

Case number: NAIH / 2020/193/8.

(NAIH / 2019/8019.)

Subject: Partially successful application

tax decision

To the National Data Protection and Freedom of Information Authority (hereinafter: the Authority) 2019.

In his application received on 18 November [...], the Applicant shall process the [...] Applicant's data

he objected. At the request of the Applicant, the Authority will provide personal data on 19 November 2019

shall take the following decisions in the data protection authority proceedings concerning the unlawful processing of personal data:

I. The Authority

IN ITS DECISION

grant the applicant 's application in part, and

1) establishes that the Applicant has not deleted or corrected the Applicant

on the basis of the applicant's application dated 25 September 2018.

By doing so, the Applicant violated the personal data of natural persons

the free movement of such data,

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

(hereinafter referred to as the General Data Protection Regulation), Article 17, Article 17 (1)

and Article 5 (1) (d) of the General Data Protection Regulation.

2) finds that the Applicant did not provide information to the Applicant in 2018.

on 25 September 2006

measures. In doing so, the Applicant violated Article 12 of the General Data Protection Regulation.

Article 1 (1) to (4).

3) establishes that the Applicant has the appropriate information and consent of the Applicant

transferred his personal data to [...] without a proper legal basis. With this

the Applicant has infringed Article 6 (1) of the General Data Protection Regulation and

Article 13.

II. In its decision, the Authority shall notify the applicant of its own motion

HUF 600,000, ie six hundred thousand forints

data protection fine

obliges to pay.

III. The Authority

IN THE PERFORMANCE OF

1) terminate the data protection official procedure in the part of the application according to which

the Authority shall instruct the Applicant to ensure that the Applicant is accurate

keep a record of your personal information;

2) order the payment of HUF 10,000, ie ten thousand forints, to the Applicant

due to exceeding the administrative deadline, by transfer to a bank account of your choice

or by postal order.

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The Authority shall impose a data protection fine within 30 days of the final adoption of this Decision

centralized revenue collection target settlement forint account (10032000-01040425-00000000

Centralized direct debit IBAN: HU83 1003 2000 0104 0425 0000 0000)

to pay. When transferring the amount, NAIH / 2020/193. JUDGE. number should be referred to.

If the Applicant fails to meet the obligation to pay the fine within the time limit, the above

is required to pay a late payment surcharge on the account number. The amount of the late payment allowance is the statutory interest,

which corresponds to the central bank base rate in force on the first day of the calendar half-year affected by the delay me.

In the event of non-payment of the data protection fine and the late payment allowance, the Authority shall order a implementation of this Decision.

I., II. and Annex III to this Decision. against an order under

there is no administrative remedy, but they are within 30 days of notification a

With an application addressed to the Metropolitan Court independently, in a separate administrative lawsuit

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

forward it to the court together with his documents. Indicate the request for a hearing in the application

must. The lawsuit filed against the order was tried by the court in a simplified trial out of court

judge. For non-personal tax exemptions, judicial review

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

legal representation is mandatory in these proceedings.

EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

I. 1. By letter received on 18 November 2019, the Applicant submitted a request to the Authority,

on the one hand, alleging that his former employer, the Applicant,

as a temporary residential address, despite the fact that it ceased to exist in June 1999.

According to his statement, the Applicant has indicated to the Applicant several times that he has ceased to exist

the address of the temporary residence, therefore - in his opinion - to the Applicant several times

would have had the opportunity to delete this data. According to the Applicant 's statement, for the first time in 1999

in the summer, at the time of the actual cessation of his temporary home address. Thereafter, the

The legal succession took place at the Applicant on 1 June 2007 and in connection with this the Applicant

there was a change in his legal relationship, so in the Applicant's view he still had to cancel it

the Applicant's terminated temporary residential address. According to the Applicant's statement

and, from March 2014, the use of the car authorized for it

agreement, and during its annual renewals, the Applicant was aware of the

The termination of the applicant's temporary residential address, so he should have deleted this data even then.

The Applicant will then perform a gas meter inspection on 27 and 28 September 2016

also informed the Applicant 's staff member in an e - mail relating to

your previous temporary home address has expired.

The Applicant sent an electronic message to the CEO of the Applicant on September 25, 2018

In its letter, it also indicated, in addition to its other non - data protection complaints, that

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the former temporary home address has been abolished. According to that letter, he referred to the letter of 27 September 2016.

and on the 28th day of the electronic inspection of gas meters with the Applicant
correspondence stating that he had moved out of property number [...] in June 1999,
which fact was also reported to the Applicant's Personnel Department.

In his request, the Applicant also complained that he had transmitted it without his consent
personal data of the Applicant to [...].

The Applicant has asked the Authority to establish that the Applicant has committed an infringement
in connection with the registration of personal data and instruct the Applicant to:

Keep true personal information about the applicant. The Applicant further requested that:
the Authority finds that the Requested Person has committed a personal data breach [...] in the context of its transmission without its consent.

