Case number: NAIH-3849-16/2022

(Previous: NAIH/7409/2020, NAIH-2861/2021)

Subject: partially granting the request

decision,

partially

termination order

procedure

The National Data Protection and Freedom of Information Authority (hereinafter: Authority) […] ([…];

hereinafter: Applicant) at the request of [...] (headquarters: [...]; company registration number: [...]; a

hereinafter: Applicant1) and with […] Zrt ([…]; company registration number: […]; hereinafter:

A copy of the data processed in connection with the health insurance contract against the Respondent2).

makes the following decisions in the official data protection procedure initiated in relation to its release:

I. In the Authority's decision

I.1. The Applicant's request is partially granted and it is established that the Applicant2

denied a part of the Applicant's access request without a legal reason

free of charge. With this, the Respondent 2 violated the natural persons a

on the protection of personal data in terms of processing and that such data is free

(EU) 2016/679 on the flow and repeal of Directive 95/46/EC

Regulation (hereinafter: general data protection regulation) Article 15 (3).

I.2. I.1. due to the violation established in point 2, the Authority instructs the Applicant2 that

a copy of his specialist medical reports that are not available in the [...] system for the Applicant a

provide it free of charge within 15 days after receiving the decision!

I.3. The Authority ex officio determines that the Requested2 is handling the access request

violated Article 12 (4) of the General Data Protection Regulation.

It is for Respondent 2

measure

within 30 days of making it - together with the supporting evidence attached -

must notify the Authority.

I.2. in case of non-fulfilment of the obligation according to point, the Authority shall issue a decision

implementation.

on the implementation of measures, that is

I.2. prescribed in point

II. In the order of the Authority

II.1. cancels the official data protection procedure initiated against Applicant 1,

II.2. terminates the proceedings initiated in that part of the application, which was aimed at a

Authority instruct Applicant2 to amend internal policies and investigate whether

has anyone been asked for a fee under such a legal title before?

II.3. rejects the Applicant's request for reimbursement of costs.

With the decision according to point I and II. administratively against the order according to point

there is no place for a legal remedy, but within 30 days from the date of notification, the Fővárosi

It can be challenged in a public administrative lawsuit with a claim addressed to a tribunal. The statement of claim a

……..……

1055 Budapest

Falk Miksa utca 9-11

ugyfelszolgalat@naih.hu

www.naih.hu

Phone: +36 1 391-1400

Fax: +36 1 391-1410

It must be submitted to the authority electronically1, which forwards it along with the case documents to the

to the court. In connection with the decision according to point I, the request for the holding of the hearing is made by a

must be indicated in the application. The II. against the order according to point, the court simplified

acts out of court in a lawsuit. Those who do not benefit from the full personal tax exemption

for him, the fee for the administrative lawsuit is HUF 30,000, the lawsuit is subject to the right to record the fee. THE

Legal representation is mandatory in proceedings before the Metropolitan Court.

I N D O C O L A S

I. The course of the procedure:

I.1. The Applicant submitted an application to the Authority on October 13, 2020, the deficiencies in the application

replaced on October 29, 2020 at the request of the Authority.

The Applicant asked the Authority to investigate the case presented in the application, that

to assess whether "[…]" legitimately wishes to charge a fee for the requested personal data

regarding, requested that, in the event of a violation of the law, instruct "[…]" that it is

provide data free of charge, instruct "[…]" in the internal regulations

to amend, as well as instruct “[…]” to investigate, from anyone previously under such title

have they applied for a fee?

I.2. The Applicant

the

CXII of 2011 on freedom of information. Act (hereinafter: Infotv.) Section 60 (1)

based on paragraph NAIH/2020/7409. case number on October 30, 2020, data protection authorities

proceedings have been initiated.

During the procedure, the Authority NAIH/2020/7409/5. No. dated November 19, 2020

in its order, the procedure notified the Applicant 1, the named data controller

started and called him to make a statement in order to clarify the facts.

I.3. The Applicant 1 responded to the order in a letter received on December 7, 2020.

self-determination

informative

upon request

about law

and

the

I.4. In response to the two inquiries submitted by the Applicant, the Authority dated June 7, 2020,

NAIH- 2861-3/2021. informed about the status of the case in letter no.

I.5. In order to clarify the facts, the Authority issued NAIH-2861-4/2021 to Applicant 1.

sent another order on June 15, 2021.

I.6. On July 1, 2021 (NAIH-2861-5/2021), the Applicant requested the information from the Authority

the delivery of your letter by post, which the Authority complied with (NAIH-2861-

6/2021).

I.7. NAIH-2861-4/2021. s. NAIH responded to the order on July 7, 2021.

2861-7/2021. in his registered letter.

I.8. NAIH-2861-8/2021. In its order no

provided, and at the same time called on him to make a statement in order to clarify the facts. The NAIH-

2861-9/2021. the Applicant, NAIH-2861-10/2021 in order no. s. in the execution of the

Kéremezt1 was notified of the client's involvement.

I.9. NAIH-2861-11/2021. received on August 5, 2021 in a letter registered to

Response of applicant 2.

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

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

I.10. NAIH-2861-12/2021. No., sent on September 9, 2021, the Authority

sent another order to clarify the facts to Respondent 2.

I.11. The statement of Applicant 2 was received on September 30, 2021 and is NAIH-2861-13/2021.

was registered.

I.12. The Authority informs clients of the 2016 CL.

pursuant to § 76 of the Act (hereinafter referred to as the Act) notified him of the completion of the evidentiary procedure, and

about the fact that during the clarification of the facts, he uncovered evidence of the rules of access to documents taking into account the

3849-1-2022, NAIH-3849-2/2022, NAIH-3849-3/2022). The Applicant

personal

requested document inspection (NAIH-3849-4/2022), appeared at the document inspection on April 12, 2022 (NAIH-3849-8/2022), for Applicant 1 and Applicant 2, the Authority - at their request - exercising their right to inspect documents arising during the procedure and not originating from them and not provided by sending copies of all documents sent to them (NAIH-

3849-9/2022, NAIH-3849-10/2022).

I.13. The Applicant made a comment in his letter received on May 3, 2022.

on the basis of which he also applied for an official decision on the reimbursement of the incurred costs (NAIH-3849-11/2022).

I.14. The Applicant 1 made a comment in his letter received on May 13, 2022 (NAIH-3849-

12/2022), and Applicant 2 stated in his letter received on May 16, 2022 (NAIH-

3849-13/2022).

I.15. The Authority NAIH-3849-14/2022. s. called the Applicant during the procedure

to justify the costs incurred, the Applicant's response was received on May 30, 2022 (NAIH-

3849-15/2022).

II. Fact

II.1. In his request for the official data protection procedure, the Applicant submitted that a

Respondent 1 legally terminated the Applicant's health insurance contract. For this

to his knowledge, the Applicant requested from Applicant 1 all personal data processed about him and issue of findings, in his first email on July 17, 2020, and then specifying his request

on August 12, 2020.

The exact content of the latter letter: "All my findings and everything stored about me are personal

I would like to request information so that I can take it further. Actually, it hasn't been for this until now

necessary, because I always visited you and thus the data from the past was available to the current one

during tests and thus possible trends and changes could be easily monitored. But

then that's over now, so I'm going to another doctor, then I'd like to take it with me

entire past."

with an e-mail address ending in […].hu

Related to the access request

continued with a colleague ([…]@[…].hu). The Applicant 1 has 30 days for this request

did not respond to the merits by completing the access within the response deadline, a

2020 following the applicant's inquiries on September 24, 2020 and September 30, 2020.

on September 30 "with the request for personal data and medical materials

regarding" referred the Applicant to the "Call Center".

