it would not be transmitted by the Applicant for any of the purposes of data processing personal data to third countries outside the European Union and does not use it

a service related to the processing of personal data that is requested by the Applicant's customers

would involve the international transfer of personal data (in this context, cloud-based services). Finally, the Applicant explained the possibility of contacting the Authority at the same time as the relevant contact details.

## II. Applicable legal provisions

Pursuant to Article 2 (1) of the General Data Protection Regulation, this is the case here the general data protection regulation applies to data processing.

Infotv. Pursuant to Section 2 (2), the general data protection decree is indicated therein shall apply with the additions provided for in

Infotv. Pursuant to Section 38 (3) (b), within the scope of its responsibilities under Section 38 (2) and (2a) as defined in this Act, in particular at the request of the data subject and ex officio data protection official procedure.

Infotv. Enforcement of the right to the protection of personal data pursuant to Section 60 (1) the Authority shall, at the request of the data subject, initiate a data protection authority procedure.

Unless otherwise provided in the General Data Protection Regulation, data protection was initiated upon request CL of the General Administrative Procedure Act 2016. Act (a hereinafter: Ákr.) shall apply with the exceptions specified in the Information Act.

Under Article 12 (1) to (6) of the General Data Protection Regulation: '1. The controller shall take measures to ensure the processing of personal data by the data subject all the relevant information referred to in Articles 13 and 14 and Articles 15 to 22. and Article 34

3

each piece of information in a concise, transparent, comprehensible and easily accessible form, in a clear manner and provide any information addressed to children, in particular, in plain language in the case of. The information shall be provided in writing or otherwise, including, where appropriate, by electronic means must also be provided. Oral information may be provided at the request of the data subject, provided otherwise the identity of the data subject has been established.

2. The controller shall facilitate the processing of the data subject in accordance with Articles 15 to 22. exercise of their rights

under this Article. Article 11 (2)

In the cases referred to in paragraph 15, the controller shall to exercise their rights under this Article may not refuse to comply with his request unless he proves that the person concerned unable to identify.

3. The controller shall, without undue delay, but in any case upon receipt of the request, shall inform the data subject within one month of the following an application under Article measures. If necessary, taking into account the complexity of the application and the requests this period may be extended by a further two months. On the extension of the deadline the controller shall indicate the reasons for the delay from the receipt of the request inform the data subject within one month. If the application was submitted by electronic means, the information shall, as far as possible, be provided by electronic means, unless otherwise specified by the data subject asks.

If the controller does not act on the data subject 's request without delay, but shall inform the data subject no later than one month after receipt of the request the reasons for not taking action and the fact that the person concerned may lodge a complaint with one of the supervisory authority and may exercise its right of judicial review

5. The information referred to in Articles 13 and 14 and Articles 15 to 22 and 34 the measure shall be provided free of charge. If the data subject's request is clearly unfounded - due in particular to its repetitive nature - excessive, the data controller, depending on the information requested or administrative costs of providing information or taking the requested action:

- (a) charge a reasonable fee, or
- (b) refuse to act on the application.

The burden of proving that the request is manifestly unfounded or excessive is on the controller.

6. Without prejudice to Article 11, where the controller has reasonable doubts as to the application of Articles 15 to 21, article the identity of the natural person submitting the application under may request the information necessary to confirm his identity. "

Under Article 15 of the General Data Protection Regulation: '1. The data subject shall have the right to:

receive feedback from the data controller on the processing of your personal data

is in progress and if such data processing is in progress, you are entitled to personal

access to data and the following information:

(a) the purposes of the processing;

(b) the categories of personal data concerned;

(c) the recipients or categories of recipients with whom the personal data are held

have been or will be communicated, including in particular to third country consignees, and

international organizations;

(d) where applicable, the intended period for which the personal data will be stored or, if that is not possible,

criteria for determining this period;

(e) the data subject's right to request personal data concerning him or her from the controller

rectification, erasure or restriction on the processing of such personal data

against its treatment;

(f) the right to lodge a complaint with a supervisory authority;

(g) if the data were not collected from the data subject, all available information on their source;

(h) the fact of automated decision-making referred to in Article 22 (1) and (4), including:

profiling and, at least in these cases, the logic used

understandable information about the significance of such data processing and for the data subject

what are the expected consequences.