I. 2. In its order to initiate the data protection authority procedure, the Authority notified a

He invited the applicant to make a statement and provide information in order to clarify the facts.

According to the Applicant's statement, Act I of 2012 on the Labor Code (a

hereinafter: Mt.) § 6 (4) stipulates as a general rule of conduct that a

in the employment relationship, the parties are obliged to inform each other of any facts, data, circumstances or these
to inform about the change, which is defined in the establishment of the employment relationship and in the Mt.

relevant to the exercise of rights and obligations. According to the Requested

consequently, it is the Applicant's responsibility to provide the Applicant with any data changes

report. However, according to the Applicant's employment records, the Applicant did not report

the termination of the temporary residential address to the Applicant as an employer, therefore this change is not

has been transferred, its temporary home address has not been deleted. To the submissions of the Applicant however, subject to a request from the Authority, the Applicant took action against the Applicant deleting his temporary address from his employment records on 17 January 2020.

The Applicant will send an e-mail on September 27, 2016 and September 25, 2018

In connection with the letters sent by the Applicant, the Applicant stated that the log file of his mail system was 90 days will be deleted automatically after, so you will not know the emails referenced by the Applicant

to retrieve. The e-mails in question could be contacted by the Applicant if the Applicant a

However, if these recipients have already left the Applicant, the

their mailbox has also been deleted. There is no document in this regard in the Applicant

available to you.

According to the Applicant's statement, the Applicant's name, tax identification number, mother's name, date of birth has transmitted his place and time and his habitual residence to [...], which is available on the internet

through its surface on October 12, 2018.

According to the Applicant's statement, the reason for the data transfer was that in 2018

the tax rules for benefits have changed, as a result of which Széchenyi

Taxation of all other cafeterias in addition to the Rest Card (hereinafter: SZÉP Card)

rose. As a result, it was expected that he would not have had a SZÉP Card until then

employees will receive this benefit in the future. The SZÉP Card in the current semester

The rules for applying for The former, the Széchenyi Resting Card

55/2011 on the rules for the issue and use of (IV. 12.) Government Decree a

It was the employer's task to order the SZÉP Cards, but the new Széchenyi Pihenő Card

76/2018 on the rules for the issue and use of (IV. 20.) Government Decree

the employee already had to contract directly with the fund provider. Data transmission

However, at the time of the proceedings, there were a number of uncertainties surrounding the course of this process previous systems, but not the final procedures on the treasury side

have been developed. By letter dated 13 December 2018, for example, [...] informed the Applicant that "Until January 4, they can record new employees in the usual way a Portal and they can order the card for them. Only send out a contract offer we know the employees who were recorded by December 28, 2018 and also an email address they give them. " It follows from the referenced and similar previous information that Applicant for the smooth transition of the employees of the NICE Card should be assisted in the application process.

According to the statement of the Applicant, the purpose of the data processing was that the Applicant is the SZÉP For employees who do not have a card before, start the application process. This in practice, it meant that the personal data requested by the fund provider were on the internet interface of the cash register service provider by the Applicant through his / her own account and for this generated a claim form based on which he handed over to the employees. This was formed by the Applicant transfer of your personal data. The Applicant did not process the Applicant's personal data after the application process has been completed for this purpose.

According to the Applicant's statement, during the material period the Applicant's expectation was that a Employees without a SZÉP Card will opt for this benefit in the future. THE BEAUTIFUL The legislation for applying for a card has changed at that time and a on the treasury side, there are many around the transition to the new rules and technical administration there was uncertainty. If the Applicant does not provide any assistance to the employees workers would not have been able to do so at all or with disproportionate effort apply for the SZÉP Card on time. It was in the legitimate interest of the Applicant that this fringe benefit will be provided smoothly to employees on 1 January 2019 and from employees to facilitate administration on their side. Erre the Applicant has decided to proceed as described above.

According to the Applicant's statement, the process was carried out by the Applicant's Human Customer Service, which department staff have direct and day-to-day contact with employees. THE BEAUTIFUL

It is also central to changes related to the card as well as fringe benefits

there was also communication towards the employees. In addition, about the process and the process in connection with the Applicant were, at any time, entitled to employees to ask questions, report complaints to Human Support, or to protest against their involvement in the process.

According to the Applicant's statement, the rights of the affected employees are affected by the Applicant is included in the general employee information sheet, which also applies to this data management.

The Claimant, despite claiming a legitimate interest in the fringe benefit due to the smooth provision of the application form, it also stated that after the application form was generated, the Employees requesting the application have received the application form and the consent statement, signed, with which they also received direct information in connection with the application for the SZÉP Card. This therefore, the Requested also based the data transfer on the legal basis of the consent.

According to the Applicant's statement, the transfer of the Applicant's personal data is October 2018

It took place on the 12th day. The [...] NICE is printed from the [...] Internet interface of the Applicant

The Applicant's signature must also be submitted on the main card application form and the data management consent statement.

however, the declaration was not signed, given that the

The Applicant's employment with the Applicant was terminated on 19 December 2018.

