

Registration number:

NAIH / 2019/2076/11

Object:

partially granting the application

decision, ex officio decision

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

the (place of residence: ; hereinafter:

Applicant's) personal data of the picture on 15 February 2019 City of Kerepes

Local Government (registered office: 2144 Kerepes, Vörösmarty u. 2 .; hereinafter:

On behalf of the Debtor) - by the Authority on 11 March 2019

ex officio to the general data management practices related to the Obligated Security Cameras

extended - in a data protection official procedure:

In its decision

1. granted the Applicant's application in part and finds that the Debtor has violated it

the right of the Applicant to self-determination of information by stating that 2144 Kerepes, Vörösmarty u. 2.

security cameras located in the building, for the reasons detailed in the explanatory memorandum, a

protection of personal data and the protection of such data

2016/679 / EU repealing Directive 95/46 / EC

(hereinafter referred to as the General Data Protection Regulation)

processed the personal data of the Applicant's image;

2. establishes ex officio that the Debtor 2144 Kerepes, Vörösmarty u. In building 2

data management practices in relation to its security cameras - in the explanatory memorandum

does not comply with the provisions of the General Data Protection Regulation,

nor did it comply with its obligation to provide prior information before 26 March 2019

towards stakeholders.

3. prohibit ex officio the use of I.2. the continuation of illegal camera data processing in accordance with point.

4. rejects the part of the application relating to the imposition of a sanction, but also the Debtor

ex officio due to unlawful data processing by him

HUF 5,000,000, ie HUF 5 million

data protection fine

obliges to pay.

5. Order of its own motion that this Decision be published on the Authority's website a

By publishing your identification data, you are not in the public interest

by anonymising.

II. order

having regard to the fact that it has exceeded the administrative deadline, it provides that HUF 10,000,

ie ten thousand forints, at the choice of the Applicant to be indicated in writing -

pay by bank transfer or postal order.

I.4. within 30 days of the final adoption of this Decision

forint settlement account of the Authority for the collection of centralized revenue (1003200001040425-00000000 Centralized collection account IBAN: HU83 1003 2000 0104 0425

0000 0000). When transferring the amount, the NAIH / 2019/2076 JUDGE. for

should be referred to.

2

If the Debtor fails to meet its obligation to pay the fine on time, it shall be in arrears

must pay a supplement. The rate of the late payment interest is the statutory interest, which is in arrears

equal to the central bank base rate valid on the first day of the calendar half-year concerned.

I.3. The fulfillment of the obligation provided for in paragraph 1 shall be finalized by the Debtor

must be in writing within 30 days of the

to the Authority.

Non-payment of the fine and the late payment allowance, as well as of the above I.3. obligation under point

in the event of non-compliance, the Authority shall order enforcement of the decision.

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. A II. There is no place for an independent appeal against the order under point it may be challenged only in an appeal against a decision on the merits. 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 non-exempt persons, the judicial review procedure 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

1. In his application to the Authority, the Applicant operated at the Debtor's registered office objected to the data processing of security cameras. In this he was offended by the workers in the building observation, lack of prior information that, among other things, the recordings are unknown recording interval, data storage time, inspection staff appropriate the right to have online or real-time surveillance, whether the camera was taken any regulations governing the operation of the data subject and the identity of the person responsible for the processing of the data subject.

In this regard, the applicant requested the Authority to establish the unlawful processing and the obligation to process data in accordance with the Mandatory Legislation. The Applicant also requested appropriate legal consequences.

2. The right to information and freedom of information following the request

CXII of 2011 on the basis of Section 60 (1) of the Information Act (hereinafter: the Information Act)

an official procedure was initiated, which the Authority initiated in March 2019 following a call for rectification

11 of its order of 11 September 2006, of its own motion, in view of the application of the German Municipality of Kerepes

extended the general data management related to the Mandatory Security Cameras

personal involvement of the Applicant at the individual request of the Applicant

examined.

3. In the course of the official procedure, following a request sent by the Authority on 11 March 2019, a

On March 27, 2019, Debtor submitted his documentation for security cameras

and data management information, according to which the Debtor is considered a data controller, the cameras

and his recordings only in the event of a security incident or at the request of an official or police authority

are used to fulfill, and in their absence after 3 working days of recordings

will be automatically deleted without viewing. Only the administrator can access the recordings

to it, with automatic logging, a copy of which was sent by the Debtor. The received

On the basis of this documentation, the Authority has identified that the data management information and the

3

the balancing test is 26 March 2019, therefore the Authority has repeatedly contacted the

Obligated to send the documentation in force during the period under review.