(2) If personal data are transferred to a third country or to an international organization

the data subject is entitled to be informed of the transfer

appropriate guarantees in accordance with Article 46.

(3) The data controller shall receive a copy of the personal data which are the subject of the data processing

make it available. For further copies requested by the data subject, the data controller shall be the administrative one

may charge a reasonable fee based on costs. If provided by the data subject electronically the information shall be in a widely used electronic format unless otherwise requested by the data subject.

4. The right to request a copy referred to in paragraph 3 shall not be adversely affected the rights and freedoms of others. "

Infotv. Pursuant to Section 61 (1) (a), it was taken in a data protection official proceeding In its decision, the Authority Data management specified in Section 2 (2) defined in the General Data Protection Regulation in the context of may apply legal consequences.

According to Article 58 (2) of the General Data Protection Regulation: "The supervisory authority shall be corrective acting under the authority of:

(a) warn the controller or processor that certain data processing operations are planned its activities are likely to infringe the provisions of this Regulation;

(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;

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

(e) instruct the controller to inform the data subject of the data protection incident;

(f) temporarily or permanently restrict the processing, including the prohibition of the processing;

(g) order personal data in accordance with Articles 16, 17 and 18 respectively

rectification or erasure of data and restrictions on data processing, as well as Article 17 (2)

shall notify the addressees with whom it is addressed in accordance with paragraph 1 and Article 19 or with whom personal data have been communicated;

(h) withdraw the certificate or instruct the certification body in accordance with Articles 42 and 43

revoke a duly issued certificate or instruct the certification body not to grant it

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

(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; and

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

suspension. "

Under Article 83 (2), (5) and (7) of the General Data Protection Regulation:

administrative fines in accordance with Article 58 (2) (a) to

It shall be imposed in addition to or instead of the measures referred to in points (h) and (j). When deciding

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 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

any measures taken to

(d) the extent of the responsibility of the controller or processor, taking into account the

and 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 that:

whether the breach was reported by the controller or processor and, if so, what



in detail;

5

(i) if previously against the controller or processor concerned, on the same subject matter

- has ordered one of the measures referred to in Article 58 (2), the person in question

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

shall not exceed 4% of its annual worldwide turnover, provided that the two

the higher of which shall 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

(c) the transfer of personal data to a recipient in a third country or to an international organization

transmission in accordance with Articles 44 to 49. in accordance with Article

d) the IX. obligations under the law of the Member States adopted pursuant to this Chapter;

(e) the instructions of the supervisory authority pursuant to Article 58 (2) and the processing of data

temporary or permanent restriction of the flow of data

non-compliance with the request or access in breach of Article 58 (1)

failure to provide.

[...]

7. Without prejudice to the corrective powers of the supervisory authorities under Article 58 (2), each Member State may lay down rules on the whether it may be imposed on a public authority or other body performing a public function administrative fine and, if so, the amount. "

Infotv. 75 / A. Pursuant to Article 83 (2) to (6) of the General Data Protection Regulation, the Authority exercise the powers set out in paragraph 1 in accordance with the principle of proportionality, in particular by the legislation on the processing of personal data or the European Infringement for the first time of the requirements laid down in a binding act of the Union in accordance with Article 58 of the General Data Protection Regulation - take action primarily by alerting the controller or processor.

Infotv. According to Section 61 (4) (b): "The amount of the fine is from one hundred thousand to twenty million forints may be extended if the fine imposed in a decision taken in an official data protection procedure budgetary body under Article 83 of the General Data Protection Regulation in the case of a fine imposed. "

### III. Decision

The date of the Applicant's request for access is June 23, 2020, which he has attached according to the return receipt, it was sent to the Applicant by post on 23 July 2020. THE According to the return receipt, the applicant received the shipment on July 29, 2020. According to the testimonial copy attached by the Applicant, his reply letter was dated August 2020. On the 25th, so required by Article 12 (3) of the General Data Protection Regulation fulfilled its obligation to act within the time allowed.