According to the Applicant's statement, the procedure objected to by the Applicant is due to changes in legislation was a one-off measure during the implementation period, after which all

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the employee to apply for the SZÉP Card through the channels established and operating since then you have to do it yourself.

Furthermore, in the Applicant's view, the data processing did not have a significant impact on the data subjects as well as to the Applicant, as it was a one - off step (generating the application form) and

For the Applicant, it lasted only until the application form was generated, after which the Applicant a

no further processing of personal data for this purpose. Data management is also concerned the contracting process had to be completed by the parties concerned and data was transferred to a financial institution with a reputation in the market and the present case not counting no complaints were received by the Applicant in this regard.

According to the Applicant's statement also according to his records - which is pre-2012 data not included - the Applicant received from 1 January 2012 to 18 December 2018 cafeteria benefit.

According to the statement of the Applicant, during the preparation of the SZÉP Card application form, as well as during the The agreement on the reimbursement of the costs of the applicant 's employment also by the The Permanent Address of the Applicant is indicated by the Applicant for each employee records.

II. Applicable legal provisions

Pursuant to Article 2 (1) of the General Data Protection Regulation, for the processing of data in the present case the general data protection regulation applies.

Act CXII of 2011 on the right to information self-determination and freedom of information. Act (a hereinafter: Infotv.) pursuant to Section 2 (2) of the General Data Protection Decree therein shall apply with the additions set out in the provisions set out in

Infotv. Pursuant to Section 60 (1), the enforcement of the right to the protection of personal data the Authority shall, upon request, initiate an official data protection procedure and of its own motion initiate proceedings against the data protection authority. The data protection authority procedure is the general administrative CL of 2016 on Public Order. (hereinafter: Ákr.) shall apply with the additions specified in the Infotv. and with the exceptions according to the general data protection decree.

Infotv. Pursuant to Section 60 (2): "Application to initiate official data protection proceedings

Article 77 (1) and Article 22 (b) of the General Data Protection Regulation may be submitted in certain cases. "

Under Article 77 (1) of the General Data Protection Regulation: 'Other administrative or

without prejudice to judicial remedies, any person concerned shall have the right to lodge a complaint with a supervisory authority, in particular where he has his habitual residence, place of employment or presumption in the Member State of the offense, if the person concerned considers that his or her personal processing of personal data infringes this Regulation. "

According to Article 4 (10) of the General Data Protection Regulation: "" third party "means a natural or legal person a legal person, public authority, agency or any other body which is not the same with the data subject, the controller, the processor or the persons who are the controller or authorized to process personal data under the direct control of a data processor they got."

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According to Article 4 (11) of the General Data Protection Regulation: "" consent of the data subject "means the data subject voluntary, specific and well-informed and unambiguous declaration of will, by which the statement concerned or the act of confirmation is unequivocally expressed, consent to the processing of personal data concerning him or her. "

Under Article 5 (1) (d) of the General Data Protection Regulation: 'Personal data shall:

(d) be accurate and, where necessary, kept up to date; all reasonable measures must be taken in order to ensure that personal data are inaccurate for the purposes of data processing deleted or corrected immediately ("accuracy"). "

According to Article 12 (1) to (4) of the General Data Protection Regulation: '1. The controller shall

take measures to ensure the processing of personal data by the data subject

all the relevant information referred to in Articles 13 and 14 and Articles 15 to 22. and Article 34

each piece of information in a concise, transparent, comprehensible and easily accessible form, in a clear manner

and provide any information addressed to children, in particular, in plain language

in the case of. The information shall be provided in writing or otherwise, including, where appropriate, by electronic means

must also be provided. Oral information may be provided at the request of the data subject, provided otherwise

the identity of the data subject has been established.

2. The controller shall facilitate the processing of the data subject in accordance with Articles 15 to 22. exercise of their rights under this Article. Article 11 (2)

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

3. The controller shall, without undue delay, but in any case upon receipt of the request, shall inform the data subject within one month of the following an application under Article measures. If necessary, taking into account the complexity of the application and the number of applications, this period may be extended by a further two months. The extension of the time limit is controller within one month of receipt of the request, stating the reasons for the delay inform the data subject within If the application has been submitted by electronic means, the information shall be provided if possible, by electronic means, unless otherwise requested by the data subject.

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

Under Article 6 (1) (a) and (f) of the General Data Protection Regulation: 'Personal data is lawful only if and to the extent that at least one of the following is met:

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

treatment;

[...]