4. In its reply of 23 May 2019 to the Authority's further clarification questions, the

stated that for the period from 25 May 2018 to 25 March 2019, "he was not appointed

data controller "and did not have any internal regulations or data management information a

security camera data management.

5. In order to clarify the identity of the controller, the Authority shall clarify further facts

In his reply of 2 July 2019, the Debtor stated that

before 2144 Kerepes, Vörösmarty u. The operator of the building under number 2 was the Debtor. THE

Authority's further question to the Debtor submitted that the building inside the German

Municipality Kerepes uses office number 12 on the ground floor and, if necessary, a

downstairs small meeting room and upstairs meeting room.

The application, and the debtor's replies to the inquiries, were provided by him

In addition, the following could be established on the basis of the evidence.

6. The Debtor shall comply with the provisions of Art. Pursuant to Section 41 (1), it is an independent legal entity. A 15/2012. (IV.27.)

According to Annex 3 of the Local Government Decree, 2144 Kerepes, Vörösmarty u. Number 2

The property below is owned by the Debtor. The Ötv. § 107 of the local government

on the exercise of ownership rights in the property owned by the Debtor

has a representative body. The Ötv. Pursuant to Section 41 (2) of the Municipal Code

tasks are provided by the representative body and its bodies, one of which is the mayor's office

office. On September 30, 2013, the Office of the Compulsory Mayor entered into a contract with 2144

Kerepes, Vörösmarty u. On the installation and operation of cameras on property No. 2. THE

Office of the Mayor for the Maintenance and Servicing of Cameras March 2014

On the 24th he signed a contract. The construction contract was not available. The Debtor

According to the statement, the Debtor is currently the data controller of the cameras. In this operation

contracts were signed by the Debtor's notary. There is no official decision of the Board of Representatives or any other

decision regarding the use and installation of the cameras. THE

According to his obligated statement, 2144 Kerepes, Vörösmarty u. Operator of real estate under 2 a

In the period before March 26, 2019, he was the Debtor.

The Debtor is equipped with 2 outdoor cameras in the parking lot, 3 indoor cameras at the entrance

observes the area around it, the upstairs stairs and the upstairs corridor. The cameras

they make a video without sound. The subjects of the camera surveillance are the Obligated

employees, representatives of local government and ethnic self - government, and the

customers arriving for municipal administration.

According to the information available, camera recordings are made only in the event of a security incident

for which, according to the copy of the access log, 1 January 2019 and March 2019

There were no examples between the 22nd.

According to the Debtor's statement of 23 May 2019, only the

administrator has access rights, while the recordings of the clerk and privacy

official in a logged manner, however, effective March 26, 2019

According to the data management information, the mayor, the clerk, the
the undersigned and the Data Protection Officer are entitled.

II.

Applicable legal provisions

According to Article 2 (1) of the General Data Protection Regulation, the Regulation shall apply to
the processing of personal data in a partially or fully automated manner, and

4

for the non-automated handling of data contained in a registry

which are part of a registration system or which are intended to be part of a registration system.

The Infotv. Section 2 (2)

the general data protection regulation in the provisions indicated therein

shall apply with the additions set out in

Infotv. Enforcement of the right to the protection of personal data pursuant to Section 60 (1)

To that end, the Authority shall, at the request of the data subject, initiate a data protection authority procedure and
may initiate ex officio data protection proceedings.

In order to conduct the official procedure, the CL of 2016 on general administrative order.

Pursuant to Section 7 (1) of Act no. provisions of this Regulation

apply.

Personal data have been identified in accordance with Article 4 (1) of the General Data Protection Regulation
any information relating to an identifiable natural person.

Pursuant to Article 4 (7) of the General Data Protection Regulation, the controller is the natural or

legal person, public authority, agency or any other body which is personal

determine the purposes and means of data processing, either individually or in association with others.

Personal data pursuant to Article 5 (1) (a) of the General Data Protection Regulation

be processed lawfully and fairly and in a manner that is transparent to the data subject

("legality, due process and transparency").

Personal data pursuant to Article 5 (1) (b) of the General Data Protection Regulation may be collected for specified, explicit and legitimate purposes and not treated in a way incompatible with those objectives ('purpose-bound').

Personal data pursuant to Article 5 (1) (c) of the General Data Protection Regulation they must be appropriate and relevant to the purposes of the processing, and should be limited to what is necessary ("data saving").

Pursuant to Article 5 (2) of the General Data Protection Regulation, the controller is responsible for shall be able to demonstrate such compliance

("Accountability").

