

Subject: Decision rejecting the application

Case number: NAIH / 2019/2434/9.

DECISION

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

transmitted to the Central Credit Information System (hereinafter: the Applicant)

request for the rejection of his request for the deletion of his personal data

on 28 February 2019 against [...] ('the Applicant')

shall take the following decision in proceedings before a data protection authority.

The Authority shall be the personal data of the Applicant in the Central Credit Information System

The applicant sought the cancellation of his application

rejects.

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

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

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

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

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

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

legal representation is mandatory in these proceedings.

EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

The Applicant submitted a petition on 27 February 2019, in which it was a data protection authority

initiated a procedure and requested an investigation into the data processing of the Applicant. THE

According to the application, the Applicant first approached [...] (hereinafter: the Bank) requesting that

in the Central Credit Information System (hereinafter: KHR) - 10.02.2010. with date [...]

CHF 1,500 - for the deletion of the data relating to the omission

take action. The Applicant also sent a letter to the Applicant regarding his cancellation request. THE

the execution of the request for cancellation was rejected by the Applicant.

The Applicant attached to the application a copy of some of the documents supporting the alleged infringement.

a copy of which is as follows: a letter dated 14 February 2019 to the [...] Bank; from KHR

On May 17, 2017, a copy of the data requested for [...] Customer; the [...] Bank 80118186/61396564/36

a copy of the letter with the registration number; a copy of the invoice with serial number [...]; and to the [...] Bank

12/16/2010 A copy of the reply to the request received on [...] Bank, and

a copy of the letter concerning the installment payment, [...] Bank 2014 08.07. dated

a copy of your letter; the "Agreement" concluded with the Applicant on 15 May 2017 (a

hereinafter referred to as "the Agreement").

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In the application, the Applicant also objected to the data management of [...] Bank and the Applicant. The [...]

According to the attached Agreement and the credit report retrieved from the CCIS, the legal successor of the Bank and the

receiving reference data provider in the transaction of the Applicant - with ID [...]. THE

According to the Applicant, the Applicant did not comply with the Applicant's request for cancellation

reference to the overdue debt.

The application did not contain the identification data of the Applicant, nor did it fully contain the

a copy of the documents in support of the alleged infringement and to remedy the alleged infringement

The Applicant submitted a strong request, therefore the Authority called on the

Applicant. The Applicant stated in the call about his / her identification data and that he / she requests it

the decision of the Authority ordering the deletion of the default data. THE

The applicant attached to his statement a letter from [...] Bank, registration number 80118186/61396564/36,

the account number [...] and the file number [...] Bank UO-3695246/3749303/2019/5830885

and registration number 353694047 dated 29 August 2017

a copy of your letter.

At the request of the Authority, the Applicant stated that between [...] the Bank and the Applicant

On 27 February 2009, a loan agreement (hereinafter: loan agreement) was concluded.

The [...] Bank submitted the data of the Applicant to the CCIS on 10 February 2010 in connection with the default. notified to the Applicant by letter dated 13.02.2010. The loan agreement

It was terminated on July 12, 2010, so the full amount of the debt was paid

became due. The legal successor of [...] Bank in respect of the debt was [...], which was issued in November 2016

On day 1, the claim was assigned to the Applicant. The applicant referred to the central

CXXII of 2011 on the credit information system Act (hereinafter: Khr. Act) and

submitted that the assignment due to the assignment of the concessionary financial

institution, ie the Applicant, is considered to be the reference data provider.

The amount of the overdue debt of the Applicant exceeded the current monthly minimum wage and

delays in excess of this minimum wage amount shall be continuous for more than ninety days

existed, so Khr. TV. Pursuant to Section 11 (1) for the transmission of the Applicant's reference data

have been placed on the "negative list of KHR". The Applicant will be notified on 29 August 2017 and 2018.

also in their letters dated 26 November. The referenced letters are from the Applicant

sent a copy to the Authority. The letters are addressed by the Applicant to the Applicant's complaints

sent in response. According to the letter dated 26 November 2018, the reference data are legal

have been forwarded to the 'negative list of KHR' by the [...] Bank, of which the [...] Bank

2/13/2010 informed the Applicant by letter dated The Applicant informed and informed the

Applicant that "The termination of the contract and the claim was made against our Company

after the assignment of the debt became due in one installment, therefore, the repayment

Within the data, the frequency of repayment is: SINGLE (Lump sum repayment) and the method is:

SINGLE AMOUNT (Lump sum repayment). The repayment information was entered legally

we are not in a position to take action to amend them. "

The Applicant referred to the registration number BISZ-25029/2016 issued by BISZ Zrt. In 2016.

resolution (hereinafter: Resolution), according to which 1 year from the fulfillment of the debt

cancellation after the applicable may apply if the customer owes money

paid in full, without giving a discount. According to the Applicant 's statement a

The applicant's debt on the value date of March 18, 2019 is HUF 2,682,175 and it is not known that a would have gone to court to contest an outstanding claim.

