

Case number: NAIH / 2019/721/6

Administrator: dr. Dániel Eszteri

Subject: Ex officio

starting

data protection authority

procedure, summons

## SIX SECTIONS

The National Authority for Data Protection and Freedom of Information (hereinafter: the Authority) a

Ministry of the Interior (1051 Budapest, József Attila u. 2-4.) (Hereinafter: Customer) 2019.

with a data protection incident reported on January 9, 2019, as amended on January 14, 2019

the official inspection initiated on 21 January 2019 in connection with

at the same time, the data protection authority initiated ex officio due to the circumstances revealed during the inspection

procedure

1) finds that the Customer has not properly complied with the provisions of the

Article 34 of the General Data Protection Regulation.

2) instructs the Client to do so within 15 days of the notification of this decision

(a) publicly inform those concerned of the fact of the incident; and

the scope of the personal data concerned and the steps taken to remedy them

measures.

(b) inform through the CSDP system during the incident

users requesting data on the fact and circumstances of the incident,

the scope of the personal data concerned and the measures taken to deal with them; and

that if personal data of third parties have come to their knowledge, so

delete them.

3) order the final decision by publishing the identification data of the data controller

disclosure.

The Customer shall take the measures provided for in Clause 2 from the 15th day after the action has been taken must provide written confirmation, together with the supporting evidence, within Towards an authority.

In the event of non-compliance with the obligations under point 2, the Authority shall order the decision implementation.

There is no administrative remedy against this decision, but it has been available since its notification

Within 30 days, an action brought before the Metropolitan Court may be challenged in an administrative lawsuit. THE

the application must be submitted to the Authority, electronically, together with the case file

forward it to the court. The request for a hearing must be indicated in the application. The entire

for those who do not benefit from personal exemption, the fee for the judicial review procedure

HUF 30,000, the lawsuit is subject to the right to record material taxes. In the proceedings before the Metropolitan Court, the legal

representation is mandatory.

2

IND O K O L Á S

I. T h e n t a l e s, e l o z m é n y e k

On January 9, 2019, the Customer shall comply with Article 33 of the General Data Protection Regulation

made an incident report to the Authority, which was later supplemented on 14 January 2019. In this

submitted that on January 6, 2019, a totalcar.com journalist made an inquiry

To the Communications Department of the Ministry of the Interior, in which he drew attention to the fact that the

Vehicle Service Platform in test operation since 31 December 2018 (hereinafter:

It is also possible to get to know different personal data through the JSZP system. Of this

In support of this, the journalist attached a vehicle

profile. Based on the reporter's report, the Client was notified of the incident on the morning of January 7, 2019.

The Authority in relation to the reported data protection incident - the General Data Protection Regulation

33-34. on 21 January 2019 for the fulfillment of the obligations set out in Article

decided to initiate an inspection, of which it notified the Client. The above is stated in the application

In order to clarify and supplement the information, the Authority sent a fact-finding order to the Client

to NAIH / 2019/721/3 on 21 January 2019. Customer response January 23, 2019

and subsequently supplemented it on 29 January 2019.

The essence of the incident is that through the JSZP system, users have a vehicle registration number

may request different vehicle-related data

records (eg vintage, odometer reading, engine, etc.). Indicating the incident to the Customer

However, in some of his test queries, a journalist

that the JSZP system is personal to the previous owners of the vehicles (buyers, heirs)

also displayed your details (name, date of birth, mother's name, in some cases address). In addition, the

was in a gallery of photographs taken during a technical and / or authenticity check

some recordings showing natural persons.

According to the incident report, after the notification, the Customer together with the operator IdomSoft Zrt.

he immediately began reviewing the IT system and addressing the cause of the incident. The

An internal investigation into the incident found that until the system was repaired in total

15,820 personal data were issued. In several cases, the same user

accessed the data through multiple queries. With a total of 11,614 queries

pieces containing personal data were issued through the system. The affected

the estimated number of data subjects is thus around 11,000. According to the incident report, the Customer

it has not yet informed those concerned, but it has planned to do so.

