

Case number: NAIH / 2019/3990 /

Subject: Substantive decision on request initiated data protection

in official proceedings; referral order

DECISION

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

hereinafter referred to as “the Applicant”) (hereinafter referred to as the “Application”) against [...] (hereinafter referred to as the “Applicant”)

take the following decisions in the data protection authority proceedings initiated:

I. The Authority shall issue a request to the Applicant

partially upheld as follows:

I.1. It finds that the Applicant has not informed the Applicant of the following exercise of the right concerned the action taken on its requests within one month of receipt of its requests, and the reasons for not taking measures,

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when the Applicant dated 11 January and 19 February 2019, the

access request for an itemized listing of all camera recordings only in April 2019

4 in his reply;

the applicant's request for a restriction on the processing of data in respect of the photographs

in connection with;

in connection with his request for a restriction on the management of the accounts of the branch manager.

I.2. It finds that the Applicant has violated the Applicant 's right of access by:

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did not provide a copy of the camera footage taken between 14 November 2018 and 6 March 2019 a

By obscuring the protected data and information contained in the recordings, excluding the 2019.

on January 14, a camera shot at the [...] bank branch;

did not provide the Applicant with [...] 's invoices for the first three months and July 2013 and

account statements for the period from

did not provide information to the Applicant regarding the personal data of the branch manager

in this context;

did not provide the Applicant with a copy of the account manager's notes contained therein

obscuring protected data and information;

I.3. It finds that the Applicant has violated the Applicant's right to restrict data processing by

that the recording made on 14 January 2019 at the [...] bank branch in Budapest is no longer handled by the Applicant,

although

the Applicant requested a restriction on the handling of this recording.

II. The Authority shall submit the application

I., III. and with regard to those parts not referred to in point V,

since

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the Applicant has complied with its obligation to respond to his previous replies

within one month of receipt of the request

The applicant's claims concerning the disappearance of his contracts and, as a result, a further reply

shall not be obliged to give;

the Applicant duly informed the Applicant that all of it was made of it

camera recording on the basis of the Applicant's requests for restrictions on data processing, accordingly

it is pointless to oblige the Applicant to provide this information again;

the Applicant 's request that the Authority oblige the Applicant to provide a more precise answer a

in connection with the handling of camera recordings and the exact time interval of the camera recordings

to exaggerate;

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the Applicant replied to the Applicant's copy of the camera footage within one month

request for access dated 19 February 2019;

the Applicant has already attempted the Applicant prior to the submission of the Applicant's application

make available a medium containing a copy of the camera recordings made of it,

however, it was not taken over by the Applicant,

the Applicant duly and timely informed the Applicant both on 11 January 2019 and

in connection with his application of 10 March 2019 for the restriction of camera recordings on the basis thereof

the measures taken;

the camera visit to the [...] branch on 3 December 2018 was not photographed, so the data subject

his rights could not be violated either;

a camera shot taken on January 14, 2019 at the [...] bank branch in Budapest for publication

was no longer available to the Applicant at the time of submitting the application to the Applicant;

the Applicant already has the information on how much the Applicant has at the request of the Applicant

locks camera recordings for one year;

the Applicant replied to the Applicant within one month of the transcripts taken by [...]

the Authority does not instruct a further request for the exercise of the right of access

to respond to the Applicant;

the Applicant's right of access is not violated when the Applicant does not have access to his / her personal data

the Applicant has not complied with the exercise of the rights of the data subject

requests;

the Applicant complied with the Applicant's request for [...] 's conversations

attach a list of media containing a copy of

the start and duration of conversations and the unique identifier of the conversations;

the Applicant has already made available to the Applicant in the notarial reply a

copies of photographs;

the Applicant has no obligation to inform the Applicant that

exactly when the photo was taken, in which branch it was taken;

the Applicant has an appropriate purpose and legal basis for the management of the photographs;

there were no data processing restrictions in the GDPR for photographs

specified conditions;