Processing of personal data under Article 6 (1) of the General Data Protection Regulation it is lawful only if and to the extent that it is at least one of the grounds listed therein exists.

Personal data pursuant to Article 6 (1) (e) of the General Data Protection Regulation may be lawful if the processing is in the public interest or entrusted to the controller necessary for the performance of a task carried out in the exercise of a public authority.

Personal data pursuant to Article 6 (1) (f) of the General Data Protection Regulation may be lawful if the processing is lawful by the controller or a third party necessary to safeguard its interests, unless those interests take precedence enjoy the interests or fundamental rights and freedoms of the data subject which are personal data protection, especially if the child concerned. The general

Article 6 (1), first subparagraph, point (f) of the Data Protection Regulation shall not apply to: a data processing by public authorities in the performance of their tasks.

5

According to Article 6 (3) of the General Data Protection Regulation, paragraph 1 (c) and (e)

The legal basis for the processing of data under this Regulation should be determined by:

(a) Union law, or

(b) the law of the Member State to which the controller is subject.

Infotv. Pursuant to Section 5 (3), Article 6 (1) (c) of the General Data Protection Regulation

and (e) (hereinafter referred to as "mandatory data processing") a

the types of data to be processed, the purpose and conditions of data processing, the familiarity of the data, the

the identity of the controller and the duration or necessity of the processing

its review is determined by the law or local government decree ordering data management

me.

Pursuant to Article 12 (1) of the General Data Protection Regulation, the controller is appropriate

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

concise, transparent, comprehensible and easily accessible

in a clear and comprehensible manner, in particular for children

for any information to which it is addressed. The information shall be provided in writing or otherwise - including

where appropriate, the electronic route. Oral information at the request of the data subject

provided that the identity of the data subject has been otherwise established.

The controller is obliged to provide information in accordance with Article 13 of the General Data Protection Regulation

provided to data subjects where personal data are provided directly from data subjects

collects. Under Article 13 of the General Data Protection Regulation, the controller is the personal data

provide the following information to the data subject at the time of acquisition

each of them:

(a) the identity of the controller and, if any, of the controller 's representative; and

contact details;

(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

legitimate interests of third parties;

(e) where applicable, the recipients or categories of recipients of the personal data, if any such;

(f) where applicable, the fact that the controller is in a third country or internationally personal data to the organization and the Commission

the existence or absence of a decision on adequacy, or in Article 46, Article 47

or the transmission referred to in the second subparagraph of Article 49 (1)

an indication of the appropriate and suitable guarantees and a copy thereof

reference to the means of obtaining them or their availability.

(g) the period for which the personal data will be stored or, failing that, the aspects of determining the duration;

(h) the data subject's right to request from the controller the personal data concerning him or her access, rectification, erasure or management of data

and may object to the processing of such personal data, and

the right to data portability concerned;

(i) Article 6 (1) (a) or Article 9 (2) (a)

consent shall be given at any time in the case of data processing based on

the right to withdraw, without prejudice to the prior consent of the consent

the lawfulness of the data processing carried out;

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

6

(k) whether the provision of personal data is legal or contractual

whether it is based on an obligation or a precondition for concluding a contract, and whether it

whether the data subject is obliged to provide personal data and to what extent

they may have consequences for non-reporting;

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

profiling as well as, at least in these cases, the logic used and understandable information on the significance of such data processing, and the expected consequences for the data subject.

(m) if the controller has access to the personal data for purposes other than those for which they were collected data processing, you must inform the data controller before further data processing concerned for this different purpose and all relevant information referred to in paragraph 2 additional information.

CLXXXIX of 2011 on the local governments of Hungary. Act (hereinafter:

According to Section 41 (1) of the Act, the local government is a legal entity, on the Civil Code the provisions of the Act on Legal Entities with the exceptions provided for in this Act should be used. The representative body is appointed by the mayor, the chairman of the county assembly, a represented by the mayor.

The Ötv. Pursuant to Section 41 (2), the performance of municipal tasks is carried out by the Board of Representatives and its bodies. Bodies of the representative body: the mayor, the mayor, the county Chairman of the General Assembly, Committees of the Board of Representatives, Board of the Sub-Government, a mayor 's office, county municipal office, joint municipal office, a notary, as well as the association.

The Ötv. According to § 107, the local government - with the exceptions specified by law - they shall have all the rights and be subject to all the obligations of the owner due, burdened. The exercise of the rights of the owner by the Board of Representatives has.

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.