On October 5, 2020, the Applicant inquired about the processed data at […]@[…].hu and

about the possibility of access to documents, about "how I can get information from

about me

about a find,

about the investigation, how long and in what form they are obliged to store the data stored about me, when and

in what form is the data deleted, can I request the deletion of my data, how internal are the customers

about stored data, how can I get it

information retroactively everything

correspondence

4

regulations available by

upon such separation".

Data protection of the Applicant 2

official, who is also the data protection officer of the Applicant 1

In his reply sent on October 7, 2020, his official also informed the Applicant that

in relation to the insurance contract, how does Applicant 1 feel about it in general

manages data, indicating the legal and other basis of data management, he informed

on the duration of data management, the time of data deletion, the Data Management Information

about its availability, and about the rights of stakeholders in relation to the insurance contract.

The health department informed the Applicant about the data management of Applicant 2

the legal basis for data management during the service, the duration of data management,

and that the service provider provides the data for the mandatory period prescribed by law

(30 years from the date of data collection), you cannot delete the electronic and paper-based storage

method, and the forms of data destruction following the mandatory retention period.

Regarding the copy of his findings, he gave the information that those, previously

as stated on the phone, it will be provided for a fee of HUF 1,000 per find, referring to

to Article 15 (3) of the General Data Protection Regulation, according to which a

[…] is entitled to charge a fee for copies of findings, i.e. for the repeated issuance of those findings,

which the Applicant has already received.

On October 20, 2020, the Applicant indicated that, in his opinion, the copy of the data

would be eligible for free. The data protection officer repeated the same day in his reply

his opinion, according to which the findings must be kept by the service provider according to the law, is the first

the patient will receive a copy of the findings during the examination, the data request will be an additional copy

is classified as, therefore, subject to a fee based on the general data protection regulation. In response, the Applicant

the data protection officer disagreed with the charging of the fee

in response, he informed him that their position was unchanged and that they would maintain it.

Given that the Applicant was a client of the Respondent2 for over ten years, it is

According to the Applicant, the data service fee is HUF 100,000 in total

would amount to an amount exceeding According to the Applicant, Article 15 of the General Data Protection Regulation.

Article (3) stipulates that the first copy of the data is free of charge, according to the

The requested service would be free of charge for the data contained in the application submitted to it

obliged.

At the end of the application, the Applicant named Applicant 1 with the registered office address, respectively

named the data protection officer with whom you corresponded.

II.2. In the statement made by the Respondent 1 in the reply letter received on December 7, 2020

explained that it only provides health insurance services to the Applicant,

engages in activities that finance healthcare services. Only e

handled in a circle, the Bit.

with regard to health insurance only

in connection with the legal relationship, especially for the purpose of evaluating service requests.

According to the answer, the Applicant contacted by e-mail on July 17, 2020 regarding insurance matters

to the acting contact person, who responded within the deadline, asking for clarification. From clarification

it turned out that the Applicant does not need the data managed by the insurance company, but

to his medical history, i.e. his medical documentation, for the purpose of making it different

to a doctor

carry it on. After that, the contact unfortunately did not respond

to a request that the insurance company cannot issue the documentation, as it does not

has The lack of response was related to the coronavirus epidemic

with its impact on the economy, which also affected the operation of the insurance company, during which more

provisions

therefore, the Applicant 1 does not have any information concerning the Applicant

the employee's employment was terminated, and his operations were minimized

limited it.

The data protection officer of the Applicant 1 was informed of the request on October 5, 2020,

when the Applicant is the healthcare provider Applicant2 […]@[…].hu email

also sent it to his address, given that the data protection officer is the same person

for both applicants, however, the applicants are legally separate, different (insurance and

health services) with different ownership backgrounds

legal entities with The data protection officer will provide detailed information two days later

provided on behalf of both applicants.

Applicant 1 indicated that he takes care of his employees' knowledge of data protection

increase, within the framework of mandatory training and testing, as well as the data protection officer

gave detailed feedback to the contact on how he should have acted and

what you should have informed the customer about, in order to avoid a similar case in the future

should not occur.

According to the answer

health documentation, it is managed by Applicant2.

II.3. According to the statement of Applicant1 received on July 7, 2021, Applicant2

Based on the contract concluded with Applicant 1, Customer Service is provided by Applicant 1-

in relation to the clients of Respondent 1. Correspondence with the Named - Applicant

continuing employee was an employee of Applicant 2 during the indicated period, and a

named contact address –

[…]@[…].hu – primarily the Applicant2,

secondarily, it was the contact address of Applicant 1.

He reiterated that since the Applicant was referring to his medical records

claim, and it is not kept by the Applicant1, therefore he did not comply with the personal data and

to a request for data copies.

II.4. Knowing the answers, the Authority included Applicant 2 as a client in the procedure

on July 22, 2021. Later, after the received statements and repeated interpretation of the request

the Authority came to the conclusion that the content of the application, as it is broadly called a

He initiated proceedings against "[…]", and also reported the Applicant2. THE

The data controller named in the application with its registered office address is the Applicant 1 and its data protection

was its official, however, since the data protection officer is also the Respondent2

also its data protection officer, and the request generally contained the name […], a

The authority assessed that the application also indicated Applicant 2, even if it is accurate

it did not contain company data and was not worded in this regard

clear. For this reason, […] Zrt. is also the applicant (Applicant 2) in this proceeding

it counts as.

In its response letter received on August 5, 2021, Respondent2 explained the following.

It indicated the range of managed data that was generated during the healthcare service

means documentation, outpatient records, findings of diagnostic tests, laboratory results,

etc. The contract referred to by Applicant 1, based on which customer service information

provide to the Applicant 1 in relation to their clients, not with reference to trade secrets

sent it.

According to the statement of the Respondent2, some of the e-mail addresses ending in […].hu are exclusively a

Address used by applicant 2 (e.g. a

[…]@[…].hu), the other part is exclusively a

Address assigned to and used by applicant 1. In addition to these, there are e-mail addresses

which can be accessed by persons who are both applicants at the same time

employees (e.g.

[…]@[…].hu), or employees of the Applicant2 who a

the

the

by

handled

for supply

Applicant 2

for data while

to it, their job

to the extent necessary,

Applicant 1 is provided with e.g. customer service tasks in the existing contract between them

Based on. Persons belonging to the latter two groups acting as employees of Applicant 2

exclusively

Applicant 1

acting as its employee/representation only for the data managed by the Applicant1

they can fit

confidentiality

with a commitment. The two applicants do not have access to the data managed by each other

to it.

The Requester2 received the access request from the Requester on October 5, 2020. THE

previous applications did not reach Applicant 2, certainly because it was

The applicant delivered it to Applicant 1, whose representative the employee is not

forwarded it to the Applicant 2 or its corresponding organizational unit. In this

also contributed to the fact that the activities and operations of Respondent 1 during the relevant period

significantly decreased due to the coronavirus epidemic and the official restrictions in force at the time.

The Applicant 2 presented the procedural protocol for issuing copies of findings, namely this

attached regulatory document.