According to the facts revealed, there were two types of data protection incidents in the operation of the JSZP:

- The first type includes cases where the system of vehicles is earlier

also displayed the personal information of their owners during queries.

- The second type includes cases where the technical and / or

images in a gallery of photographs taken during authentication

featuring natural persons.

The first type of incident was caused by a malfunction due to incorrect setup

system filter for the personal data displayed. It's about the incident

3

After becoming aware of it, the Customer instructed the operator IdomSoft Zrt to set it up

filtering this data so that it is no longer provided by

during queries. Applying this filter to the original system design anyway

was included. Using the filter, the cause of the incident was corrected.

In connection with the future prevention of the second type of incidents, the Customer

Edited a "methodological guide" for photos taken to verify the authenticity of motor vehicles

the right way to make it. The guide in the GARDEN system<sup>1</sup> is now available to professionals

for.

The Client also requested the issuance of a "methodological guide" for the operation of the KÖKIR system<sup>2</sup>

responsible for the Ministry of Innovation and Technology that the vehicle was made in the technical examination

such a document should also be available on how to take photographs correctly. With these is

they want to make sure that there are no more natural persons in the photos

included.

In addition to the above, the so-called

"Other" category, as photos that were personal were typically found here

data and thus posed too great a risk to the protection of personal data

infringement of rights.

In the case of the first type of incident, the Customer has not informed the parties concerned

stated that the reason was that the contact details of the persons concerned were not available

they are not identifiable and cannot be specifically reported in writing. He also stated that

that, in his view, informing the parties concerned would not have mitigated the potentially greater damage

nor a form of publicly available press release or other publication

applied.

Information on the second type of incident was sent by those concerned

for those who reported a problem with the photos to the Client (8 notifiers in total).

In addition to the above to inform stakeholders, the Customer has created an error report

e-mail address (jszp-hibabejelento@bm.gov.hu), where the information related to the data received on the JSZP complaints can be submitted.

The Client has classified the risk classification of the incident as negligible. THE

took into account the number of incidents during classification. As the vehicle register is approx. 5 million vehicle data and more than 100 million personal data related to it

therefore, the number of personal data obtained during the incidents (15,820)

query, 11,614 personal data) is negligible in relation to the number of data processed

(0.0158%). In addition, in the Customer's opinion, it is personal data that has been disclosed

1

When testing the authenticity of motor vehicles, the authentication of the participating testing stations

abbreviation of the system supporting its activities.

2

Central Road Information System to be used by the examiner during the technical examination of motor vehicles abbreviation.

4

the data subjects have been identified, but only cases of misuse of personal data

could be detrimental to those affected.

The Authority has closed the inspection and, on the basis of the facts revealed, falls within its competence initiated an infringement procedure, in which it took the present decision.

## II. A l k a l m a z o t t j o g s z a b á l y i r e n d e l k e z é s e k

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

the authority, within the limits of its competence, checks the provisions of the law

compliance with the provisions of this Regulation and the enforcement of the enforceable decision.

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) No 2016/679 (hereinafter referred to as the General Data Protection Regulation)

the general data protection regulation shall apply to the processing of data affected by a reported incident  
apply.

According to Article 33 (1) and (2) of the General Data Protection Regulation, the data protection incident

the controller without undue delay and, if possible, no later than 72 hours after

the data protection incident becomes known to the competent supervisory authority in accordance with Article 55

unless the data protection incident is not likely to pose a risk to the

the rights and freedoms of natural persons. If the notification is not made 72

within one hour, it shall be accompanied by the reasons for the delay. The data processor

without undue delay after becoming aware of the data protection incident

notifies the controller.

Pursuant to Article 34 (1) of the General Data Protection Regulation, if the data protection incident

is likely to pose a high risk to the rights and freedoms of natural persons

the data controller shall inform the data subject of the data protection without undue delay

incident.