Pursuant to Article 58 (2) (b) of the General Data Protection Regulation, the Authority

condemns the data controller or the data processor if it has a data processing activity

violated the provisions of the General Data Protection Regulation.

Pursuant to Article 58 (2) (f) of the General Data Protection Regulation, the Authority

temporarily or permanently restrict the processing of data, including the prohibition of data processing

is.

Pursuant to Article 58 (2) (i) of the General Data Protection Regulation, the Authority shall

shall impose an administrative fine in accordance with Article 1, depending on the circumstances of the case

in addition to or instead of the measures referred to in this paragraph.

Pursuant to Article 83 (1) of the General Data Protection Regulation, the Authority shall ensure that a

imposed pursuant to this Article for infringements of this Regulation referred to in paragraphs 4, 5 and 6

administrative fines shall be effective, proportionate and dissuasive in each case

be.

7

Infotv. 75 / A. Pursuant to Article 83 (2) to (6) of the General Data Protection Regulation, the Authority

exercise the powers set out in paragraph 1 in accordance with the principle of proportionality,

in particular by providing for the law or regulation on the processing of personal data

Requirements laid down in a binding act of the European Union

Article 58 of the General Data Protection Regulation

in particular by alerting the controller or processor.

Pursuant to Article 83 (2) of the General Data Protection Regulation, administrative fines are imposed by

referred to in Article 58 (2) (a) to (h) and (j), as the case may be

should be imposed in addition to or instead of measures. When deciding if it is necessary

to impose an administrative fine or to determine 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 infringement, taking into account the nature of the infringement in question

the nature, scope or purpose of the data processing and the number of data subjects affected by the

the extent of the damage they have suffered and the damage they have suffered;

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

(c) the damage suffered by the data subject by the controller or the processor

any measures taken to alleviate

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

the technical and organizational measures it has taken pursuant to Articles 25 and 32;

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

(f) with the supervisory authority, remedy the breach and the breach may be negative

the degree of cooperation to mitigate its effects;

(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

whether the breach has been reported by the controller or processor and if

yes, in what detail;

(i) if previously against the controller or processor concerned, in the same

the measures referred to in Article 58 (2) have been ordered

compliance with the measures in question;

(j) whether the controller or processor has complied with Article 40

approved codes of conduct or an approved certification in accordance with Article 42

mechanisms; and

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

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

profit or loss avoided.

Pursuant to Article 83 (7) of the General Data Protection Regulation, supervisory authorities 58.

Without prejudice to its powers of correction under Article 2 (2), each Member State shall:

may lay down rules for the establishment of a public authority established in that Member State

or an administrative fine may be imposed on another body performing a public function, and if

yes, to what extent.

Infotv. Pursuant to Section 61 (4) (b), Article 83 of the General Data Protection Regulation

In the case of a fine imposed pursuant to this Regulation, the amount of the fine may range from one hundred thousand to twenty million forints

to pay a fine imposed in a decision taken in a data protection authority proceeding
obliged budgetary authority.

The Ákr. Pursuant to Section 10 (1), a customer is a natural or legal person, other
an organization whose rights or legitimate interests are directly affected by the matter to whom

8

(for which) the official register contains data or for which (which) is official
controlled.

The Ákr. Pursuant to Section 35 (1), the application is a statement by the client by which it is official
request a decision or a decision of the authority on his right or legitimate interest
in order to enforce it.

Infotv. Pursuant to Section 61 (2), the Authority may order its decision - the data controller,
or by publishing the identity of the processor
if the decision affects a wide range of persons, the body performing the public task
or the gravity of the infringement committed in connection with the activities of
justify disclosure.

III.

Decision

1. Person of the controller

Pursuant to Article 4 (1) of the General Data Protection Regulation, the image of data subjects is personal
data, its recording constitutes the processing of personal data.

With regard to the examined data management, in addition to the Debtor, the Debtor's mayor's office is also available
it may be considered as a data controller, however, the demarcation of the role of data controller, the exact competence

any written decision regarding the distribution before the start of the data processing, regulations, no document was born. So the Debtor and the Debtor may arise joint data management of the mayor's office. However, as explained above the mayor's office is one of the bodies of the municipality, and the Debtor is dated March 2019 In his data management information valid from 26, he identified himself as a data controller, therefore a The Authority considered the Debtor to be Article 4 (7) of the General Data Protection Regulation the data controller in respect of the data processing in question.

Before starting any new data management in the future, it should be clarified that the security which body of the Debtor is entitled to make decisions regarding camera data management to determine in this connection how the division of tasks and powers in the Obligated will develop within. The Debtor is also obliged to start the data processing itself and its conditions must be formal decision to comply with the General Data Protection Regulation knowledge of the documentation.