According to the Resolution, "The registration period for defaulted contracts in the KHR, Khrt. § 8 different registration deadlines depending on whether the registrant whether the person has settled his debt and, if the debt has been settled, the full amount of the contract whether the resulting overdue debt has been settled or the debt is due to other reasons, such as the debt 3

terminated due to his partial release. " A Khr. TV. In the case according to Section 8 (2) a) 5 + 5 year is the time of data storage, so "If the amount of the delay, or in the event of a terminated contract, the amount of the total debt will not be settled by the Customer, in which case the data on the omission become obsolete 10 years after the data was transferred to the CCIS, and then shall be deleted automatically. "

The Applicant referred to the Khr. TV. § 8 (4), according to which in the event that a debt is settled in full, the data recorded after one year will be deleted immediately and irrevocably. The Applicant in this regard submitted that since the Applicant had not fulfilled its debt, an installment payment agreement was made the data cannot be deleted. The Applicant attached it to the Applicant on 15 May 2017 a copy of the installment payment agreement entered into (hereinafter: the Agreement), according to which a Applicant will pay the last installment by October 10, 2028.

II. Applicable legal requirements

On the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC Article 2 (1) of Regulation (EU) 2016/679 (hereinafter referred to as the General Data Protection Regulation) the General Data Protection Regulation applies to personal data in part or fully automated processing of personal data and the processing of personal data which are part of a registration system

which are intended to be part of a registration system.

Upon request, the information processing covered by the General Data Protection Regulation is information

CXII of 2011 on the right to self-determination and freedom of information Act (hereinafter:

According to Section 2 (2) of the Information Act, the general data protection decree is indicated therein

shall apply mutatis mutandis.

Pursuant to Article 17 (1) of the General Data Protection Regulation, the data subject is entitled to:

at the request of the controller, delete the personal data concerning him without undue delay,

and the data controller is obliged to make the personal data concerning the data subject unjustified

delete without delay if one of the following reasons exists:

(a) personal data are no longer required for the purpose for which they were collected or for other purposes treated;

(b) the data subject withdraws the authorization referred to in Article 6 (1) (a) or Article 9 (2)

(a) is the basis for the processing and there is no data processing

other legal basis;

(c) the data subject objects to the processing pursuant to Article 21 (1) and there is no overriding legitimate reason to process the data or the data subject objects to the processing pursuant to Article 21 (2);

(d) personal data have been processed unlawfully;

(e) personal data are required by the law of the Union or Member State applicable to the controller must be deleted in order to fulfill an obligation;

(f) the collection of personal data through the information society referred to in Article 8 (1)

in connection with the provision of related services.

Pursuant to Article 17 (2) of the General Data Protection Regulation, if the controller has disclosed personal data and is

obliged to delete it pursuant to paragraph 1, the available

taking into account technology and the cost of implementation

steps, including technical measures, to provide the data

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

deleting links or copies of such personal data.

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

(a) for the purpose of exercising the right to freedom of expression and information;

(b) the Union or Member State law applicable to the controller governing the processing of personal data

for the performance of a task carried out in the public interest or in the exercise of a public authority conferred on the controller;

(c) in accordance with Article 9 (2) (h) and (i) and Article 9 (3), a

on grounds of public interest in the field of public health;

(d) for the purposes of archiving in the public interest, for scientific and historical research purposes or for statistical purposes, in accordance with Article 89 (1), where the processing referred to in paragraph 1 is likely to make such processing impossible or seriously jeopardize; obsession

e) to file, enforce or defend legal claims.

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

the Authority shall, at the request of the data subject,

to initiate proceedings.

The Authority shall inform Infotv. With regard to Section 61 (1) (a), the General Data Protection Decree

It may apply the consequences provided for in Article 58 (2).