Pursuant to Article 34 (3) (c) of the General Data Protection Regulation, the data subject does not have to

As referred to in paragraph 1 if the information would involve a disproportionate effort

necessary. In such cases, data subjects should be provided through publicly available information

be informed or similar measures should be taken to ensure that those concerned are similar

effective information.

Pursuant to Article 34 (4) of the General Data Protection Regulation, if the controller has not already done so

notified the data subject of the data protection incident, the supervisory authority, after considering that

whether the data protection incident is likely to involve a high risk, the data subject may order

one of the conditions referred to in paragraph 3

fulfillment.

5

Act CXII of 2011 on the right to information self-determination and freedom of information. law

(hereinafter: Infotv.) pursuant to Section 2 (2) of the General Data Protection Decree there

shall apply with the additions set out in the provisions set out in

In order to carry out the official inspection, Ákr. Pursuant to Section 7 (1) and Section 98 of the Authority

The provisions concerning the procedure shall apply in accordance with Article VI. with the exceptions described in Chapter

The

Ákr. Pursuant to Section 101 (1) (a), if the authority has committed an infringement during the official inspection

experience, initiates its official proceedings. Infotv. Section 38 (3) and Section 60 (1)

based on the Infotv. Personal data within the scope of its duties under Section 38 (2) and (2a)

ex officio in order to enforce the right to protection of personal data.

The Ákr. Pursuant to Section 103 (1), the Ákr. Initiated ex officio proceedings upon request

provisions of the Act on With the exceptions set out in §§ 103 and 104

apply.

The Ákr. Pursuant to Section 104 (1) (a), the Authority shall ex officio in its area of competence

initiate proceedings if it becomes aware of a circumstance giving rise to such proceedings;

under paragraph 3 of the same paragraph, the ex officio procedure is the first procedural act

starts on the day of the execution of the contract, the notification of the initiation to the known customer may be omitted if the

the authority shall take a decision within eight days of the initiation of the procedure.

Infotv. Pursuant to Section 61 (1) (a), it was taken in a data protection official proceeding

In its decision, the Authority Data management specified in Section 2 (2)

defined in the General Data Protection Regulation in the context of

may apply legal consequences. Article 58 (2) (b) of the General Data Protection Regulation

The supervisory authority shall condemn the controller or the processor if

data processing activities have infringed the provisions of this Regulation or the same paragraph (d).

instructing the controller, acting in accordance with

that its data processing operations are carried out, where appropriate in a specified manner and within a specified period of time;

bring it into line with the provisions of this Regulation.

Infotv. Pursuant to Section 61 (2), the Authority may order its decision - the data controller or

disclosure of the identity of the processor, if the

This Decision affects a wide range of persons through the activities of a body performing public tasks or the gravity of the infringement justifies disclosure.

The conditions for the imposition of an administrative fine are set out in Article 83 of the General Data Protection Regulation.

Article 2 of the Infotv. Pursuant to Section 61 (4) (b) - the general

subject to Article 83 (7) of the Data Protection Regulation, the fine in the case of a budgetary authority

it can range from one hundred thousand to twenty million forints. Infotv. 75 / A. §, according to the Authority

proportionality under Article 83 (2) to (6) of the General Data Protection Regulation

the processing of personal data

for the first time in the event of a breach of the rules laid down in law or a binding act of the European Union.

in accordance with Article 58 of the Data Protection Regulation, in particular the controller or processor shall be warned.

The decision is otherwise based on Ákr. Sections 80 and 81 shall apply.

6

### III. Dö n t é s

Based on the facts revealed, the Authority shall, in the context of the data protection incident

has come to the conclusion that the data processing Customer has become aware of the data protection incident

immediately correct the system error, issue instructions, and issue an error notification e-mail.

has taken almost all the necessary technical and organizational measures to create it

to ensure that the risk to the rights and freedoms of those concerned is no longer jeopardized

come true.



However, the Authority found that in the field of informing the Client

infringed Article 34 (1) of the General Data Protection Regulation.

Contrary to the Client's argument, the Authority will inform the parties concerned about the incident

considers that this is necessary because the risk to the data subject 's privacy is a

personally identifiable information (name, date of birth, mother's name, in some cases address)

typically high when disclosed. It can be committed with this information

misuse of identity (eg when concluding a contract).