According to his statement, he fulfilled the Applicant's request for copies as such and

fulfills that it provides continuous access free of charge to […] Online ([…]) operated by it

for an interface where a unique username and password are available for each patient

through the findings of certain health services provided by Applicant 2, such as a

the findings of laboratory tests, as well as the findings of specific diagnostic tests (MRI, CT,

etc.).

At the same time, the Applicant requested an additional copy of his medical documentation,

in connection with which the Applicant2 informed him about the fee for issuing copies of findings.

Since the Applicant did not pay this, the Applicant2 did not issue it separately

find copies available.

Regarding the legal basis for charging the fee, he took the position that it is general

is based on Article 15 (3) of the Data Protection Regulation. In this context, he referred to the

Hit § 137, according to which the service provider is obliged to submit a final report at the end of the service,

and providing the patient with an outpatient care sheet (findings). His position

according to this handed over find is already considered a copy, since the original copy was made by a

service provider is Eüak. based on § 30, he is obliged to keep it for the period specified therein.

Based on these, the Applicant2, upon completion of the care, will give the patient a copy of the findings

makes available. On the other hand, in the case of tests where the findings are not immediate

arise, them - especially the results of laboratory tests, or MRI, CT (diagnostic)

findings containing the evaluation of the examination - own for each client of the Applicant2

it is uploaded to an electronic interface ([…]) accessible with a username and password

available to his patients. He emphasized that the […] surface and the finds on it

are continuously available to customers, going back several years.

The Applicant2 did not charge a separate fee for the first copy of the findings. When the Applicant

addressed to him with a request for the release of a copy of the findings, then he requested the release of additional copies,

and for the issuance of these additional copies, the Applicant 2 was entitled to a fee according to the above

to charge.

In relation to the information of the affected parties, he presented the information on data management

availability on the company's website, the person concerned

related to the exercise of law

regulation, according to which the data subject "can request a copy of the processed personal data

publication, in electronic or other (especially paper) format, as consideration for which –

taking advantage of the opportunity provided in the relevant legislation - the [...] (administrative

taking into account the costs, you can charge a reasonable fee (proportionate). For your information

relevant request for the rights of […] others (especially trade secrets and intellectual works

the right to protection).

in response to the fact-clarification order of the

The Authority NAIH-2861-12/2021. no

Applicant 2 attached a copy of the contract concluded with Applicant 1, on the basis of which

they provide customer service information to the customers of Applicant 1.

He also informed that, according to the data in their records, the

The applicant has registered in the […] system, the date of registration

It was 12/05/2011. The information sheet containing the conditions of use is then paper

were handed over to the parties concerned, the receipt of which was confirmed by their signature, at the same time

they received one half of the password required for access (the other half of which the affected

was entered), i.e. the condition of registration was the acceptance of the terms of use.

The […] registration information template used in 2011 is no longer available,

given that it was revised more than 5 years ago and is in their archives

cannot be found either, as it was kept for the limitation period (5 years from the date of signature). All of these

in addition, they do not have the information sheet signed by the Applicant about 10 years ago.

He attached the information currently available.

According to his statement, the documentation stored in the […] system during the care of those concerned

covers a significant part of the generated health documentation, thus on the system

are continuously available to the Applicant for several years through a

laboratory test findings, such as the findings of MRI, US and X-ray examinations. In the system

other findings from specialist medical examinations are not available.

Finally, in response to the Authority's question, he provided the information that all those concerned, [...]-

health document containing test results stored in the system

part, on your own data carrier at any time

and file

you can print it.

II.5. The

in his comments, the Applicant stated that a

For his part, Respondent 2 did not previously explain what it means that the requested documents are one

part of it is available electronically, and how much can be expected from a private individual

push a surface for hours to extract data. He expressed doubt

who in relation to whether the Applicant2 legitimately referred to the COVID period a

in terms of delayed responses, according to the provider's opinion, from the COVID benefits

its administrative background must be developed independently and comply with legal requirements

data service system, the costs of which will certainly be included in their prices. He called her

the Authority's attention to the […]

on its taxable profit, and explained how the company should handle the

You will not see questions according to GDPR, if the official in question did not have COVID

the direct link between delayed responses and COVID, while by it

they had the capacity to calculate the fee to be paid even in the presence of COVID. In his opinion, the

In the case of applicant 2, the GDPR

processes are disorganized.

He also considered it interesting that the Authority was not referred to business secrets

the existing contract between the Applicants. He expressed his hope on behalf of the Authority

to impose the appropriate fine, as it is worth bearing in mind that a system

it is illegal behavior and especially serious for health care providers

they should focus on GDPR issues and related issues

on their obligations.

Finally, he requested that, if possible, in the event of a conviction, the Authority

oblige the Applicant2 to reimburse the costs incurred by him.

related to incidents

after inspection of documents

you can save the

you can download

downloaded

8

II.6. The Applicant summarized the Applicant1 in his statement based on the documents of the procedure

the circumstances of receiving the request sent by and the response it gave, and admitted that a

The applicant did not receive a response from the acting administrator within the applicable legal deadline, but

he received a verbal warning for this, and the data protection officer is an individual

also received an education. He also noted that the application was not handled by Applicant 1

data, so he asked the Authority to establish that Respondent 1 had not committed

violation, close the proceedings against him or, if a violation is established, dismiss him

subject to the imposition of the fine for the minor infringement, the main person concerned, the prosecution authority

in nature, the medical treatment performed by the Applicant1

measures, with the Authority

for cooperation, and that the Authority had not previously done so in relation to Applicant 1

proceeding.

II.7. In his statement, Respondent 2 repeated what he had previously stated a

in relation to the fee to be charged for a copy of documentation, he already submitted about the […] system

also presented information and summarized that, according to his opinion, the Respondent

Eüak directed his request to the "further copy". and continuous in the […] system

due to access. He asked the Authority to establish that the Applicant 2 did not commit a crime

infringement, close the proceedings against him or the possible establishment of infringement

omit the imposition of the fine, taking into account the number of persons concerned (one person), the

on the nature of potential blameworthiness, on cooperation with the Authority, and on the fact that a

The Authority had not previously conducted proceedings against Respondent 2.

II. 8. In response to the Authority's request for filling in the gaps, the Applicant in relation to the incurred costs

stated that his "external costs" did not arise, only his own 20-25 working hours,

in which he dealt with the matter.

III. Legal provisions applicable in the case

For data management under the scope of the General Data Protection Regulation), Infotv. Section 2 (2)

according to paragraph of the general data protection regulation in the provisions indicated there

must be applied with supplements.