the Applicant has responded within one month to access the Applicant's [...] account

request for the exercise of a right;

the [...] account agreement, a copy of the account opening documentation is not available to the Applicant

the Applicant to provide this documentation to the Applicant

no expected result from its obligation;

the GTC for the [...] account, the related announcements and sample contracts do not qualify

personal data, so that the rights of those concerned cannot be exercised;

the Applicant informed the Applicant within one month that due to the account manager's records

does not consider the Applicant's personal data, does not take action on the basis of his / her application;

the Applicant handles the branch manager's records lawfully, for an appropriate purpose and with a legal basis;

there were no laws restricting data management with regard to branch manager records

conditions, so the Applicant did not have to comply with this request.

III. The Authority shall conduct the procedure in the following sections

eliminate

since

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the Authority has already considered the merits of the applicant's request for a breach of his right of access;

the circumstances of the disappearance of each of his contracts with the Applicant

failure to provide information;

the knowledge of the disappearance of the Applicant's contracts took place before 25 May 2018, thus

the Applicant's handling of this incident cannot be investigated under the GDPR;

certain issues raised by the Applicant in connection with the termination of his contracts do not qualify as

Applicant's personal data and cannot be established beyond doubt in the matter of jurisdiction and competent authority;

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the instructions on which the photographs were taken and when the Applicant gave them for the management of photographs taken by the Applicant, shall not be deemed to be the Applicant's personal data and cannot be established beyond doubt with jurisdiction and competence in the matter of competent authority;

for the transmission of photographs prior to the entry into force of the GDPR on 30 June 2017 took place.

ARC. The Authority shall instruct the Applicant to take action within 30 days of the decision becoming final

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provide a copy to the Applicant of the [...] invoice for the first three months and July and November 2013 account statements for the period between

provide the Applicant with information on the personal data of the branch manager in this context;

provide the Applicant with a copy of the account manager's records in such a way that the third parties' people and trade secrets will be withheld!

V. When concluding the case, the Authority shall, at the time of concluding the contract for the duplicate of the [...] account agreement,

in the part concerning the transfer to the bank, he passes

to the Magyar Nemzeti Bank.

VI. Ex officio I.1. and I.2. Due to the violations set forth in paragraph 1 above, the Applicant shall be notified of this decision within 30 days of becoming final

HUF 500,000, ie five hundred thousand forints

data protection fine

obliges to pay.

The IV. The applicant shall be informed of the measures taken in accordance with point 30 from the date on which the decision becomes final

shall provide written evidence to the Authority within 30 days, together with the supporting evidence.

The fine is paid to the Authority's forint settlement account for the collection of centralized revenues

(1003200001040425-00000000 Centralized collection account IBAN: HU83 1003 2000 0104 0425 0000 0000)

must be paid for. When transferring the amount, NAIH / 2019/3990. JUDGE. number should be referred to.

If the Applicant fails to meet the obligation to pay the fine within the time limit, he shall be liable for a late payment allowance.

to pay. The amount of the late payment allowance shall be the statutory interest charged on the first day of the calendar half-year affected by the delay.

equal to the valid central bank base rate.

A IV. In the event of non-payment of the obligation under paragraph 1 or of the fine and the penalty for late payment, the Authority shall:

order the enforcement of the decision.

There is no administrative remedy against this decision and the order terminating the proceedings,

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

can be challenged. The application shall 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 whole personal

The fee for the court review procedure for non-exempt persons is HUF 30,000, the subject matter of the lawsuit

subject to the right to record duties. Legal proceedings are mandatory in proceedings before the Metropolitan Court.

There is no place for an independent appeal against the order ordering the transfer, it is only based on the merits of the case.

decision, failing which may be challenged in an appeal against the order terminating the proceedings.

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EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

(1)

I.1. The Applicant submitted his Application to the Authority on 23 April 2019.