As stated in recital 75 of the General Data Protection Regulation, the incident is high

support your risk assessment: According to this, if the data processing is identity theft

or misuse of identity may result in a substantial risk.

The relevant guidance of Working Party 29 provides similar examples<sup>3</sup>

incidents where those concerned need to be informed due to the high risk classification. All

The low proportion of published data compared to the data processed is not significant

to assess the risk to the privacy of data subjects in this particular case.

In the Authority's view, it is therefore necessary to inform data subjects as the data omitted

The impact and risks to their privacy can be reduced by:

are aware that their data may have been involved in this type of incident.

The Authority accepts the Client's reason for not being able to inform the data subjects individually

due to the lack of an exact notification address. However, this is the general data protection regulation

With regard to Article 34 (3) (c), shall not exempt any other appropriate means

from the obligation to provide information. According to the Authority, through publicly available information

it is feasible to properly inform those concerned about the circumstances of the incident. THE

In order to prevent possible misuse of identity, it is also appropriate to:

information by public disclosure if no other information is available.

It can be used for the general - general - error reporting e - mail address created by the Customer

it is not possible to fully inform the data subjects through the

data protection incident.

The Authority will also take further steps to reduce the risks posed by the incident

as a measure, to retrieve data through the system during the incident

3

[http://naih.hu/files/wp250rev01\\_en.pdf](http://naih.hu/files/wp250rev01_en.pdf) (Appendix B)

7

also inform the Customer of the fact and consequences of the incident and of the

to delete any data that may have been in their possession unlawfully. This measure is the responsibility of the Authority

the rights and freedoms of natural persons

in terms of risk reduction, as this will prevent and further reduce illegal activity

data management risk.

In view of the above, the Authority found that the Client had not complied with the general

Article 34 (1) of the Data Protection Regulation. The Authority is therefore in possession of

the Customer and the users requesting the data instructed the Customer in accordance with the provisions of this section

and to prompt users to delete the data.

The Authority shall be bound by Article 58 (2) (d) and (e) of the General Data Protection Regulation

the Customer to comply with Article 34 (3) (c) of the General Data Protection Regulation

inform those concerned of the incident by means of publicly available information,

and obliges the Customer separately regarding the users requesting the data

and to delete any data transmitted to them unlawfully as a result of the incident.

ARC. E g y é b k é r d é s e k

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

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

monitoring and facilitating the enforcement of The general data protection regulation of the supervisory

the tasks and powers established for the authority under the jurisdiction of Hungary

as defined in the General Data Protection Regulation and this Act

according to the Authority.

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

The Ákr. § 112 and § 116 (1) and § 114 (1), respectively

there is an administrative remedy against him.

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The rules of administrative litigation are laid down in Act I of 2017 on the Procedure of Administrative Litigation (a hereinafter: Kp.). A Kp. Pursuant to Section 12 (2) (a), the Authority

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. Act (a

hereinafter: E-Administration Act), the customer is legal in accordance with Section 9 (1) (b)

representative is required to communicate electronically.

8

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.) 44 / 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.

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

it considers that it has failed to fulfill its obligations within the prescribed period. The Ákr. According to § 132, if a

the obligor has not complied with the obligation contained in the final decision of the authority, it shall be enforceable.

The decision of the Authority Pursuant to Section 82 (1), it becomes final with the communication. The Ákr.

Pursuant to Section 133, enforcement is ordered by the decision-making authority, unless otherwise provided by law or

government decree. The Ákr. Pursuant to § 134 - enforcement if law,

a government decree or, in the case of a municipal authority, a local government decree otherwise

does not have - the state tax authority implements it. Infotv. Pursuant to Section 60 (7) a

To carry out a specific act contained in a decision of an authority, specified

the decision as to the obligation to conduct, tolerate or stop

shall be carried out by the Authority.

Budapest, March 19, 2019

Dr. Attila Péterfalvi

President

c. professor