(f) processing for the legitimate interests of the controller or of a third party necessary, unless the interests of the data subject take precedence over those interests or fundamental rights and freedoms which call for the protection of personal data, especially if the child concerned. "

Under Article 13 (1) to (2) of the General Data Protection Regulation: '(1) If the data subject personal data are collected from the data subject, the controller shall process the personal data provide the following information to the data subject at the time of acquisition each of them:

- (a) the identity and contact details of the controller and, if any, of the controller 's representative;
- (b) the contact details of the Data Protection Officer, if any;
- (c) the purpose of the intended processing of the personal data and the legal basis for the processing;
- (d) in the case of processing based on Article 6 (1) (f), the controller or a third party legitimate interests of a party;

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- (e) where applicable, the recipients or categories of recipients of the personal data, if any;
- (f) where applicable, the fact that the controller is a third country or international organization personal data and the Commission's decision on adequacy existence or absence thereof, or in Article 46, Article 47 or the second subparagraph of Article 49 (1) in the case of the transfer referred to in the first subparagraph, an indication of the appropriate and suitable guarantees, and the means by which copies may be obtained or made available reference.

2. In addition to the information referred to in paragraph 1, the controller shall process personal data at the time of acquisition, in order to ensure fair and transparent data management provide the data subject with the following additional information:

- (a) the period for which the personal data will be stored or, if that is not possible, that period aspects of its definition;
- (b) the data subject's right to request personal data concerning him or her from the controller access, rectification, erasure or restriction of their processing and may object to such against the processing of personal data and the right of the data subject to data portability;
- (c) information based on Article 6 (1) (a) or Article 9 (2) (a);

in the case of data processing, the right to withdraw the consent at any time, which

does not affect the lawfulness of the processing carried out on the basis of the consent prior to the withdrawal;

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

(e) that the provision of personal data is required by law or by a contractual obligation

based on or a precondition for concluding a contract and whether the person concerned is obliged to be personal

data and the possible consequences of providing the data

failure;

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

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

understandable information on the significance of such processing and on the data subject

its expected consequences. "

According to Article 16 of the General Data Protection Regulation: "The data subject shall have the right, at his request, to:

the data controller shall correct inaccurate personal data concerning him without undue delay.

Taking into account the purpose of the data processing, the data subject has the right to request the incomplete personal data

supplementing the data, inter alia, by means of a supplementary declaration. "

Under Article 17 (1) of the General Data Protection Regulation: "The data subject shall have the right 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 provided for in Article 6 (1) (a) or Article 9 (2) (a);

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

legal basis;

(c) the data subject objects to the processing pursuant to Article 21 (1) and there is no priority

lawful reason for the processing or the data subject objects in accordance with Article 21 (2)

against data management;

(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)

related services. "

Under Article 17 (3) of the General Data Protection Regulation: 'Paragraphs 1 and 2 shall not apply applicable if data processing is required:

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(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 or in the public interest or in the exercise of official authority vested in the controller

to perform a task performed in the exercise of a license;

(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 in accordance with Article 89 (1), scientific and for historical research or statistical purposes, in so far as the right referred to in paragraph 1 is concerned would be likely to make such processing impossible or seriously jeopardize; obsession

(e) to bring, assert or defend legal claims. "

According to Article 23 (1) of the General Data Protection Regulation: "The data controller or

Union or Member State law applicable to the processor may restrict the

12–22. Articles 34 and 34 and Articles 12 to 22. with the rights set out in Article

the rights and obligations set out in Article 5 in

obligations if the restriction respects fundamental rights and freedoms

necessary and proportionate measure to protect the following

in a democratic society:

- (a) national security;
- b) national defense;
- (c) public security;
- (d) the prevention, investigation, detection or prosecution of criminal offenses; or
enforcement of criminal sanctions, including against threats to public security
protection and prevention of these dangers;
- (e) other important general interest objectives of general interest of the Union or of a Member State, in particular:
Important economic or financial interests of the Union or of a Member State, including monetary,
budgetary and fiscal issues, public health and social security;
- (f) protection of judicial independence and judicial proceedings;
- g) in the case of regulated professions, the prevention, investigation and detection of ethical violations
and conducting related procedures;
- (h) in the cases referred to in points (a) to (e) and (g), even occasionally,
control, inspection or regulatory activity related to the provision of
- (i) the protection of the data subject or the protection of the rights and freedoms of others;
- (j) enforcement of civil claims. "

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

- (a) warn the controller or processor that certain data processing operations are planned
its activities are likely to infringe the provisions of this Regulation;
- (b) condemn the controller or the processor if he or she has breached his or her data processing activities
the provisions of this Regulation;
- (c) instruct the controller or processor to comply with the conditions laid down in this Regulation
request for the exercise of his rights;
- (d) instruct the controller or processor to carry out its data processing operations, where applicable
in a specified manner and within a specified period, in accordance with the provisions of this Regulation;

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

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

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

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

shall notify the addressees with whom it is addressed in accordance with paragraph 1 and Article 19

or with whom personal data have been communicated;

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

revoke a certificate issued by the. or instruct the certification body not to issue the

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

(i) impose an administrative fine in accordance with Article 83, depending on the circumstances of the case

in addition to or instead of the measures referred to in this paragraph; and

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

suspension. "

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

2. Administrative fines shall be imposed in accordance with Article 58 (2), depending on the circumstances of the case

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

whether it is necessary to impose an administrative fine or the amount of the administrative fine