The General Data Protection Regulation

Based on point 1 of Article 4: "personal data": identified or identifiable

any information relating to a natural person ("data subject"); it is possible to identify the a

natural person who directly or indirectly, in particular an identifier,

for example, name, number, location data, online identifier or the natural person

physical, physiological, genetic, mental, economic, cultural or social identity

identifiable on the basis of one or more relevant factors;

Based on point 2 of Article 4:

"data management": you are on personal data

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

set of operations, such as collection, recording, organization, segmentation, storage, transformation

or change, query, insight, use, communication, transmission, distribution

or otherwise by making available, coordinating or connecting,

restriction, deletion or destruction;

Based on point 7 of Article 4: "data controller": the natural or legal person,

public authority, agency or any other body that personal data

determines the goals and means of its management independently or together with others; if that

the purposes and means of data management are determined by EU or member state law, the data manager

or special considerations for the designation of the data controller by the EU or the Member States

can also be determined by law;

9

decree

According to point 15 of Article 4: "health data": the physical state of a natural person

personal data regarding your mental health, including the natural person

also data relating to the health services provided to him, which information

carries about the state of health of the natural person;

The general data protection

Pursuant to preamble paragraph (35): That

health personal data includes data related to the data subject's health

data that carry information about the past, present or future of the person concerned

or mental health. These include the following: for the natural person

concerning personal data that the individual has under the 2011/24/EU European

for the purpose of health services mentioned in the parliamentary and council directive

collected during registration or provision of such services, is natural

number assigned to a person for individual identification for health purposes,

signal or data, a part of the body or the material that makes up the body - including genetic data

and also biological samples - information from its testing or examination, and

any, for example with the disease, disability, risk of disease of the person concerned,

with your medical history or clinical treatment

physiological or biomedical condition

related information, regardless of its source, which may be, for example, a doctor or other

healthcare worker, hospital, medical device or in vitro diagnostic test.

Based on preamble paragraph (63) of the General Data Protection Regulation: "The data subject is entitled,
to access the data collected about him and to simply and
at reasonable intervals, establishing and checking the legality of data management
exercise this right in order to This includes the data subject's right to health
for personal data regarding your condition - such as diagnosis, examination findings, a
opinions of treating physicians, including treatments and interventions
health records - access. Therefore, all stakeholders must be provided with the
the right to know, in particular, the purposes of the processing of personal data, and if
possible, the period for which the processing of personal data applies, a
the recipients of personal data, the automated processing of personal data
based on logic, and that the data management - at least in the case
when it is based on profiling - what consequences can it have, and what about all of this
get information. If possible, the controller may provide remote access to a
to a secure system through which the data subject accesses his or her personal data
you can access it directly. This right may not adversely affect the rights and freedoms of others,
including trade secrets or intellectual property and in particular the protection of software
securing copyrights. However, these considerations should not result in
that the data subject is denied all information. If the data manager has a large amount
manages information regarding the data subject, may ask the data subject that the information
before communicating, specify which information or data management you are requesting
applies to activities."
According to the preamble paragraph (171) of the general data protection regulation, "This regulation is in effect
excludes Directive 95/46/EC. Started before the date of application of this Regulation
data management within two years from the date of entry into force of this regulation
must be made with this decree. If the data management is based on consent according to Directive 95/46/EC
and the data subject has given his consent in accordance with the conditions contained in this regulation,

it is not necessary to repeatedly request the data subject's permission in order for the data controller to comply with this regulation

may continue data management even after the date of application. Based on Directive 95/46/EC

decisions taken by the Commission and licenses issued by supervisory authorities

remain in effect until amended, replaced or repealed

they will not be ranked. "

Based on Article 12 of the General Data Protection Regulation:

10

(1) The data controller shall take appropriate measures in order to ensure that the data subject a

all those referred to in Articles 13 and 14 relating to the management of personal data

information and 15-22. and each piece of information according to Article 34 is concise, transparent,

in an understandable and easily accessible form, clearly and intelligibly formulated

provide, especially for any information directed at children. The information

must be given in writing or in another way - including, where applicable, the electronic way. The

at the request of the data subject, oral information can also be provided, provided that the data subject has confirmed otherwise

identity.

(2) The data controller facilitates the relevant 15-22. the exercise of his rights according to art. The 11.

in the cases referred to in paragraph (2) of Article 15-22, the data controller your rights under Art

may not refuse to fulfill your request for exercise, unless you prove that

that the person concerned cannot be identified.

(3) The data controller without undue delay, but in any case the request

within one month of its receipt, informs the person concerned of the 15-22 according to article

on measures taken following a request. If necessary, taking into account the request

complexity and the number of requests, this is the deadline

two more months

can be extended. Regarding the extension of the deadline, the data controller explains the reasons for the delay indicating within one month from the receipt of the request concerned. If the person concerned submitted the request electronically, the information is possible must be provided electronically, unless the data subject requests otherwise.

(4) If the data controller does not take measures following the data subject's request, it is a delay without, but at the latest within one month from the receipt of the request data subject about the reasons for the failure to take action, as well as whether the data subject complained can submit it to a supervisory authority and exercise its right to judicial remedy.

(5) Information provided under Articles 13 and 14 and Articles 15-22 and Article 34 all information and measures carried out based on this must be provided free of charge. If that the request of the person concerned is clearly unfounded or - especially due to its repeated nature - exaggerated, the data controller:

a) by providing the requested information or information or taking the requested action may charge a fee of a reasonable amount, taking into account the administrative costs involved, or

b) may refuse to take action based on the request.

It is the data controller's responsibility to prove that the request is clearly unfounded or excessive is burdened.

Pursuant to Article 15 of the General Data Protection Regulation: "The data subject's right of access

(1) The data subject is entitled to receive feedback from the data controller regarding whether your personal data is being processed and if such data is being processed is entitled to access to personal data and the following information get:

a) the purposes of data management;

b) categories of personal data concerned;

c) recipients or categories of recipients with whom or with which the personal data has been disclosed or will be disclosed, including in particular third-country recipients,

and international organizations;

d) where appropriate, the planned period of storage of personal data, or if this is not the case

possible aspects of determining this period;

e) the right of the data subject to request from the data controller the personal data relating to him

rectification, deletion or restriction of processing of data, and may object to such

against processing personal data;

f) the right to submit a complaint addressed to a supervisory authority;

g) if the data were not collected from the data subject, everything about their source is available

information;

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

also profiling, and at least in these cases to the applied logic and that

comprehensible information about the significance of such data management and that

what are the expected consequences for the person concerned.

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

is forwarded, the data subject is entitled to receive information from

about the appropriate guarantees according to Article 46 regarding transmission.

(3) The data controller shall provide the data subject with a copy of the personal data that is the subject of data management

makes available. For additional copies requested by the data subject, the data controller is responsible

may charge a reasonable fee based on administrative costs. If it is affected

submitted the application electronically, the information was widely used

must be made available in electronic format, unless the data subject requests otherwise.

(4) The right to request a copy referred to in paragraph (3) shall not be affected

adversely affect the rights and freedoms of others."

According to Article 25 of the General Data Protection Regulation (1) The data controller is the science and

the state of technology and the costs of implementation, as well as the nature and scope of data management,

its circumstances and purposes, as well as the rights and freedoms of natural persons,

taking into account risk of variable probability and severity, all data management

when determining the method, as well as during data management such appropriate technical and

implements organizational measures - for example, pseudonymization - whose purpose is, on the one hand,

effective implementation of data protection principles, such as data saving, on the other hand, e

to fulfill the requirements contained in the decree and to protect the rights of the data subjects

the inclusion of necessary guarantees in the data management process.

(2) The data controller implements appropriate technical and organizational measures for it

to ensure that, by default, only such personal data is processed

take place, which are necessary from the point of view of the given specific data management purpose. This

obligation applies to the amount of personal data collected, the extent of their processing,

for the duration of their storage and their accessibility. In particular, these measures should

to ensure that the personal data is by default the natural person

an unspecified number of people should not become accessible without his intervention

for.

(3) The approved certification mechanism according to Article 42 can be used to prove it

as part of that the data controller fulfills the requirements in paragraphs (1) and (2) of this article

requirements.