2. The period considered

In the subject matter covered by the application, the data processing period examined is the general data protection This Regulation shall apply from the date of entry into force of this Regulation (25 May 2018) data processing was not examined by the Authority in the present proceedings.

3. Legal basis for data management

The data controller is a lawful data management requirement within the scope of data management in general the legal bases set out exhaustively in Article 6 (1) of the Data Protection Regulation you can only start based on one of them.

The Debtor did not identify any during the period under review until March 26, 2019 legal basis on which he would have continued to process his data. From March 26, 2019, the general legitimate interest within the meaning of Article 6 (1) (f) of the Data Protection Regulation

as a legal basis for camera data processing, as a legitimate interest of its own employees, ensuring the security of the person and property of their employees and customers, they indicating the prevention of harm.

According to the second subparagraph of Article 6 (1) of the General Data Protection Regulation, Article 6 Point (f) of the first subparagraph of paragraph 1 shall not apply to tasks performed by public authorities data management during the provision of

As the Ötv. is a public authority on the basis of the above, due to the above may not validly base a legitimate interest on the processing of data which:

in a building necessary for the performance of its public task and the exercise of public power related to its operation. In the case of the Obligation - in view of the general data protection

The conditions for the application of the legal bases set out in Article 6 (a) to (d) of this Regulation are not met only Article 6 (1) (e) could be considered as data processing

legal basis for its legality. According to this, it could then be considered legitimate

data processing if the data processing is in the public interest or public authority entrusted to the data controller necessary for the performance of a task carried out in the exercise of that right.

Accountability under Article 5 (2) of the General Data Protection Regulation and the requirement that the controller be able to do so

to certify that its processing complies with Article 5 (1) of the General Data Protection Regulation.

requirements set out in Based on this requirement, data management

the existence of grounds justifying the need for data processing

compliance with the conditions under the Data Protection Regulation

they must be able to prove at any time during their data processing (i.e. continuously) what they are then

they can comply in principle if all the relevant circumstances of the data processing, including

the circumstances of any decisions required for the application of the legal basis, as appropriate

documented so that they can be made available to the Authority at any time.

The need for data management related to security cameras is thus not limited to cameras

it is necessary to document the existence of the causes at intervals

the controller is also obliged to check, as Article 5 (2) of the General Data Protection Regulation

shall at all times prove the actual existence of the reason for the processing

know, so it is necessary to detect within a reasonable time if the reason for the processing has ceased to exist

or has become insignificant.

The Debtor did not prepare any documentation before March 26, 2019

data management and the need for cameras has occurred since 2013

nor was it able to prove its review.

During the proceedings, the Debtor did not prove in any way that the data processing in question was performed in 2018.

exactly which public interest you are in the period between 25 May and 26 March 2019

to what extent it would have been necessary to perform its public authority task (that is, whether that task

this is the only way to achieve the result in terms of care). Because it is

Article 6 (1) of the General Data Protection Regulation is not justified in the present case

(e), the Authority therefore concluded that the

data processing in breach of Article 6 of the General Data Protection Regulation for this period.

Article 5 (1) and, consequently, Article 5 (1) (a).

Because it has not been substantiated in any way for the period prior to March 26, 2019

the exact purpose of the data management, the data management for this period is general

Article 5 (1) (b) of the Data Protection Regulation is clear, clear and lawful

also violated the requirement of purposeful data management.

10

The prospectuses and balance of interests dated March 26, 2019 do - in addition to the above

erroneously refers to Article 6 (1) (f) of the General Data Protection Regulation,

cannot be taken into account for the lawfulness of the data processing which preceded it, since

they may only be suitable for the management of data for the period after their adoption

to justify the lawfulness of the data processing, but it remains to be seen whether

which is - Article 6 (2) of the General Data Protection Regulation and the Infotv.

Section 5 (3) - defined by law - in the public interest or public authority

for which the data processing in question has been carried out

actually necessary in the form of, and not, as explained below, in the decision

cover the proportionality and necessity (and therefore the lawfulness) of data processing

significantly affecting a number of circumstances, based on which the proportionality of the data processing and

nor can the need be justified for the latter period.

Based on the above, the Debtor has been unlawfully for a long time, without a valid legal basis

data processing through the camera surveillance system, in breach of the

Article 6 (1) of the General Data Protection Regulation and, consequently, Article 5 (1)

paragraph (a).