(2)

In the application, the Applicant stated that on 11 January 2019, 13 February 2019, 19 February 2019 and 10 March 2019, the complaints and applications for hereinafter collectively referred to as "the Applications"), but did not receive any such requests answer or dissatisfied with the answers received.

(3)

In its statement of 18 July 2019 to the Authority's call for rectification, the Applicant clarified the In its decision-making, the Authority based its application on this clarified Application.

(4)

The petitioner, filed as a financial complaint in point 3 of his application of 11 January 2019, objected to that the USD and HUF account agreement dated 2013 [...], VISA credit card agreement and the E-banking agreement. In this context, the Details of the termination of the contracts, the date of the termination, the detection of the disappearance, documentation. He also resubmitted this request as a complaint on 13 February 2019. A 2019.

The HUF account agreement and the VISA bank card agreement in point 12.a) of the application dated 10 March repeatedly requested information on whether these contracts had been found by the Applicant or whether they are gone. It was also requested in connection with these contracts by the Applicant in December 2013 a copy of the model contract used and information on the content of these contracts.

(5)

In its applications of 11 January and 10 March 2019, the Applicant requested information that a

Asked what camera shots he handles about him, exactly where and when - including their request for a restriction on data processing or in the legitimate interest of the Applicant. This request was repeated by the dated 19 February 2019 in addition to the Applicant's indication for the camera recordings the date of your request for a restriction on data processing and requested that all data handlers request it providing a copy of the camera recording.

(6)

In its application dated 11 January 2019, the Applicant submitted six copies - 14 November 2018 and 10 January 2019. depicted by security cameras in the Applicant 's branches requested the applicant to limit the handling of camera recordings to five years, and these six camera recordings and issue a copy of them. The Applicant with the above filed identical applications on March 10, 2019, and six more applications were filed on January 14, 2019 and For a camera shot taken between March 6, 2019.

(7)

In its application of 11 January 2019, the Applicant requested the Applicant to provide a copy of the [...] Of the minutes recorded between 14 November 2018 and 11 January 2019, which the Applicant related to administrative attempts at its branches. In the context of these protocols requested information on the legal basis, purpose and duration of the data processing and requested the original inspection of the specimen.

(8)

In its application dated 10 March 2019, the Applicant requested, with [...] 25 November 2013 and 2019. a copy of the audio recordings of the interviews held between 10 and 10 March 2006 in chronological order on a storage medium and a list the date of the conversation, its exact start, the duration of the conversation, the name of the clerk, and unique ID of the conversation.

(9)

In his application dated 10 March 2019, the Applicant stated that the Applicant had dated 30 June 2017 sent several photographs of him in his circular, but the reply of the Applicant dated 8 February 2019 attached only one image as an attachment, requesting information on how many in this circular

The Applicant circulated a photograph of him and requested a copy of these photographs electronically and also on paper basis. He also asked for information on the day of the photo, by whom, to whom instructions on the purpose and legal basis, how and where it was made. It was also requested by the Applicant a statement as to when and in what form he was informed of the handling of his image the Applicant or, in the absence of such information, the reason for the failure to do so. He also asked limiting the handling of these photographs to five years.

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(10)

In his application of 10 March 2019, the Applicant disputed that he had entered into an agreement with the Applicant [...]. called the account agreement, so he requested this account agreement and the invoice for the first three months, respectively

A copy of the statement for the period from July to November 2013 and this bank statement product GTC in force in 2013. In connection with this invoice, it also requested information whether the Applicant keeps the account agreement in his archives, has handed it over to him - the fact of the handover whether he has signed or is aware of the contents of the account agreement. He asked that if the Applicant knows the content of the account agreement, inform about it. He also asked the a copy of the model contract used in 2000 for this invoice.

(11)

The Applicant also requested in its application dated 10 March 2019 that the Applicant a branch visits and alerts issued by the Applicant's employees in connection therewith in this context for the period from 1 March 2016 to 7 March 2019 provide a copy of the notes. He asked for information on the days the branch manager's note made in connection with its appearance in the bank branch, and in total how many such records were made. He also requested information on the handling of account manager records

its purpose, legal basis and duration, and requested that the processing of these records be limited to five years.