Based on Article 58 of the General Data Protection Regulation: (2) The supervisory authority is corrective

acting within its competence:

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

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

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

violated the provisions of this regulation;

c) instructs the data controller or the data processor to fulfill e

your request regarding the exercise of your rights according to the decree;

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

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

with its provisions;

According to Article 83 of the General Data Protection Regulation:

"(1) All supervisory authorities ensure that (4), (5), (6) of this decree

administrative fines imposed on the basis of this article due to the violation referred to in paragraph

be effective, proportionate and dissuasive in each case.

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

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

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

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

the following should be taken into account:

12

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

the nature, scope or purpose of data processing, as well as the number of data subjects affected by the breach

affected, as well as the extent of the damage they suffered;

b) the intentional or negligent nature of the infringement;

c) damage suffered by data subjects on the part of the data controller or data processor

any measures taken to mitigate;

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

technical and organizational measures taken by him on the basis of Articles 25 and 32;

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

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

extent of cooperation to mitigate its effects;

g) categories of personal data affected by the infringement;

h) the manner in which the supervisory authority became aware of the violation, in particular

whether the data controller or the data processor has reported the breach, and if so,

in what detail;

i) if against the concerned data manager or data processor previously - in the same a

subject - one of the measures mentioned in Article 58 (2) was ordered, a

compliance with said measures;

j) whether the data manager or the data processor has complied with Article 40

to approved codes of conduct or approved certification under Article 42

for mechanisms; as well as

k) other aggravating or mitigating factors relevant to the circumstances of the case,

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

or avoided loss'.

CLIV of 1997 on health. Act (hereinafter: Eütv.) applies

its provisions:

"24. § (1) The patient is entitled to the contents of the health documentation prepared for him - a

Taking into account the provisions of § 135 - to get to know.

(2) The patient's rights regarding his personal data are natural

on the protection of persons with regard to the management of personal data and such

on the free flow of data and the repeal of Regulation 95/46/EC

(General Data Protection Regulation), of April 27, 2016 (EU) 2016/679 of the European Parliament

and council decree, and health and related personal data

the provisions of the Act on its Management and Protection shall govern.

(3) The patient is entitled

a) upon discharge from the inpatient hospital according to point a) of Section 137

to receive a final report,

b) in point b) of § 137

as stipulated in the

outpatient specialist care

activity

to receive an outpatient care card upon completion."

"137. § The healthcare provider

a) at the end of a connected care process consisting of several sub-activities or inpatient

after hospital care, a final report summarizing the care data,

b)

outpatient specialist care

at the end of the activity, with the care of the patient and

outpatient care sheet containing summary data related to medical treatment

prepares and - with the exception of the case provided for in § 14 (1) - hands it over to the patient."

The Eüak. April 2019 According to paragraph (3) of § 7 effective until 25 The data subject is entitled to information

pertaining to him

receive in connection with medical treatment

healthcare

healthcare

you can look at the documentation and get a copy of them - at your own expense.

on data management, a

the

you can get to know the data,

personal identification

and

13

The Eütv. December 2019 According to the rules in force until 31. § 24 (1) The patient has the right to know

the data contained in the health documentation made about him, or he has the right to

- taking into account the provisions of § 135 - request information about your health data.

(2) With the health documentation, the health care provider is the person included in it

data is available to the patient.

(3) The patient is entitled

a) to receive information about the management of your medical treatment-related data,

b) to get to know the relevant health data,

c) inspect the medical documentation, as well as an extract or copy thereof

make or receive a copy at your own expense,

On the management and protection of health and related personal data

XLVII of 1997 Act (hereinafter: Eüak.):

"7. § (3) For the data subject, Regulation (EU) 2016/679 of the European Parliament and of the Council (the

hereinafter: General Data Protection Regulation) defined in Article 15 (3), that

the minister for all further copies of personal data that are the subject of data management

a fee must be paid based on the cost elements specified in the decree."

"30 § (1) The medical documentation - was prepared by the imaging diagnostic procedure

recordings, the findings made about them, and with the exception of paragraph (7) - from data collection

calculated for at least 30 years, the final report must be kept for at least 50 years. The mandatory

registration

-

if justified - the data can still be registered. If the further record is not

justified - with the exception of paragraph (3) - the register must be destroyed.

you are undergoing medical treatment after a period of time

for scientific research

(2) A recording was made with an imaging diagnostic procedure on the 10th day after it was taken

year, the findings of the recording must be kept for 30 years from the date of the recording. "

"35/K. § (1) The connected data controller shall, through the EESZT, provide the operator with a

conforms to the content and form requirements defined by the minister in a decree

way - for those entitled to access the medical documentation, § 4 (1) and (2)

for the purpose specified in paragraph 1 to the relevant documents via the EESZT

for access

- send it generated during health care

documents.

(2) The connected data controller may also fulfill its obligation under paragraph (1) by

that it makes it available to the EESZT in the manner specified in a ministerial decree

access to health documentation in the healthcare provider's system

way, if compliance with the technical requirements in the minister's decree

certified as specified."

LXXXVIII of 2014 on insurance activity. Act (Bit.) § 135, paragraph (1).

according to: "The insurer or reinsurer is entitled to manage its customers' insurance

information classified as confidential, which is included in the insurance contract

with the creation

records, are related to the service. The purpose of data management is only for insurance purposes

to conclude or modify a contract, in stock

to keep the insurance

necessary for the assessment of claims arising from a contract, or by this law

may be a specific other purpose."

Infotv. According to § 38, paragraph (2), the Authority is responsible for the protection of personal data,

and the right to access data of public interest and public interest

control and promotion of the validity of personal data in the European Union

facilitating its free flow within. According to paragraph (2a) of the same § The general

tasks and powers established for the supervisory authority in the data protection decree

is exercised by the Authority as defined in the decree and this law.

Infotv. According to § 60, paragraph (1): "the right to the protection of personal data

in order to enforce it, the Authority, at the request of the person concerned, data protection

initiates an official procedure".

Infotv. Based on § 60, paragraph (2): "to start the official data protection procedure

request in the case specified in Article 77 (1) of the General Data Protection Regulation

can be submitted".

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

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

with certain deviations.

The Akr. According to § 35, paragraph (1): "the request is a declaration by the customer with which

request the conduct of an official procedure or the decision of the authority for his right or legitimate interest

in order to enforce it".

The Akr. According to § 46, subsection (1), point a), the Authority will reject the application if it

there is a lack of legal conditions for the initiation of proceedings, and this law to that effect

it does not have any other legal consequences.

The Akr. According to § 47, subsection (1), point a), the Authority terminates the procedure if the application

could have been rejected, but the reason for that was after the initiation of the procedure

came to the attention of the authorities.

The Akr. Pursuant to § 103, paragraph (4), "if the authority in the ex officio procedure is

exceeds twice the administrative deadline, upon establishing the fact of the violation and is illegal

other than the obligation to terminate the conduct or to restore the legal status

no legal consequences may be applied. In this case, against the same client, at the same time

a new procedure cannot be initiated on factual and legal grounds".

The Akr. According to paragraph (4) of § 62, the authority freely chooses the method of proof,

and evaluates the available evidence according to his free conviction.

The Akr. Pursuant to § 124, procedural costs are all costs incurred during the procedure.

The Akr. According to § 129

(1) The authority determines the amount of the procedural cost and decides the cost

about wearing it, and about the possible reimbursement of the advance cost.

(2) The amount of the procedural costs shall be determined by taking into account the supporting evidence

to establish.