In each case, due account shall be taken of the following:

(a) the nature, gravity and duration of the breach, taking into account the processing in question

the nature, scope or purpose of the infringement and the number of persons affected by and affected by the infringement

the extent of the damage suffered;

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

(c) the mitigation of damage suffered by the controller or the data subject

any measures taken to

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

and the technical and organizational measures taken pursuant to Article 32;

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

(f) the supervisory authority to remedy the breach and the possible negative effects of the breach

the degree of cooperation to alleviate

(g) the categories of personal data concerned by the breach;

(h) the manner in which the supervisory authority became aware of the infringement, in particular that:

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

in detail;

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

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

compliance with measures;

(j) whether the controller or processor has kept itself approved in accordance with Article 40

codes of conduct or approved certification mechanisms in accordance with Article 42;

and

(k) other aggravating or mitigating factors relevant to the circumstances of the case, such as:

financial gain or avoidance as a direct or indirect consequence of the infringement

loss.

[...]

5. Infringements of the following provisions in accordance with paragraph 2 shall not exceed 20 000 000

With an administrative fine of EUR 1 million or, in the case of undertakings, the previous financial year in full

up to 4% of its annual worldwide turnover,

the higher amount shall be charged:

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

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

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

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

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

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

or a request to permanently restrict or suspend the flow of data

non-compliance or failure to provide access in breach of Article 58 (1). "

Infotv. 75 / A. §: "the Authority shall, in accordance with Article 83 (2) to (6) of the General Data Protection Regulation,

shall exercise the powers set out in paragraph 1, taking into account the principle of proportionality, in particular:

by the law on the processing of personal data or by the European Union

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in the event of a first breach of the requirements laid down in a mandatory act of the

in accordance with Article 58 of the General Data Protection Regulation

take action by alerting the controller or processor. "

55/2011 on the rules for issuing and using the Széchenyi Resting Card. (ARC.

12.) According to Section 3 (2) of the Government Decree: "The institution, on the basis of an order from the employer,

opens a personal electronic voucher register per employee, which is kept up to date

employers granted on the rights specified in Section 71 (1) (c) of the PIT Act

balance of the aid. "

76/2018 on the rules for issuing and using the Széchenyi Resting Card. (ARC.

20.) Pursuant to Section 2 (1) of the Government Decree: "Act CXVII of 1995 on Personal Income Tax.

(hereinafter: the Personal Income Tax Act) (hereinafter:

Széchenyi Pihenő Card) the payment service provider

open and managed under a framework contract for the provision of a service is so limited

credited to a payment account for the purpose of which the funds are held exclusively for the purposes of this Regulation

may be used for specific purposes. A limited payment account is just a natural one

person may be the owner. "

III. Decision

III. 1. Register of the Applicant's temporary residential address

From the principle of accuracy of data pursuant to Article 5 (1) (d) of the General Data Protection Regulation consequently, personal data must be accurate and, where necessary, kept up to date. The controller shall take all reasonable steps to ensure that the processing takes place delete or correct personal data which are inaccurate for the purposes of

The General Data Protection Regulation regulates, within the framework of the rights of the data subject, and the right to cancel. On this basis, according to Article 16 of the General Data Protection Regulation, the data subject shall have the right to have it rectified by the controller without undue delay upon request inaccurate personal data, while Article 17 (1) of the General Data Protection Regulation specifies in which case the controller is obliged to provide the personal data of the data subject deleted, inter alia when personal data are no longer needed for the purpose of from which they were collected or otherwise treated.

The data controller 's obligations regarding the rectification and erasure of personal data shall be Article 12 of the General Data Protection Regulation.

Article 23 (1) of the General Data Protection Regulation also defines the cases in which which, if any, may be restricted to the rectification or erasure of personal data law and Article 17 (3) of the General Data Protection Regulation specifically deals with cases where in which the rules on the erasure of personal data do not apply.

In the present case, the Applicant's application includes several dates, including before May 25, 2018 marked when he indicated to the Applicant that his temporary home address had expired. The application on this parts of which concern applications for which, before 25 May 2018, the general took place before the date of application of the Data Protection Regulation and these requests are therefore the rules of the general data protection regulation do not apply. These parts of the application do not comply and Infotv. Conditions set out in Section 60 (2), as the injured party is affected

At the time of the exercise, the General Data Protection Regulation was not yet applicable, thus no application for an official data protection procedure by the Authority may be made in respect of them,

or the General Data Protection Regulation in respect of these alleged data subjects

The Authority does not have the power to examine compliance with the provisions of this Privacy Policy under the official procedure.

The Applicant shall apply the General Data Protection Regulation on 25 May 2018

The Authority's position on the letter submitted after

Sent electronically by the Applicant on September 25, 2018 to the CEO

In his letter, he indicated, inter alia, that his former temporary address had ceased to exist, referring him back

also to his letter of 27 September 2016, in which he also indicated this. The Applicant on this

also sent a letter to the Authority. In contrast, the Applicant stated that he was employed

Based on the records of the petitioner, the Applicant did not announce the termination of his temporary residential address in

He applied as an employer, so the change was not transferred or temporary

home address not deleted.