(12)

In its Application to the Authority, the Applicant requested that the Authority establish the natural protection of individuals with regard to the processing of personal data and on the free movement of such data

Regulation (EU) No 2016/679 on the flow of goods and repealing Directive 95/46 / EC

hereinafter referred to as the GDPR), as the Applicant is not or only

late in complying with the data subject's requests for the exercise of his rights and requesting access

and the right to restrict data processing, and requested that the Authority:

order the Applicant to submit his application by applications dated 11 January, 13 February, 19 February and 10 March 2019;

to fulfill their obligations. At the request of the Applicant, the right to information self - determination and the

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

pursuant to NAIH / 2019/3990. proceedings were initiated by a data protection authority.

(13)

I.2. The Applicant's requests for the exercise of access rights and restrictions on data processing by the Applicant

By notary on 8 February 2019 (hereinafter: notarial reply), 13 March 2019 and April

He replied in his letters of 4.

(14)

In its orders, the Authority twice requested information from the Applicant regarding the matter a

to clarify the facts. The respondent 's replies to the clarification orders and the

The Authority 's replies to the applicant will be described in the Decision section in relation to each application

for easier overview.

(15)

I.3. The Authority adopted Regulation NAIH / 2019/1859. to the Applicant in the data protection authority procedure no

For the exercise of access rights filed on 14 June, 22 August and 5 November 2018

judged his applications. In the case NAIH / 2019/1859/13, the Authority issued a decision in which

has considered a number of issues that are relevant to the present proceedings, including the

The Authority refers to its findings in this Decision on several occasions. THE

The issues previously considered relevant to the present case are: the Applicant

informing him of the disappearance of his contracts; camera recordings of the Applicant's account visits

issuing a copy; personal data of the protocols drawn up by [...] at the bank branch

nature. The Applicant shall submit to the Authority NAIH / 2019/1859/13. brought an action against its decision

thus, an administrative lawsuit for its judicial review is pending before the Metropolitan Court

on the number [...].

II. Applicable legal provisions

Pursuant to Article 2 (1) of the GDPR, the GDPR applies to the processing of data in the present case.

The relevant provisions of the GDPR in the present case are the following:

GDPR Article 4 (1): "personal data" means an identified or identifiable natural person

(Relevant) any relevant information; the natural person who you are direct can be identified

indirectly, in particular an identifier such as name, number, location data, online

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identification or natural, physical, genetic, mental, economic, cultural or

identifiable by one or more factors relating to his social identity.

GDPR Article 5 (1) (b): The collection of personal data shall be limited, clear and

for legitimate purposes and not be treated in a way incompatible with those purposes; the

Shall not be considered incompatible with the original purpose in accordance with Article 89 (1)

for archiving in the public interest, for scientific and historical research purposes or for statistical purposes

further data management ("purpose limitation");

Article 6 (1) (c) GDPR: The processing of personal data is lawful only if and to the extent that

if at least one of the following is met:

(c) processing is necessary for compliance with a legal obligation to which the controller is subject;

Article 12 (3) GDPR: The controller shall, without undue delay, but in any case

within 15 months of receipt of the request. in accordance with Article

on the action taken on the request. Where appropriate, taking into account the complexity of the application and the number of applications, this period may be extended by a further two months. The deadline for the controller with the reasons for the delay from the receipt of the request to inform the person concerned within one month of If the person concerned has submitted the application by electronic means the information shall, as far as possible, be provided by electronic means, unless the data subject so requests asks otherwise.

Article 12 (4) GDPR: If the controller does not act on the data subject's request, without delay, but no later than one month after receipt of the request the reasons for not taking action and the possibility for the data subject to lodge a complaint before a supervisory authority and may exercise its right of judicial review.