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

Infotv. Pursuant to Section 38 (2), the Authority is responsible for the protection of personal data and the monitoring the exercise of the right of access to data in the public interest and in the public interest and facilitating the free movement of personal data within the European Union.

CL of 2016 on General Administrative Procedure. Act (hereinafter: Ákr.) against the decision pursuant to § 112, § 16 (1) and § 114 (1)

there is a right of appeal through an administrative lawsuit.

Khr tv. Pursuant to Section 8 (1), the financial undertaking managing the CCIS - in Sections (3) - (4),

and, with the exception of Section 9, the reference data are specified in paragraph (2)

for a period of five years from the date of After the expiration of five years or further in accordance with § 9

In the event of withdrawal of consent to data management, the financial undertaking managing the CCIS shall a permanently and irrevocably deletes the reference data.

Khr tv. Pursuant to Section 8 (2), the calculation of the deadline specified in Section (1)

start:

a) in the case pursuant to Section 11, if the debt has not been terminated, the transfer of data pursuant to Section 11 (1)

the end of the fifth year from the date of

b) in the case pursuant to § 14, if the debt has not been extinguished, from the date of the transfer of data pursuant to § 14

the end of the fifth year

c) the date of transmission of the data in accordance with § 12, § 13 and 14 / A. §,

d) the date of termination of the queuing of claims in accordance with Article 14 / B. §,

(e) the date of termination of the entity's financial services contract;

f) * a 13 / A. § (1), the date of termination of the debt settlement procedure:

(fa) the failure of the Family Bankruptcy Service to settle out-of-court debt

date of notification,

(fb) the date on which the court order rejecting the court debt settlement proceedings becomes final,

(fc) a court ordering the termination of an out-of-court debt settlement agreement

the date on which the decision became final,

(fd) a court decision declaring a debt settlement arrangement to be terminating

the date on which the court decision establishing this becomes final,

fe) the date on which the court decision to release the debtor (co-debtor) becomes final,

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(ff) a court decision annulling a decision granting discharge of a debtor is final

date of rise

(fg) a decision to terminate the debt without relieving the debtor or partner

the date on which the court decision became final,

(fh) the successful completion of the out-of-court settlement of the debt by the Family Bankruptcy Service

date of notification to.

A Khr. TV. Pursuant to Section 8 (4), the financial undertaking managing the CCIS is the provision of data

in the event of late payment of a debt arising out of the contract which is the subject of the contract

immediately and irrevocably in one of the years following the

Reference data in accordance with paragraph 1.

III. Decision of the Authority

The Authority's request for the deletion of the data was required by the Authority to be considered

examine whether the data is being processed for the proper purpose and the general data protection regulation

on the basis of a legal basis under The claim for the data management of the Requested

The Authority does not examine the existence and legitimacy of the Infotv. Section 38 (2) - (2a)

does not fall within the competence of the Authority. Also before May 25, 2018

the lawfulness of data transfers to the CCIS during the period

nor does the Authority make any findings, as the data management prior to 25 May 2018

the general data protection regulation was not yet applicable and the general

Article 77 (1) of the Data Protection Regulation and Infotv. Pursuant to Section 60 (2) thereof

no application for an official data protection procedure may be submitted to the Authority in respect of

According to Article 4 (1) of the General Data Protection Regulation, the Applicant is liable to the Applicant

the data stored in the CCIS shall be considered as the personal data of the Applicant,

the transfer of which to the financial undertaking managing the CCIS constitutes data processing within the meaning of Article

4 (2) of the General Data Protection Regulation. Accordingly, the provisions of the General Data Protection Regulation, which

must be read in conjunction with the national rules permitted by the national regulatory option provided for therein, also apply

in the present case. In the same way as for all data processing

domestic legal provision, in this case the Khr. TV. related provisions of this Regulation

its rules need to be interpreted without breaking it down.

With regard to the reference data on natural persons registered in the CCIS, we can speak of mandatory data processing, the legal basis of which is Article 6 (1) of the General Data Protection Regulation.

paragraph 1 (c). A Khr. TV. determines the conditions under which it can be deleted

data transmitted from the CCIS in connection with late payment.

Pursuant to Article 17 (1) of the General Data Protection Regulation, at the request of the data subject, the controller

delete the personal data concerning him without undue delay if the data subject revokes the

and there is no other legal basis for data processing. Article 17 of the General Data Protection Regulation.