On the basis of all this and the content of the e-mail available to the Authority

it can be stated that the Applicant on September 25, 2018, the Applicant

email to the CEO, albeit on several other non-privacy issues

concerned, in which he announced the termination of his temporary residential address to the Applicant, the letter

based on its content, the Applicant should have deleted or corrected this

personal data, given that there were no circumstances under which it could be restricted

would have had the right to delete or rectify the Applicant's personal data, or to these

rules could not have been applied. Consequently, the Authority

notes that the Applicant does not contravene the rules of the General Data Protection Regulation

deleted or temporarily corrected the Applicant's temporary residential address

personal data in breach of Article 16, Article 17 (1) of the General Data Protection Regulation

and the general data protection rules for the processing of inaccurate personal data

the principle of accuracy of data in accordance with Article 5 (1) (d) of this Regulation.

III. 2. Measures taken on the basis of the Applicant's request to cancel his temporary home address

They are contained in Article 12 (1) to (4) of the General Data Protection Regulation

obligations, measures taken to receive and comply with the requests of the data subject

data controllers must do so.

The Authority examined the Applicant on 25 September 2018 as the CEO of the Applicant

requesting the cancellation of his temporary home address in respect of his e-mail

in this context, what measures the Applicant has taken with regard to general data protection

having regard to Article 12 (1) to (4) of that Regulation. The Applicant indicated in this letter - among others

between - to the Applicant that his previous temporary residential address has expired. The Applicant a

However, the applicant did not provide any information on this letter.

In view of the above, the Authority notes that as the Applicant did not provide a time limit

any information personal data sent by the Applicant on September 25, 2018

measures taken on the basis of his request for cancellation, breached the general data protection

Article 12 (1) to (4) of this Regulation.

The Authority draws the Applicant's attention to the need to establish appropriate internal processes

to ensure the exercise of the rights of the data subject and the Applicant as data controller

The manager must also know what the data controller's tasks and obligations are for the data subject

in the case of requests and indications, the organization, taking into account that the Applicant qualifies as a data controller

and not individual departments.

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III. 3. Recording of the Applicant's personal data in accordance with reality

In its application, the Applicant requested the Authority to instruct the Applicant to be the Applicant

keep accurate personal information.

According to the Applicant's statement, the Authority's knowledge of the official data protection procedure

from the employment records of the Applicant's temporary home address

on 17 January 2020, which was confirmed by sending the Requested Minutes.

Consequently, the Applicant's request to take action in this regard already

is not necessary, therefore the Authority Pursuant to Section 47 (1) (c), the proceedings were terminated, whereas the procedure has become devoid of purpose in this respect.

III. 4. Transmission of the Applicant's personal data

1. According to the Applicant's statement, the Applicant's name, tax identification number, mother's name, date of birth has transmitted his place and time and his habitual residence to [...], which is available on the internet through its interface on October 12, 2018 for the purpose of applying for the SZÉP Card facilitate and start work in the light of changes in the relevant legislation requesting the Applicant NICE Card.

76/2018 on the rules for issuing and using the Széchenyi Resting Card. (ARC.

20.) As of January 1, 2019, in order to order SZÉP Cards, a the employee must enter into a contract directly with the fund provider as opposed to it prior period, when it was the employer's responsibility to order the SZÉP Cards.

2. The Applicant indicated the legal basis of the legitimate interest as the legal basis for the transfer of data He argued that he had a legitimate interest in doing so outside the salary provide benefits to its employees smoothly from 1 January 2019, a and to make the administration easier on their side.

However, in the Authority's view, the legal basis for a legitimate interest can then be relied on data processing if the data processing is legitimate for the controller or a third party and not for the data subjects necessary to safeguard its interests. Article 4 (10) of the General Data Protection Regulation

It follows from the concept of a third party under Article

this plea cannot be relied on in order to

Consequently, the Applicant - and with it the other employees of the Applicant - as concerned

therefore, this plea was not applicable. In addition, the Applicant has a legitimate interest

qualified circumstance to facilitate the administration of employees, the Authority

cannot be considered as a legitimate interest of data controllers, it is also in the interests of employees as appears in the interest of stakeholders.

In the opinion of the Authority, it is related to the application for the SZÉP Card

the legal basis for the processing or transmission of data by the data subject or, in the case of the Applicant, it could have been the Applicant's consent.

The Claimant, albeit with a legitimate interest, relied on to ensure the smooth running of the fringe benefit, he also stated that after the generation of the claim form, the claimants were an application form and a statement of consent for data processing have been received and signed, giving direct access

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they also received information in connection with applying for the SZÉP Card. On this basis, therefore, the Applicant it also based the transfer partly on the legal basis of the consent, but not properly.