(3) The authority shall pay a lower amount instead of an unreasonably high procedural cost

states.

About procedural costs, reimbursement related to file inspection, costs

469/2017 on payment and exemption from costs. (XII. 28.) Government Decree 1.

According to § (1), procedural costs in the administrative authority procedure:

1. the fee,

2. the administrative service fee,

3. cost related to the appearance of the client,

4. cost related to the appearance of the person acting on behalf of the client,

5. reimbursement of expenses of the witness and official witness,

6. the expert fee,

7. costs related to the exercise of the right to inspect documents,

8. the translation cost,

9. the cost of interpretation,

10. correspondence arising from the client and other participants in the procedure,

document transmission cost,

11. the implementation cost,

12. costs incurred by the police participating in the procedure,

13. by the legal conduct of the inspection, the seizure, and the expert procedure

the amount of compensation arising in connection,

14. necessary for the clarification of the factual situation, performed by the acting authority

the cost of a test (requiring the use of laboratory or other special equipment),

which is not included in the levy or administrative service fee,

15. the cost incurred in connection with individual official measures,

16. other expenses incurred in connection with the procedure.

ARC. Decision

The Applicant asked the Authority to assess whether "[…]" legitimately wanted a fee

to charge for the requested personal data, requested that a violation be established

in the event that the Authority instructs "[…]" to provide the data free of charge

for, instruct “[…]” to amend the internal regulations, and instruct “[…]”,

to investigate whether a fee has been requested from anyone under such a legal title before.

IV.1. Establishing the identity of the data controller

First of all, it is necessary to assess whether it contains the health data of the Applicant

who is the operator of the documentation, who is therefore obliged to fulfill the access request.

The data in the health documentation is personal and medical data

are considered data according to Article 4, points 1 and 15 of the General Data Protection Regulation. Article 4

and the data controller according to point 7, who is responsible for substantive decision-making as defined there

has authority and is also responsible for data management

for the fulfillment of legal obligations. Thus, among other things, the data controller needs enough

to exercise the rights of those concerned [general data protection decree 12-23. article], that

prior to data processing, it must inform you about the essential circumstances of data processing

data subjects [Articles 13-14 of the General Data Protection Regulation].

In the case of this investigation, these conditions are fulfilled by the Applicant 2, the Applicant

he manages his health documentation, accordingly the access to the affected person

insurance and the obligation to provide a copy is also borne by him. The Applicant1 these data

is not considered a data controller.

Findings containing the Applicant's personal data are not handled by the Applicant1, and the

receiving an access request from – IV. As detailed in point 2 - by Applicant2

took place, so the Authority completed the part of the procedure aimed at data management of the Applicant 1

canceled because the request did not affect the data management of the Requested 1.

IV.2 Handling the access request

The request for access to the documentation is part of the data management activity

reception and the measures taken as a result, including the implementation of this by the Authority

investigated. Although the request is not directly the way to fulfill the access request

was aimed at checking, however, the legality of the fee to be paid for a copy of the findings

part of the discovery of how Respondent2 came to provide the copy

also decide on the charging of the fee.

16

The Applicant submitted his application due to the termination of the health insurance contract to Applicant 1,

as submitted to the insurance company contracted with him.

According to the statement of Applicant 1 dated July 7, 2021, he is choosing from the customer service

the taxing employee was an employee of the Applicant 2 at the time the access request was submitted,

who, by virtue of the contract between the Respondents, also provided information to the clients of Respondent 1

provided. According to the statement of Applicant 1, the employee's e-mail address is primarily a

Applicant2, secondarily, was also one of the contact addresses of Applicant1.

In response to the Requester's access request sent on July 17, 2020, the Requester2 on this

his colleague replied on August 12, 2020, in which he asked for clarification of the request, which the

The Applicant provided, and thereafter the Applicant inquired three times in 2020.

on September 30, he further directed him to the Call Center. The Applicant on October 5, 2020

contacted the data protection officer himself, who is both Data Protection Officers

official at the same time.

The attached contract for the Authority 6.1. point of the agreement until May 31, 2015

remained in force, or was automatically extended according to its provisions, then a

An extension after March 31, 2017 had to be concluded with a written agreement. Such

No further agreement was attached by the Applicant2, so the relevant content of the document -

since it is not effective based on the available data - the Authority did not evaluate it, instead

took into account the statements made in the procedure. According to these statements, the named

it would have been the customer service employee's duty to forward the request to the appropriate organization

towards the unit, especially after he noticed that the substantive content of the request after clarifying the request

not the insurance

for data generated during the legal relationship, but for health

documentation, i.e. the data managed by Applicant 2.

It is not necessary for the person involved in the data management to know the terms between the economic companies

legal relations, the letter sent to the contact information for receiving requests from stakeholders

it is the responsibility of the data controller to ensure the organizational measures to be taken. The data controller is

who organizes the process of data management and creates its conditions. The data manager

the most important

has and

is responsible for data management in all general data protection regulations

for fulfilling a fixed obligation.

characteristic is that substantive decision-making

with authority

The Data Protection Working Group discusses the concepts of "data manager" and "data processor".

1/2010. in his opinion no. he also explained that "Ultimately, the company or organization

must be considered responsible for data processing and resulting from data protection legislation

for obligations, unless clear elements indicate that a natural

person is responsible. [...] However, even in such cases where a specific natural person

appointed to ensure compliance with data protection principles or to protect personal data

process, this person will not be a data controller, but for that legal entity

acts on behalf of (a company or public body), which remains in the capacity of data controller

is also responsible in the event of a violation of the basic principles." The data controller is also responsible for administrative errors

bears the responsibility.

Although according to the statement, the employee's e-mail address is one of the contact addresses of Applicant 1

also had an address, the employee was an employee of Applicant 2, the employee is correct

providing instructions was the obligation of the Applicant 2.

Based on all of this, the violation related to the case is also the case of the Applicant 2 as a data controller

falls under his responsibility. Article 25 of the GDPR requires that the controller is the controller

implement appropriate technical and organizational measures for it throughout its entire process

to ensure that during the processing of the data subject's rights enforcement requests, the data subject

provide legal enforcement.

17

In response to the Applicant's request of July 17, 2020 and August 12, 2020, the

Respondent 2 did not respond within a month, failure to take action is common

breached Article 12 (4) of the Data Protection Regulation and was thus violated by the Applicant

right of access.

IV.3. Fee for copies

The Applicant2 agreed to pay a fee for a copy of the requested medical documentation

insurance, the Authority examined its legality in accordance with the request.

Findings edition attached to the statement of Respondent 2. according to the document:

”3.1.3 Fees

In all such cases, the first search is free of charge (whether on paper or X-ray

on a data carrier), when the client did not receive it previously for the given examination

the find, or it is not available on the online interface of […].

In the case of examinations where the findings have already been obtained (e.g. specialist examination

test result issued by the doctor at the end), the customer must pay for the copy of the findings

(see details in point 3.2).

3.2 Request for a copy of findings

3.2.1 Fee

When the client requests the release of findings from an investigation for which

- you have already received the find (on paper or X-ray on a data carrier)

-

or registered on the […] interface and was available to him there

then you will have to pay an administration fee for reissuing previously issued findings.

When digital x-rays are issued, we charge a copying fee for writing them to CD.

The customer will be informed in advance of the amount to be paid, and it will be delivered after payment of the fee

the requested documentation.