4. Necessity and proportionality of data management

Although the protection of personal and property as a purpose of data processing can in most cases be a legitimate purpose,

however, the existence of an actual threat is required at the specific location and period

in order to be applicable to a given data management. To achieve the purpose of data management

the means used are appropriate, necessary and proportionate to achieve the objective

they must comply with all the requirements of Article 5 of the General Data Protection Regulation

principle.

In the case of cameras for the protection of persons and property, the above circumstances must be taken into account

be also to the area to be observed in the municipality, where appropriate in the surrounding area

are the number of burglaries, thefts,

incidence of perishable crime¹. A real and immediate threat is needed²,

which actually exists. Damage caused by actual crimes

documentation of this may be the case, for example, in comparison with the usual criminal statistics in the area.

In the Authority 's view, a municipal building is typically not a location where

high crime is expected, unlike, for example, a bank or a petrol station³. The

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

also provides.

The Debtor did not provide information to the Authority contrary to the above as part of the data management documentation. The Duty of Balance of Interest test, the camera system marked the disappearance of a single mobile phone in 2017 however, based on records, the cameras have been operating since at least 2013 they operated, yet they were of no use in the 2017 case. In the time since no review of necessity at the time of application of the General Data Protection Regulation it happened. Neither the balance of interest dated March 26, 2019 attached by the Debtor

See CJEU C-13/16. s. (Rīgas satiksme) and Article 29 Working Party Opinion WP217 (06/2014)

III.3.4. point (page 43)

2

See point 31 of the draft Guideline 3/2019 of the European Data Protection Supervisor, published on 10 July 2019.

3

The Authority's position is supported by, inter alia, the recently published German Supreme Federal Administrative Court (<https://www.bverwg.de/270319U6C2.18.0>), which expressly stated in point 3 of the introductory directives that the under the general data protection regulation, camera surveillance to prevent crime then necessary if the risk to the areas observed is well above normal in everyday life level of danger.

1

11

nor does any other document evaluate that other, less intrusive how to achieve the desired safety effect and is not adequate justified by the number of cameras and the relatively large area they cover, which, however, is just that it is not aimed at the place of valuables. The Debtor also does not take into account the cameras before and after their installation there have been such and as many criminal incidents as

would make camera surveillance necessary and proportionate, or the extent to which it is implemented in a municipal building, especially not open to the public parts of the building. Based on the access log attached by the Debtor, the it can be stated that in the year 2019 there was no security incident that would have required camera footage.

Data retention under Article 5 (1) (c) of the General Data Protection Regulation

It follows from the principle that the controller is independent of the specific data processing and legal basis it is only necessary and proportionate to achieve a legitimate and specific purpose extensive degree of data management, on the basis of which you should apply gradation. This means, that the least restrictive methods are needed to protect the right to the protection of personal data apply and lawfully process only the most necessary personal data, a you can use methods that result in a significant restriction only if the less so restrictive do not work or are unlikely to work. This the interpretation is confirmed by the European Data Protection Board on 10 July 2019 also point 24 of the draft guidelines published.

The Debtor did not take into account the necessity and proportionality of data management considering that you are not using the building alone, for example, there are premises used by the German municipality.

Merely the automatic resumption of previous data management after 25 May 2018 is not establish the necessity and proportionality of data management. The Debtor during the proceedings neither could it indicate a real and specific danger, nor that it had been averted why it is unsuitable for all less intrusive than in-camera data processing reasonably practicable method.

Beyond that, the overall security goal alone does not always meet the the condition of necessity, in addition to the aspect of proportionality, in which not only the risk of crime but also the other risks of camouflage are taken into account

aspect to be taken into account. Premises with special functions (such as administrative offices or corridors in front of the premises where the public service is to be performed) its requirement is subject to even greater scrutiny.

In the Authority 's view, particular attention should be paid to the merits and proportionality with regard to premises where the premises

in observing it, the camera would necessarily record data that is political may be sensitive, so their use is for the information of those concerned

it could disproportionately restrict its right to self-determination.⁵ Premises of a municipal building they also serve public interest and political purposes, so this approach is appropriate for the present case as well. The Debtor did not consider in the documentation submitted to the Authority that and, in concluding, disregarded him as an official acting in the public interest

4

https://edpb.europa.eu/sites/edpb/files/consultation/edpb_guidelines_201903_videosurveillance.pdf

In essence, this has been explained by the Authority in the corridors and common areas of parliamentary facilities,

Opinion on draft legislation NAIH-6123-2-2018-J in connection with the electronic monitoring of negotiators and waiters

Also in point 47 in connection with the draft government proposal on the amendment of certain laws in connection with the data protection reform of the European Union (https://www.naih.hu/files/NAIH_2018_6123_2_J_2018-10-09.pdf).