Article 12 (5) GDPR: Information under Articles 13 and 14 and Articles 15 to 22 and Article 34 information and action shall be provided free of charge. If the request of the person concerned is clear unfounded or, in particular due to its repetitive nature, excessive, the data controller, subject to the requested the administrative process involved in providing the information or information or taking the requested action costs:

(...)

(b) refuse to act on the application.

The burden of proving that the request is manifestly unfounded or excessive is on the controller.

Article 15 (1) GDPR: The data subject has the right to receive feedback from the controller whether the processing of your personal data is in progress and if such processing is taking place is entitled to access personal data and the following information get access to:

(a) the purposes of the processing;

(b) the categories of personal data concerned;

(c) the recipients or categories of recipients to whom the personal data have been disclosed

or will be communicated, including in particular to third country recipients or international

organizations;

(d) where applicable, the intended period for which the personal data will be stored or, if that is not possible, criteria for determining this period;

(e) the data subject's right to request personal data concerning him or her from the controller
rectification, erasure or restriction on the processing of such personal data
against its treatment;

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

(g) if the data were not collected from the data subject, all available information on their source;

(h) 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

information on the significance of such data processing and what is expected of the data subject
consequences.

Article 15 (3) GDPR: The controller shall provide a copy of the personal data which are the subject of the processing
make it available to the data subject. For further copies requested by the data subject, the controller shall:

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may charge a reasonable fee based on administrative costs. If the electronic is concerned
the information shall be provided in a widely used electronic format
unless otherwise requested by the data subject.

GDPR Article 15 (4): The right to request a copy referred to in paragraph 3 does not apply
may adversely affect the rights and freedoms of others.

Article 18 (1) (b) and (c) GDPR: The data subject shall have the right, at the request of the controller, to
restrict data processing if one of the following is met:

(b) the processing is unlawful and the data subject objects to the deletion and requests it instead
restrictions on the use of

(c) the controller no longer needs the personal data for the purpose of processing the data, but is concerned
requires them to bring, assert or defend legal claims.

Article 58 (2) (b), (c), (g) and (i) GDPR: Acting in the corrective power of the supervisory authority:

(b) reprimand the controller or the processor if his or her data processing activities have infringed this 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;

(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

Article 83 (1) to (2) and (5) (a) to (b) of the GDPR: 1. Each supervisory authority shall ensure that this imposed pursuant to this Article for infringements of this Regulation referred to in paragraphs 4, 5 and 6 administrative fines must be effective, proportionate and dissuasive in each case.

2. Administrative fines shall be imposed in accordance with Article 58 (2) (a) to (4), depending on the circumstances of the case.

It shall be imposed in addition to or instead of the measures referred to in points (h) and (j). When deciding that 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 nature of the processing in question; the scope or purpose of the infringement and the number of persons affected by them and by them the extent of the damage suffered;

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

(c) the mitigation of damage caused to the data subject by the controller or the processor any measures taken to

(d) the extent of the responsibility of the controller or processor, taking into account 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 whether the controller or processor has reported the breach and, if so, in what detail;

(i) if, prior to the controller or processor concerned, one of the measures referred to in Article 58 (2) has been imposed 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, for the full financial year of the previous financial year

up to 4% of its worldwide turnover, provided that

a higher amount should be charged:

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

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

Infotv. Pursuant to Section 2 (2), the general data protection decree is indicated therein

shall apply with the additions provided for in

Infotv. Section 38 (2) - (2a): The task of the Authority is to protect personal data and to

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

and facilitating the free movement of personal data within the European Union.

2a. The tasks and responsibilities laid down for the supervisory authority in the General Data Protection Regulation

powers in relation to entities under the jurisdiction of Hungary under the general data protection

exercised by the Authority as defined in this Decree and in this Act.

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

In order to do so, the Authority may initiate ex officio data protection proceedings. The data protection authority

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

rules shall apply with the additions specified in the Infotv. and the general data protection

with derogations under this Regulation.