Consent is defined as defined in the General Data Protection Regulation

should be based on information, be voluntary and be accompanied by a specific, clear declaration of intent shall be the act by which the declaration or confirmation is unequivocally expressed

by giving his or her consent to the processing of personal data concerning him or her. It should be emphasized

that all this must apply to the person concerned and, in the present case, to the Applicant, and only

the data subject - the Applicant - can consent to the processing of his / her personal data, instead of other than present

In this case, the Applicant will not, as in this case there can no longer be a data subject's consent speak.

In connection with the voluntary nature of the consent, it can be stated that the established data protection practice

According to the Act, the voluntary nature of the contribution cannot be interpreted as a general rule in employment

due to the relationship of subordination between the employer and the employee, as in many cases

if the employee refuses his consent, it is material or non-material in nature

may be detrimental to him. Workplace data processing is therefore the legal basis for the data subject's consent

may be invoked only exceptionally, in principle where it is clear that it is

in the course of data processing, the employee acquires unconditional "benefits" and cannot receive any of them disadvantage of refusing data processing. Consequently, the present data management, respectively

the legal basis for the transfer of data could have been the consent of the Applicant, the Applicant as concerned

for he could have decided for himself whether or not to claim the benefit. If

The applicant would not have consented to the processing and transfer of his personal data for such purposes although he would not have received the allowance, he would not have been disadvantaged by his legal relationship context.

Consequently, in the Authority's view, before 1 January 2019, the Applicant could have transferred his personal data to [...] with the consent of the Applicant, regardless of whether the claim was ultimately made by the Applicant as an employer to sort. After 1 January 2019, when [...] is already directly concerned concludes the relevant contract with the employee, the Applicant no longer has such a role, as the data processing legal relationship is established between the data subject and [...].

On the basis of the above, the Authority concludes that the Applicant does not have an appropriate legal basis transmitted the Applicant's personal data to [...] on 12 October 2018 in violation Article 6 (1) of the General Data Protection Regulation.

3. In connection with the information on the transfer of personal data of the Applicant, it may be stated that that the data management information sent by the Applicant - as well as the Applicant himself a general employee prospectus, which does not, however, separate, does not appear with the benefits provided to the employees and the Applicant as an independent data management purpose related data management. However, in the case of several data processing purposes, for each data processing purpose, the data subjects must be informed separately about each data processing.

The Applicant also referred to internal correspondence on the basis of which he informed the employees and the Applicant about the application for the SZÉP Card and its changes.

These prospectuses did provide information on how to claim the benefit however, Article 13 of the General Data Protection Regulation cannot be considered as none of the information specified therein provide information.

On the basis of the above, the Authority concludes that the Applicant does not apply to the Applicant provided adequate information on the processing, in breach of the general data protection rules Article 13 of this Regulation.

III. 5. Sanctioning

1. The Authority grants the applicant's request in part and Article 58 of the General Data Protection Regulation. condemns the Applicant pursuant to Article III (2) (b) of this 1. infringed Article 16, Article 17 (1) of the General Data Protection Regulation and Article 5 (1) (d) of the General Data Protection Regulation by not deleting or correcting the Applicant's temporary residential address registered personal data.

However, given that Annex III to this Decision Pursuant to Section 3, the Applicant is the Authority The applicant took action after becoming aware of the data protection authority procedure on the deletion of the temporary home address from the employment records, at the request of the Applicant no action is required in this respect and the Authority did not instruct To satisfy the Applicant's request for the exercise of rights, but the Ákr. Pursuant to Section 47 (1) (c), the proceedings were terminated.

The Authority condemns it under Article 58 (2) (b) of the General Data Protection Regulation and the Applicant, since Annex III to this decision As set out in point 2 Article 12 (1) to (4) of the General Data Protection Regulation by failing to provide information on the action taken on the applicant 's request to cancel his temporary residence address.

The Authority also granted the Applicant's request in part and the General Data Protection Regulation Condemns the Applicant pursuant to Article 58 (2) (b), as Annex III to this Decision 4. infringed Article 6 (1) and Article 13 of the General Data Protection Regulation without the appropriate information and consent of the Applicant has transmitted your personal data to [...] in the absence of

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

imposition. In this context, the Authority shall comply with Article 83 (2) of the General Data Protection Regulation and Infotv. 75 / A. § considered all the circumstances of the case and found that the present

In the case of infringements detected during the procedure, the warning shall be neither proportionate nor dissuasive sanction, it is therefore necessary to impose a fine.

3. In setting the amount of the fine, the Authority took into account, in particular, that a

The applicant essentially made two separate applications to the Authority. One of his requests is temporary by registering, correcting or deleting the personal data of the home address by the Applicant, the other relates to the transfer of your personal data to [...].

In both applications, the Authority took into account that the applicant had committed infringements under Article 83 (5) (b) of the General Data Protection Regulation are higher constitute an infringement falling within the category of fines of

In both applications, the Authority took into account as an attenuating circumstance that the Applicant The Applicant was not harmed by the breach of Article [83] of the General Data Protection Regulation Paragraph 2 (a)].