5

12

an activity that is not qualifying for observation in the building may also be subject to observation public data in the public interest⁶.

The Debtor was unable to prove during the proceedings that other security measures were in place and data management modes cannot be used instead of camera data management, and

the aim it set out was too general and not sufficiently substantiated, so for that reason

data management was also too extensive. The Debtor violated the above because of the above

purpose limitation under Article 5 (1) (b) of the General Data Protection Regulation

and (c).

5. Obligation to provide information

According to the Debtor's statements, it is located at its registered office (2144 Kerepes, Vörösmarty u. 2.)

on the data management of security cameras 25 May 2018 and 25 March 2019

No data management information was available between

Pursuant to Article 12 (1) of the General Data Protection Regulation, the controller is appropriate

take measures to ensure that at least the general

provide the minimum information required by the Data Protection Regulation. Above all, that's it

it is necessary for the data subject to be able to exercise his or her rights.

Under Article 13 of the General Data Protection Regulation, if personal data are from the data subject

collected, the controller shall, at the time the data are obtained, comply with Article 13 (1) and (a)

Shall provide the data subject with the information referred to in paragraph 2. Camera data management

the law does not specify the form of the information, however

due to the principle of accountability and the need for the controller to prove

prior information is provided, typically in written form.

In the case of camera surveillance, preliminary information is the first step already observed

it is necessary to provide it when entering the territory, and - due to the nature of the thing - then even the

provided by a pictogram placed outside the monitored area (front door, gate)

information is needed, but it must be provided as a second step

be supplemented by at least a full (longer and detailed) prospectus available on site.

The availability of the latter information shall be indicated on the external pictogram (its

one of its functions is actually just that: data management is unavoidable when entering the area

warns and refers to the possibility and availability of the necessary full information),

and this prospectus shall be made available to the data subject upon request. Accordingly

in such a situation, the mere fact that the data subject - an appropriate brief reminder, is

following information containing basic information - covering all details

In order to provide information, you must actively take action yourself, it does not mean information breach of an obligation (also given that there is no consent in such situations data processing) if this detailed information is easy and delayed available without.

Because before March 26, 2019, he did not inform in any verifiable form the data subjects about the camera data processing and its circumstances, the Debtor does not fulfilled its obligation to provide information under the General Data Protection Regulation in breach of Article 12 (1) and Article 13 of the General Data Protection Regulation.

Article 1 (1) and (2) of that Regulation. Because the Debtor is obliged throughout the data processing properly document the data management and be able to present it at any time, and the Debtor was unable to do so towards either the data subjects or the Authority

6

See point 37 of the draft Guideline 3/2019 of the European Data Protection Supervisor, published on 10 July 2019.

13

accountability under Article 5 (2) of the General Data Protection Regulation it also infringes the principle that the lawfulness of its data processing could not be established the Authority and shall be liable to the Debtor in accordance with the above principle proof that its data processing was lawful and transparent.

As a result of the procedure, the Debtor has prepared and published a data management plan which, however, is only valid from 26 March 2019. With respect however, that this prospectus is also based on legal bases

provides information in connection with data processing [Article 6 of the General Data Protection Regulation (1) (a) and (f)], which are not covered by the General Data Protection Regulation the content of the latter information does not correspond to the relevant standards. The consent is based on Article 4 (11) of the General Data Protection Regulation only specific, active can be, the validity of the passive contribution of the general

recital 32 of the Data Protection Regulation explicitly excludes it. The legitimate interest

legal basis may not be applied by the Debtor as a public body

under the last sentence of Article 6 (1) (f) of the Data Protection Regulation.

6. Legal consequences of unlawful data processing

Based on the above, the Debtor did not take into account several important factors

which is the necessity and proportionality of camera surveillance and the legal basis

significantly affects the validity of the data, so it is still carrying out illegal data processing, which

in several respects it is in breach of the provisions of the General Data Protection Regulation. It is therefore necessary to

Prohibition of the current form of camera data processing under Article 58 of the General Data Protection Regulation.

pursuant to Article 2 (2) (f).

The Authority rejected the Applicant's application for a fine, as e

the application of a legal sanction does not directly affect the right or legitimate interest of the Applicant,

such a decision of the Authority shall not create any right or obligation for it

the application of legal consequences falling within the scope of the public interest

With regard to the imposition of fines, the Applicant shall not be considered a customer in accordance with Ákr.