The customer must be informed in the case of a request for personal collection that if requested

copies of findings will not be accepted within 30 days of the customer's notification, that is in advance

paid administration fee will not be refunded."

The General Data Protection Regulation specifically regulates the exercise of the rights of data subjects

details. In this context, it states in Article 15 that the data subject is entitled to his data

access and state in Article 15 (3) that the data subject's request

the first copy of data is free of charge, after which costs may be charged for additional copies.

The Authority's position is that the sectoral legislation, in this case the Eütv. based on the

as a service provider's duty

independent of general data protection

from the exercise of stakeholder rights set out in the decree, the finding was made on the basis of the sector regulation

receiving it does not in any way constitute the exercise of the right of a data protection stakeholder.

Thus, when the person concerned is the first to receive information from the data controller about the findings that he may

otherwise have

request a copy, the data controller may not refer to it during the exercise of data subject rights,

that the finding has already been issued to the data subject based on the sector regulation.

According to the Authority's point of view, additional copies of the general data protection regulation cannot be made

to refer to the relevant provision, and the finding issued on the basis of the sectoral rule from the outset

to be considered a copy with reference to the fact that the original copy of the finding must be provided by the service provider

They are. to keep on the basis of - so the patient already receives a copy upon receipt of the findings, so that's it

a new copy is already considered a "further copy" - since the finding is made in this way and the patient

otherwise providing it for the first time is the obligation according to the sector regulation

publication of finds

existing

performance, and not in the course of legal enforcement provided to the data subject

Act.

The patient is therefore entitled to the Eütv at the end of the care. to get information about your illness based on

a document issued on his treatment, the outpatient card, or the final report, of this

by ensuring that the service provider complies with the special regulations for healthcare providers

does enough. This obligation of the service provider and this right of the patient is defined by the Eütv. same

is fixed by wording.

If the data subject subsequently requests from the data controller the general data protection regulation

to exercise access based on Article 15, and thereby contain your personal data

request a copy of the documentation, then the data controller has the general data protection

must act in accordance with the rules on the exercise of the rights of the data subject of the Decree, and a

examine the possibility or limitations of performance, but then the Eütv. applicable rules

are no longer relevant.

When fulfilling the access request, the data processing healthcare provider must

examine whether the person concerned has already submitted a request for the same data content, and

to judge the cost determination or exemption based on this.

According to the wording of Article 15 (3) of the General Data Protection Regulation,

data controller is data management

a copy of the personal data that is the subject of the data subject

makes available. Because according to the next sentence, additional copies can be requested

fee, copy of the first - requested by the data processing data subject during the exercise of the data subject's rights

therefore free of charge.

Since the Applicant is after the termination of his health insurance contract, it is general

He submitted a copy of his data for the first time since the mandatory application of the Data Protection Regulation

relevant claim, the Applicant 2 was provided with a copy of the data free of charge

would have to

It is necessary to analyze the right of access in terms of the method of securing the copy

regulation.

According to the regulation before the application of the General Data Protection Regulation, the data subject is

In the Eütv, it was as detailed under the title of patient rights and based on the provisions of the Eüak

entitled to request a copy of the medical records - and this provision

it was separate from the fact that he received the outpatient card and final report at the end of the care

– and, regardless of this, the rights of data processing stakeholders regulated in Infotv were granted

regarding information. Infotv. was not prescribed by the data subject when informing the data subject

the obligation to issue a copy of data, while the health sector regulations do so

provided to the person concerned.

During the domestic legal harmonization of the rules of the General Data Protection Regulation, the legislator

merged the previous sector rule with the one provided by the general data protection regulation

right of access and request a copy, thus when providing a copy of the documentation

only the rules of the general data protection regulation apply. This was justified by the fact that it is

The preamble paragraph (63) of the General Data Protection Regulation also states that a

right of access "includes the data subject's right to his or her state of health

for relevant personal data - such as diagnosis, examination findings, a

opinions of treating physicians, including treatments and interventions

health records - access'.

19

so that some data management circumstance

With the amendment of the domestic health regulations, the health documentation

in the case of the request for a copy not only as a check of the legality of data management,

rather, it appears as a quasi-patient right.

The latter is important because the exerciser of the right of access can exercise this right in general

due to access purpose,

its legality

make sure, but at the same time in the case of health documentation - the sector rule

repealing it - when requesting a copy of the documentation, the purpose of the request

in general, it is not the control of the data management, but that of the data subject

taking possession of data and documents, which is defined as patient rights.

That is why, according to the Authority's point of view, access to health documentation

provision, can be fulfilled in several ways, considering the data request as access

possible purpose.

The healthcare provider is obliged to provide the data, findings,

to upload results to the Electronic Health Service Space (EESZT), which is

state-run system. For the system of the EESZT, each person involved has a separate procedure

and you can access it through action, as access is personal at the Government Window

possible through an identification service initiated by appearance.

According to the Authority's point of view, any health care provider when providing access

you can refer to it, you can inform the data subject that the requested documents are for the data subject from this

are available from the source. At the same time, the position of the Authority is that this option is exclusive

it exists if the service provider is convinced that the data subject has access to the EESZT

with access, the documents requested by him are fully available there, as well as the person concerned

does not object to access via the EESZT after being informed about it.

If the data subject requests a paper-based copy despite this information, the copy

its release cannot be refused to him, since Article 12 (3) of the General Data Protection Regulation

according to the last sentence of paragraph

performance on the road.

The preamble paragraph (63) of the general data protection regulation states that "if

possible, the data controller can provide remote access to a secure system,

through which the data subject can directly access his personal data".

According to the Authority's point of view, in the present examined case, the health documentation has a

Availability through the system of the applicant2 […] – as a system operated by him – a

taking into account the above requirements, the fulfillment of access cannot be objected to.

In addition, however, if it arises and it is clear from the access request that it is affected

you specifically ask your healthcare provider for a copy because you have doubts

against some data of a document, so not concerning the documentation, that is

wants to exercise the patient rights detailed above, but specifically the service provider

requests a document in his possession, a copy must be provided directly to him, since then the

the purpose of exercising access is to ensure the legality of data management, as cited above

control, during which the data controller needs a copy of the data in its possession

to ensure.

The assessment of the purpose of the access explained above is solely the fulfillment of the access

is relevant in the context of the method, and it does not affect other provisions contained in the general data protection

regulation

enforcement of requirements, such as ensuring that the first copy is free of charge, or

taking the measures set out in Article 12.

20

In the present case, according to the revealed facts, the Applicant has his complete medical documentation

requested for the purpose of being able to present it when using another service provider, a

according to its wording, "all my findings and all personal information stored about me

I would like to ask to be able to take it further. Actually, this has not been necessary so far, because

I always visited you, and thus the past bowel data were available for the current examinations

during and thus possible trends and changes could be easily monitored. But then

that's over now, so I'm going to another doctor, then I'd like to take it all with me

past.".

The request

it is clear from the details that the Applicant's purpose is not data management

there was a check of the legality of possible additional data subject rights - correction, deletion -

in order to exercise it, but in the opinion of the Authority, the statements mean that

in this case, the purpose of the data request is to take possession of the copy, as

it was the exercise of patient rights.