Article 2 (3) lists the cases in which even if the consent is withdrawn

personal data can be deleted. One of these cases is Article 17 of the General Data Protection Regulation

The case referred to in paragraph 3 (b) is when the processing of personal data is required by law.

A Khr. TV. Pursuant to Section 2 (1) (f) (1), to the Requested Reference Data Provider

it counts as. A Khr. TV. Pursuant to Section 5 (6), the data management of the CCIS is automated,

therefore, if an adjustment is required for the reference data transmitted, then

the modified data must be handed over by the reference data provider to the financial institution managing the CCIS (BISZ Zrt.), which will take it over automatically.

Based on the assignment made on November 1, 2016, Khr. TV. Pursuant to Section 7 (3), the Applicant shall be deemed to be the reference data provider in accordance with the agreement concluded by the Applicant [...] Bank.

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with regard to the contract. This is the amount and duration of overdue and unpaid debt

does not interrupt the calculation of the data, so the calculation related to the storage of the data is required on an ongoing basis

to carry out the Khr. TV. Pursuant to Section 7 (1).

The Khrtv. Section 8 (1) and (2) define the natural persons registered in the CCIS

the general duration of the processing of personal data concerning individuals. According to this, BISZ Zrt

reference data for a period of five years from the date specified in paragraph 2

handles. After the expiration of five years, BISZ Zrt. Cannot and will not restore the reference data way.

However, if the debt has not been extinguished, it shall be from the end of the fifth year following the date of the transfer to calculate the 5-year statutory period of data processing in the CCIS, which is therefore a total in this case, it means 10 years from the date of the transfer by the reference data provider

BISZ Zrt. is entitled to handle unpaid data on natural persons until reference data on the debt, if it has not disappeared in the meantime.

In the case of the Applicant, the [...] Bank on the overdue and unpaid debt of the Applicant 10.02.2010. on the day of the transfer to the CCIS. So from the end of the fifth year from that date to calculate the 5-year statutory period of mandatory data processing in the CCIS. Thus, February 10, 2020. BISZ Zrt. is entitled to manage the unpaid debt of the Applicant until reference data.

The Authority has established that the documents attached by the Applicant certify that the Applicant continues to also owes the Applicant, therefore the Applicant and BISZ Zrt.

obligation - Khr. TV. under the provisions of this Regulation. By the Applicant and the Applicant

The installment payment agreement concluded on 10.02.2010 does not on the day of transmission of the default deleting data.

If the Applicant pays the entire debt, BISZ Zrt.

immediately and irrevocably after one year from the date of termination of the Khr. TV. Section 11 (1) reference data in accordance with paragraph However, in the course of the proceedings, evidence that Applicant would have settled his entire debt, it did not arise.

In view of the above, the legal basis for the processing of personal data in the CCIS is general Article 6 (1) (c) of the Data Protection Regulation and therefore cannot be deleted at the request of the Applicant in accordance with Article 17 (3) (b) of the General Data Protection Regulation.

In view of the legal provisions referred to, no unlawful data processing can be established, as the conditions for the deletion of personal data contained in the CCIS, as defined by law, are not

therefore, the Authority rejects the Applicant 's request to order the

An application to delete the omission data in the CCIS.

ARC. Other issues

The powers of the Authority shall be exercised in accordance with Infotv. Section 38 (2) and (2a) defines its jurisdiction as a whole

country.

The Ákr. Pursuant to § 112 and § 116 (1) and § 114 (1)

there is an administrative remedy against him.

The rules of the administrative lawsuit are set out in Act I of 2017 on the Rules of Administrative Procedure (a hereinafter: Kp.). A Kp. Pursuant to Section 12 (2) (a), the Authority

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

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

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

applicable - legal representation in a lawsuit falling within the jurisdiction of the tribunal pursuant to § 72

obligatory. Kp. Pursuant to Section 39 (6), unless otherwise provided by law, the application

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

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

CCXXII of 2015 on the general rules of public administration and trust services. Section 9 of the Act

Under paragraph 1 (b), the client's legal representative is required to communicate electronically.

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

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

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

(hereinafter: Itv.) 45 / A. § (1). From the advance payment of the fee is

Itv. Section 59 (1) and Section 62 (1) (h) shall release the party instituting the proceedings.

Budapest, June 19, 2019

Dr. Attila Péterfalvi

President

c. professor