The Applicant shall provide the Applicant with all Article 15 (1) of the General Data Protection Regulation provided information on the legal basis, purpose, only the valid data management information regarding the duration and scope of the recipients reference to the relevant points. In addition, the personal information actually described on the site compiled from an electronic database based on the path shown at the bottom.

The content of the reply letter did not provide the Applicant with an accurate, personalized information about the processing of your personal data for the following reasons.

Not to fulfill access requests in a manner that complies with data protection requirements a formal answer without relevant information is sufficient, as it is general

The essential element of Article 15 of the Data Protection Regulation is that it provides targeted and clear information data subjects in relation to the personal data actually processed in connection with them. THE

information on the controllers' pages as a result of the exercise of the right of access

obligation is not an administrative obligation that can be performed in a template. THE

in the execution of access requests, the controllers shall provide the information to the specific data subject tailored, individualized and substantively considered by the data subject

make available to them. Failing this, the person concerned will not get a clear picture of the personal

processing of your data will not be transparent to them. Therefore, if the general concerned

exercise of its right of access under Article 15 of the Data Protection Regulation, it will not

for prospectuses prepared under Article 13 of the General Data Protection Regulation

- as in the respondent's reply, the purpose and legal basis of the processing, the retention period, the recipients and processors published on the website and

reference to business rules - as it is not personalized, it is not explicitly the personal data of the person concerned processing of your data. In addition, the Authority notes that the reference itself

documents also contained only general information.

Pursuant to Article 15 (1) of the General Data Protection Regulation, the data subject is entitled to:

receive feedback from the data controller on the processing of your personal data

is in progress and if such data processing is in progress, you are entitled to

in addition to the information you provide, access to your personal information. The general

Recital 63 of the Data Protection Regulation also distinguishes between personal data and

therefore the data subject should have access to both.

In view of the above, the Authority finds that the Applicant has breached the general rule Article 15 (1) (a) of the Data Protection Regulation; c) -d) when not given substantive, specific answers for the itemized criteria under Article 15, only provided a link to general data management information.

#### ARC. Legal consequences

In addition to finding an infringement, the Authority is subject to Article 58 (2) of the General Data Protection Regulation (c) instructs the Applicant to exercise the Applicant's right of access

Article 15 (1) (a) of the General Data Protection Regulation; (c) to (d), and

the fact that the information has been provided shall be certified to the Authority by the addressee addressed to the Applicant by sending a copy of the information and a copy of the post office certifying its posting.

The Authority also examined whether a data protection fine against the Applicant 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 all the circumstances of the case and found that the present

in the case of infringements detected during the procedure, the warning shall be a proportionate, dissuasive sanction, therefore, it is not necessary to impose a fine. In that regard, it took particular account of the infringement

severity is low and no harm has been incurred in the proceedings, and the Authority

The applicant has not been convicted of a breach of the general data protection regulation until the date of the decision.

Based on the above, the Authority has decided in accordance with the operative part.

#### V. Other issues

7

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 present decision of the Authority is based on Art. 80-81. § and Infotv. It is based on Section 61 (1). The decision the Ákr. Pursuant to Section 82 (1), it becomes final upon its communication. The Ákr. Section 112 and Section 116 (1) and (4) (d) and § 114 (1)

there is a right of appeal through an administrative lawsuit.

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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)

The General Court has exclusive jurisdiction under point (aa) of A Kp. Section 27 (1)

In a dispute in which the tribunal has exclusive jurisdiction, the

representation is mandatory. A Kp. Pursuant to Section 39 (6), the filing of the application a

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

A Kp. Section 29 (1) and with regard to this, Act CXXX of 2016 on Civil Procedure.

applicable in accordance with Section 604 of the Act, electronic administration and trust services

CCXXII of 2015 on the general rules of pursuant to Section 9 (1) (b) of the Act

his legal representative is obliged to communicate electronically.

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

Information on the possibility of requesting the maintenance of the It is based on § 77 (1) - (2). THE

the amount of the fee for an administrative lawsuit in accordance with Act XCIII of 1990 on Fees. Act (hereinafter:

Itv.) 45 / A. § (1). From the advance payment of the fee, the Itv. Section 59 (1)

and Section 62 (1) (h) shall release the party initiating the proceedings.

Budapest, December 16, 2020

Dr. Attila Péterfalvi

President

c. professor