The Applicant2 uses its own electronic system to ensure access to the documentation

has the system in which the Applicant is registered, with his own password

access, certain data and documents can be downloaded from the system, as well as the extracted data

printing is also not limited, which is the preamble of the General Data Protection Regulation (63)

complies with the performance method outlined in paragraph

In accordance with the above, the Authority will provide the Applicant's data available in the [...] system a

classifies it as fulfilled in terms of access. This data is the statement of the Applicant 2

based on the findings of laboratory tests, MRI, ultrasound and X-ray examinations.

If the limitation of access to be exercised by the Applicant is that to the system

you cannot access it for technical reasons (for example, you did not update your password in time),

in this case, the Applicant 2 must provide appropriate assistance to the Applicant

to access your data.

Furthermore, based on the above, if, despite access to the system, the Applicant a

would require copies of documents, for which it was cited in the general data protection regulation

according to the rules, it must be provided free of charge.

According to the statement of the Applicant2, the Applicant cannot be reached in the [...] system

other findings from his specialist medical examinations. Regarding these data, the Applicant2 a

is obliged to issue a copy, which he has not yet fulfilled for the Applicant. The ones explained above

pursuant to - since the Applicant is a member of the General Data Protection Regulation after May 25, 2018

submitted a stakeholder access request to the documents for the first time since its application

regarding - is obliged to provide these documents without charging a fee, whether electronic or

in paper format.

In view of the above, the Authority has revised I.1 of the operative part of the decision. according to point

found a violation of Article 15 (3) of the General Data Protection Regulation, and

In point I.2, based on point c) of Article 58 (2) of the General Data Protection Regulation

instructed the Applicant to include the Applicant's request in the justification

complete as explained.

IV.4. The policy of the Applicant 2 and its practice in relation to other stakeholders

examination based on the request of the Applicant

Part of the Applicant's request was aimed at the Authority instructing the Applicant2 to

to amend internal policies and investigate whether anyone previously under such title

have they applied for a fee?

These parts of the application are not considered a stakeholder application, so the relevant applicant

proceedings cannot be continued. The general data management practice of the data controller is the Applicant
does not directly affect his right or legitimate interest, such a decision of the Authority is a right for him
does not give rise to an obligation, and as a result of this - the enforcement of the public interest
with regard to the procedure falling within the scope of the Applicant is not considered a customer under Art. Section 10 (1)
on the basis of paragraph 1, and - since the Art. does not comply with paragraph (1) of § 35, e
there is no place to submit an application.

In view of the above, the Authority considers that the application is general
in the practice-oriented part of the Ákr. Section 46, paragraph (1) point a) and Ákr. Section 47 (1)
terminated the procedure based on paragraph a).

ARC. 5. Bearing the costs

The Authority is the Akr. on the basis of bearing the costs incurred during the procedure conducted by him
may provide, the Applicant did not prove this, so the reimbursement of his own hours spent on the case
his request was rejected by order.

V. Legal consequences:

V.1. The Authority partially grants the Applicant's request and Article 58 (2) of the GDPR
Based on point b), it condemns Applicant 2 for violating the general data protection law
Article 12 (4) and Article 15 (3) of the Decree.

The Authority instructs on the basis of Article 58(2)(c) of the General Data Protection Regulation
Requested 2 for free
comply with the Requester's access request a
Regarding data not available in the system of the applicant2.

V.2. The Authority examined whether data protection against the Applicant 2 is justified
imposition of a fine.

In this context, the Authority is in accordance with Article 83 (2) of the General Data Protection Regulation and Infotv.
75/A. considered all the circumstances of the case based on §. Given the circumstances of the case a
The authority found that in the case of the violation discovered during this procedure, the fine

would be necessary, and the violation committed by the Respondent is general

according to Article 83 (5) point b) of the Data Protection Regulation, the higher amount

it is considered a violation of the fine category, as it involved a violation of the rights of the data subject.

The imposition of the fine would be justified also considering that the violation is a special data

affected person, the Respondent's procedure made it difficult for the affected person to exercise their rights in such a way that

a

It would have imposed a financial burden on the Applicant, the Respondent regulated the enforcement of the rights of the

affected parties

limited, the fee schedule that conflicts with Article 15 (3) of the GDPR is the regular one

means its practice since the entry into force of the discovery regulations on 12 June 2019, and the data subject

the fulfillment of an access request in the manner established by the infringement by the Requested2-

would have resulted in an income of several thousand forints.

At the same time, since the Authority significantly exceeds the procedural deadline specified in Infotv

exceeded, or the Request was not due to a violation of the General Data Protection Regulation

convicted until the date of this decision, the imposition of the fine is waived.

Based on the above, the Authority decided in accordance with the provisions of the statutory part.

V.3. During the procedure, the Authority exceeded Infotv. One hundred and fifty according to § 60/A paragraph (1).

day administrative deadline, therefore the Ákr. Based on point b) of § 51, HUF 10,000, i.e. ten thousand

22

HUF belongs to the Applicant - at his choice - by transfer to a bank account or by post

with voucher.

VI. Other questions

The competence of the Authority is set by Infotv. Paragraphs (2) and (2a) of § 38 define it, and its competence is

covers the entire territory of the country.

The decision of the Ákr. 80-81. § and Infotv. It is based on paragraph (1) of § 61. The decision and the

order in the Art. Based on § 82, paragraph (1), it becomes final upon its publication. The Akr. § 112. (1)

and (2), and on the basis of § 116 (1) and § 114 (1), the

the ruling part with the decision according to point I and the ruling part II. by order according to point

on the other hand, there is room for legal redress through a public administrative lawsuit.

* * *

The rules of the administrative trial are set out in Act I of 2017 on the Administrative Procedure

hereinafter: Kp.) is defined. The Kp. Based on § 12, paragraph (1), by decision of the Authority

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

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

Pursuant to § 27, paragraph (1) point b) in a lawsuit within the jurisdiction of the court, the legal

representation is mandatory. The Kp. According to paragraph (6) of § 39, the submission of the statement of claim a

does not have the effect of postponing the entry into force of an administrative act.

The Kp. Paragraph (1) of § 29 and, in view of this, Pp. According to § 604, it is applicable

of 2015 on the general rules of electronic administration and trust services

CCXXII. According to Section 9 (1) point b) of the Act, the client's legal representative is electronic

obliged to maintain contact.

The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). THE

information on the possibility of a request to hold a hearing in Kp. Section 77 (1)-(2)

based on paragraph The amount of the administrative lawsuit fee is determined by the 1990 Law on Fees

XCIII. Act (hereinafter: Itv.) 45/A. Section (1) defines. The fee is in advance

from the payment of the Itv. Paragraph (1) of § 59 and point h) of § 62 (1) exempt it

party initiating the procedure.

If the obliged customer does not adequately certify the fulfillment of the prescribed obligations, a

The authority considers that the obligations have not been fulfilled within the deadline. The Akr. § 132

according to, if the obligee has not complied with the obligation contained in the final decision of the authority,

is enforceable. The Akr. Pursuant to § 133, enforcement - if you are a law

government decree does not provide otherwise - it is ordered by the decision-making authority. The Akr. 134.

pursuant to § the execution - if it is a law, government decree or municipal authority

the decree of the local government does not provide otherwise - the state tax authority

undertakes. Infotv. Based on § 61, paragraph (7), contained in the Authority's decision,

to carry out a specific act, for specific behavior,

you are patient

regarding the obligation to stop, the Authority will implement the decision

undertakes.

Dated Budapest, according to the electronic signature

Dr. Attila Péterfalvi

president

c. professor