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In both applications, the Authority took into account as an attenuating circumstance that the Applicant has not yet been convicted of a breach of the General Data Protection Regulation [General Data Protection Regulation] Article 83 (2) (e) of the Data Protection Regulation].

4. The Authority's request related to the correction or deletion of the Applicant's temporary residential address

As an aggravating circumstance, the Applicant took into account the fact that three times - these once during the period of application of the General Data Protection Regulation

The temporary home address of the applicant has ceased to exist [Article 83 (2) of the General Data Protection Regulation paragraph (k)].

The Authority's request for the correction or deletion of the Applicant's temporary residential address

As a mitigating circumstance, the Applicant took into account the fact that the Data Protection Authority after becoming aware of the initiation of the procedure, the Applicant deleted it from its records

temporary home address [Article 83 (2) (f) of the General Data Protection Regulation].

The Authority's request for the correction or deletion of the Applicant's temporary residential address

As an additional mitigating circumstance, the data processing was taken into account by the Applicant

concerned only his personal data. [Article 83 (2) (k) of the General Data Protection Regulation].

The Authority's request for the correction or deletion of the Applicant's temporary residential address

the General Court did not consider it relevant in setting the amount of the fine

circumstances under Article 83 (2) (b), (c), (d), (g), (h), (i) and (j) of the Data Protection Regulation, as

they cannot be interpreted in the context of the specific case.

5. The Authority shall deal with the transfer of personal data of the Applicant to [...]

The fact that the transfer was made by the Applicant was taken into account as an attenuating circumstance in relation to his application

and in the interests of workers, in an uncertain regulatory environment, resulting in financial disadvantage

not only did they not understand them, but the Applicant was just seeking to enforce the interests of the employee

[Article 83 (2) (a) and (k) of the General Data Protection Regulation].

The Authority's request for the transfer of the Applicant's personal data to [...]

the General Court did not consider it relevant in setting the amount of the fine

the circumstances referred to in Article 83 (2) (b), (c), (d), (f), (g), (h), (i) and (j) of the Data Protection Regulation,

as they cannot be interpreted in the context of the specific case.

6. The sales revenue of the Applicant in 2019 was in the order of HUF 20,000 million, thus the imposed

the data protection fine is remote from the maximum fine that can be imposed.

ARC. Other issues:

The powers of the Authority shall be exercised in accordance with Infotv. Section 38 (2) and (2a) determine the jurisdiction of the country

covers the whole territory.

The present decision of the Authority is based on Art. 80-81. § and Infotv. It is based on Section 61 (1). The decision is

Ákr. Pursuant to Section 82 (1), it becomes final upon its communication. The Ákr. Section 112 and Section 116 (1)

and (4) (d) and § 114 (1)

there is a right of appeal through an administrative lawsuit.

The Ákr. Pursuant to Section 135, the debtor is entitled to a late payment supplement equal to the statutory interest is obliged to pay if it fails to meet its obligation to pay money on time.

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The Civil Code. 6:48. § (1), in the case of a debt owed, the debtor is in arrears

valid on the first day of the calendar half-year affected by the delay

shall pay default interest at the same rate as the basic interest.

The rules of administrative litigation are laid down in Act I of 2017 on the Procedure of Administrative Litigation (a hereinafter: Kp.). A Kp. Pursuant to Section 12 (1) by decision of the Authority

The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (3) a)

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

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

representation is mandatory. A Kp. Pursuant to Section 39 (6), the filing of an application is administrative has no suspensory effect on the entry into force of the act.

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

604 applies, electronic administration and trust services are general

CCXXII of 2015 on the rules of According to Section 9 (1) (b) of the Act, the customer is legal representative is required to communicate electronically.

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

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

the amount of the fee for an administrative lawsuit in accordance with Act XCIII of 1990 on Fees. Act (hereinafter: Itv.) 45 / A. § (1). From the advance payment of the fee, the Itv. Section 59 (1)

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

If the Applicant does not duly demonstrate the fulfillment of the required obligation, the Authority shall

considers that it has failed to fulfill its obligations within the prescribed period. The Ákr. According to § 132, if the Applicant has not complied with an obligation contained in the final decision of the authority, it shall be enforceable. The Authority decision of the Ákr. Pursuant to Section 82 (1), it becomes final with the communication. The Ákr. Section 133 enforcement, unless otherwise provided by law or government decree ordering authority. The Ákr. Section 134 of the Enforcement - if law, government decree or in the case of a municipal authority, a decree of a local government does not provide otherwise carried out by a state tax authority. Infotv. Pursuant to Section 61 (7) in the decision of the Authority to perform a specific act, conduct or tolerate a specific act the Authority shall enforce the decision in respect of the standstill obligation implements.

Budapest, July 23, 2020

Dr. Attila Péterfalvi

President

c. professor