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

shall exercise its powers in accordance with the principle of proportionality, in particular by:

legislation on the processing of personal data or a binding act of the European Union

for the first time in the event of a breach of the rules laid down in

in accordance with Article 58 of the General Data Protection Regulation, in particular the controller or

by alerting the data controller.

Act CCXXXVII of 2013 on Credit Institutions and Financial Undertakings Act (hereinafter:

Hpt.) Section 288 (3): The financial institution and the independent intermediary shall file and file a complaint

shall keep the answer for five years and present it at the request of the Supervision.

III. Decision:

III.1. Information on the circumstances of the termination of the Applicant's contracts

(16)

The Applicant requested in his Application a finding of violation of the right of access to the contracts

failure to provide information on the circumstances of his disappearance.

(17)

Prior to 11 January 2019, four of the Applicants had requested information from several missing persons

contract, most recently on 14 June 2018. The Authority submitted this application in June 2018

compared it with the applications examined in the present proceedings and found that their content

almost word for word.

(18)

The Authority contained the content of the Applicant's application dated 14 June 2018 in NAIH / 2019/1859/13. number has already examined it in its decision stating that the Applicant was not injured right of access when the Applicant did not inform him of the disappearance of the contracts of which he himself has no information.

(19)

The Applicant also requested information as to whether the Applicant had found the four contracts in dispute as in its opinion in the proceedings pending before the Metropolitan Court under [...] statement that "the defendant [the Applicant] in the present case did not make a statement that [the HUF bank account agreement of [...] and the [...] bank card agreement] would not be available to the defendant [to the Applicant] ", which can be interpreted as meaning that the Applicant has found the contracts. THE In making its decision, the Authority will primarily take into account the statements made by customers before it and not are bound by statements made by clients in other proceedings. The Claimant stated in paragraph 3 of the notarial response informed the Applicant that the contracts were unknown and could not be determined became unavailable at that time, so the Authority will consider this specific statement in its decision-making applicable.

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(20)

Based on the above, the Authority will initiate the procedure for the missing contracts with respect to the Applicant's access in the part concerning the violation of the rights of the Ákr. Section 47 (1) (a) and Section 46 (1) paragraph 1 (b), as the matter has previously been considered on the merits and the content of the application, and the applicable legislation has not changed.

(21)

According to the Applicant, the disappearance of the contracts constitutes a data protection incident which the Applicant has not fulfilled its obligations in connection with the management of In this context, the Authority shall:

Dated March 14, 2018, NAIH / 2018/218/9 / V. In its file no

The applicant violated the then valid Infotv. Section 7 (2) and (3)

as it did not retain these contracts

of 2017 on the prevention and deterrence of money laundering and terrorist financing

CXXXVI. § 28 and 28 / A of the Act. § for eight years.

(22)

The handling of an incident caused by the disappearance of contracts cannot be investigated under the GDPR as the contracts disappeared and the Applicant became aware of it before 25 May 2018. In this

at the time the GDPR was not yet applicable, therefore the Applicant's relevant incident management does not comply with Article 77 (1) of the GDPR and the Infotv. 60.

§ (2), so in this regard the Authority's data protection

official proceedings cannot be initiated either, therefore the Ákr. Pursuant to Section 47 (1) (a), the Authority shall terminated the proceedings in this part of the application.

(23)

The Applicant has also asked a number of questions regarding the disappearance of the contracts, which extend beyond in the context of the exercise of the right of access, as they relate to information which is not

constitute the personal data of the Applicant and which, if applicable, would apply in connection with the incident

- even under Article 34 of the GDPR, no information should be provided to the Applicant. These issues a

the following: whether your contracts have reached the Applicant's archives or have remained in the branch; where did they come from

away from contracts; whether the Applicant intentionally terminated the contracts; if discarded, to whom

on the instructions of where and under what circumstances. In addition to these issues, the HUF

used in December 2013 for the bank account agreement and the VISA credit card agreement

nor is the sample contract the personal data of the Applicant, as informed by the Applicant. From this

the Authority therefore finds that it has no competence to examine these issues and

the identity of the body with competence and competence cannot be established beyond doubt, thus

terminate the proceedings in this part.