§ (1) of the Act, or - as the Act no. Does it not comply with Section 35 (1)

there is no place to file an application in this respect, this part of the petition is not an application

interpretable.

However, the Authority examined of its own motion whether it was justified in respect of the applicant

imposition of a data protection fine. On the question of whether a data protection fine is justified

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

Infotv.75 / A. Of its own motion, considered all the circumstances of the case and found that

that, in the case of infringements detected in the present proceedings, Article 58 of the General Data Protection Regulation

applies.

a conviction under Article 2 (2) (b) is a disproportionate and dissuasive sanction,

it is therefore necessary to impose a fine. In this context, the Authority took into account, in particular,

that the Debtor's data management practices have been substantially disregarded in their entirety the relevant legal obligations without processing personal data without data processing would have made any effort to ensure its legitimacy. The Authority is the general Article 83 (7) of the Data Protection Regulation and Infotv. Pursuant to Section 61 (4) (b) determined the amount of the fine taking into account the amount of the fine, as the Debtor local government.

In determining the legal consequence, the Authority considered the following factors as fines relevant for the imposition of:

14

(a) the lack of transparency poses a high risk without any other specific infringement; the rights of data subjects,

(b) the infringements have been committed by a public authority,

(c) the number of data subjects is quite large, given that data processing affects all employees of the Debtor or all

to the municipal representative, as well as to the clients handling the case at the Debt Office for all of them

(d) in a seriously infringing manner, the basic data processing rules and data controllers the data was processed in complete disregard of the obligations,

e) the data processing is illegal in several respects, it has violated several regulations,

(f) the unlawful processing has been for an indefinite period of time but can be demonstrated to have been for several years is constantly going on.

The Authority assessed it as a mitigating circumstance for the first time against the Debtor found a data breach.

The total amount of the Debtor's income, rounded according to the 2018 financial statements, was HUF 1.6 billion, so the fine imposed does not constitute an insurmountable obligation but is appreciable, thus a suitable deterrent to future violations of the right to the protection of personal data

to prevent.

On the basis of the above, the Authority has decided to impose a fine in accordance with the provisions of the operative part.

The Authority shall publish the decision on the website of the Authority in accordance with Infotv. 61.

§ (2) b), as it is a body performing a public task

in the context of its activities.

7. Exceeding the administrative deadline

In the course of the procedure, the Authority exceeded the Infotv. 60 / A. § (1) is one hundred and twenty days administrative deadline, therefore Ákr. Pursuant to Section 51 b), it pays ten thousand forints to the Applicant

- At the choice of the applicant to be indicated in writing - by bank transfer or post

voucher.

8. Any other business

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

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

there is an administrative remedy against him.

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. § 13 (11), the Metropolitan Court has exclusive jurisdiction.

Act CXXX of 2016 on Civil Procedure. Act (hereinafter: Pp.) - the Kp. 26.

§ (1) - within the jurisdiction of the court pursuant to § 72

legal representation is mandatory in litigation. Kp. According to Section 39 (6) - unless otherwise provided by law

15

the bringing of the action for the administrative act to take effect

has no suspensive effect.

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. law

(hereinafter: the E-Administration Act), the customer is legal pursuant to Section 9 (1) (b)

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

the Itv. Section 59 (1) and Section 62 (1) (h) shall exempt the person initiating the proceedings

half.

The Ákr. Pursuant to Section 135 (1) (a), the Debtor is in compliance with the statutory interest

shall be required to pay a late payment surcharge if the obligation to pay money is due

does not meet.

Act V of 2013 on the Civil Code 6:48. § (1)

in the case of a debt of money, the Debtor shall, from the date of default a

equal to the central bank base rate valid on the first day of the calendar half-year affected by the delay

interest on arrears.

If the obligor does not duly prove the fulfillment of the prescribed obligations, the Authority shall:

considers that it has not fulfilled its obligations within the time allowed. The Ákr. According to § 132, if

the Debtor has not complied with the obligation contained in the final decision of the Authority, the

executable. The decision of the Authority With the communication pursuant to Section 82 (1)

it becomes final. The Ákr. Section 133 enforcement - if you are a law

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

§ pursuant to the implementation - if by law, government decree or municipal authority

In this case, the decree of the local government does not provide otherwise - the state tax authority

implements. Infotv. Pursuant to Section 61 (7) of the Authority,
to perform a specific act, to behave, to tolerate or
the Authority shall enforce the decision in respect of the standstill obligation
implements.

Budapest, October 2019

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Dr. Attila Péterfalvi

President

c. professor