(24)

In connection with the disappearance of his contracts, the Applicant requested the Authority to establish that a Applicant did not respond to his requests or requested that the Applicant be ordered to respond. The Authority examined the Applicant's replies and found that the Applicant was GDPR in accordance with the provisions of the Agreement, within the time limit provided for therein, the Applicant's contracts requests for his disappearance: notarial reply dated 8 February 2019, point 3; March 13, 2019 dated 2 points; Reply dated 4 April 2019, point 12.a). In the opinion of the Authority, the Applicant acted correctly when, in its replies of 13 March and 4 April 2019, it merely referred back to the content of an earlier notarial response dated 8 February 2019, as these responses to repeated requests for which the Applicant is entitled under Article 12 (5) (b) of the GDPR would have refused to respond. Consequently, the Authority rejects the applicant's response application for a declaration of failure to act and for an order to reply, since the applicant acted in accordance with Articles 12 (3) and 15 (1) of the GDPR.

III.2. Data Management of Requested Camera Recordings

Informing the Applicant about the management of the camera recordings

(25)

The Applicant has requested the Authority to establish that the applicant's request for the exercise of at the request of which he handled the camera footage of his account visits, late answered.

(26)

In its reply dated 4 April 2019, the Applicant provided for the first time a complete list of the which camera footage you handle about it, as the notary's response only covered footage which it requested to be restricted on 11 January 2019. Consequently, the Authority concludes that Applicant violated the Applicant's requests of 11 January and 19 February 2019

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Article 12 (3) of the GDPR, as it is overdue for more than one month

informed the Applicant fully of the range of camera recordings handled, but before

that the present data protection authority proceedings have been initiated.

(27)

Section II of the Applicant's April response. 3.) stated that "To lock the camera footage

We have complied with your request for the available recordings. " The Candidate's reply II.7.)

listed all the recordings, the processing of which has been restricted by the Applicant since August 2018

requests to that effect. In the Authority 's view, it is clear from the above that

All recordings will be handled by the Applicant based on the "lock requests" of the Applicant. According to the Authority,

Information on the legal basis for data processing may not be appropriate unless the controller explicitly

it states that "the legal basis for data processing is consent, performance of a contract, etc." but

it is also appropriate that the legal basis for the processing can be clearly established from the wording, such as

in the above case. Accordingly, the Applicant, in this form, duly, in accordance with Article 15 (1) of the GDPR

informed the Applicant in accordance with paragraph 1 that his data processing was restricted

handles recordings based on your requests. The Authority therefore rejects the applicant's request to

in which it requested the Authority to order the Applicant to indicate that it had been made

in which cases the data processing of camera recordings is based on a request for a restriction on data processing and which

in the legitimate interest of the Applicant.

(28)

The Applicant's requests for the exercise of the right of access also included the fact that the Applicant

exactly when the camera recordings were taken and when the Applicant requested them

restrictions on the treatment of The Applicant did not respond to these requests of the Applicant. The Authority

considers that this request is excessive given that the Applicant is well aware that

when and for what time interval he submitted about it in the Applicant's bank branches

a request to restrict the handling of camera recordings. The purpose of the right of access is to:

data subjects can check whether their personal data is being processed and, if so, if so

its circumstances, but this right of control is not equal to the data controller 's data and

accountability for information held by the data subject

generated. Accordingly, the Authority finds that the Applicant did not infringe the Applicant

The right of access under Article 15 GDPR when not informed of the treated recordings is accurate and the date of the Applicant's request for a restriction on data processing, given that the that all recordings in the requests for restriction of data processing submitted by the Applicant and in accordance with the provisions of this Regulation. The Authority therefore rejects the Applicant the request of the Authority to oblige the Applicant to reply more precisely to the to define the exact time interval of the camera shots that you have managed.

Access to camera footage

(29)

The Applicant has previously requested information from the Applicant regarding the period up to 5 November 2018 copies of all camera recordings processed by the Applicant each time Notary reply point 1.b.3), reply dated 4 April 2019 II.5. point - refused.

(30)

The Applicant is dated 19 February 2019 to issue a copy of the camera recordings responded to his request by letter dated 10 March 2019, in which he referred back the notarial reply 1.b.3) therefore, the Applicant assessed it within the deadline set out in Article 12 (3) of the GDPR the Applicant's request for a copy, as this section of the notary's response contains all a Applicable to camera recording managed by an applicant. Consequently, the Authority rejects the The Applicant 's request to establish that the Applicant replied late to the request for a copy of the camera recordings.

(31)

The Authority issued Regulation NAIH / 2019/1859/13. has already established in its decision no violated Article 15 (3) of the GDPR when copying available camera footage did not provide the Applicant with the protected data and information contained in the recordings by covering. Accordingly, the Authority finds that the Applicant has violated the Applicant The right of access under Article 15 of the GDPR from 14 November 2018 to 6 March 2019

did not provide the Applicant with a copy of the protected data contained in the recordings and obscuring information.

11

(32)

The Authority issued Regulation NAIH / 2019/1859/13. In its decision no., ordered the Applicant to provide a copy to the Applicant about the camera recordings in such a way that third parties and trade secrets will be withheld.

(33)

The Authority attempted to comply with this request of the Authority, of which the Authority and the Applicant He informed him by letter dated 5 July 2019. The Requested contains a copy of the camera recordings sent the data carrier to the Applicant as an annex to the letter dated 5 July 2019, however, this the consignment was not received by the Applicant, it was returned to the Applicant on 26 July 2019. THE Applicant again attempted to deliver the consignment to the Applicant by letter dated 9 October 2019 as an annex, which according to the statement received by the Applicant on 22 October 2019 adopted (NAIH / 2019/1859/29).

(34)

The Applicant attached to his letter to the Authority containing the camera footage the directory structure of the media, from which it can be determined which on the media which recordings can be found in the bank branch. On the transferred media not only the 2018. recordings made up to November 5 can be found, but also those whose handling is restricted and a copy of them was requested by the Applicant between 11 January 2019 and 10 March 2019. The with two exceptions - on 3 December 2018 at a branch [...] and on 3 December 2019.

On January 14, the camera shots taken at the Budapest [...] bank branch - are completely identical to the With recordings requested by the applicant. The Applicant cannot be blamed for not being the Applicant took over the media containing the camera recordings.

(35)

On December 3, 2018, in the time interval of 11: 51-12: 39, at the [...] bank branch in Szeged, for technical reasons, camera recording was made, so no data processing was implemented in this form. The rights of those affected, they are exercise can only be interpreted if there is data management, which, however, was not the case.

Accordingly, the Applicant did not violate Article 15 (3) of the GDPR.

the right to issue a copy in respect of that unfinished camera recording, as it was not data from which a copy could have been given.

(36)

On 14 January 2019, the management of the camera shot taken at the [...] bank branch was restricted by the Applicant, however, when the Authority NAIH / 2019/1859/13. camera recordings contained in its resolution no intended to fulfill the obligation to provide a copy of the copy to the Applicant, and wanted to disguise the recording, it turned out that the file that should have contained the restricted requested a camera shot, although it has all the necessary attributes at the file system level, but the recording is not included due to a technical error. As a result, the Applicant is on this record nor did the copy under Article 15 (3) of the GDPR as there is no personal data that could have been copied.

(37)

The Applicant has requested the Authority to oblige the Applicant to

However, this request will be rejected by the Authority as the Applicant

had already attempted to do so before submitting his application dated 18 July

to release a copy of the camera recordings, but this failed for reasons attributable to the Applicant.

Restricting the handling of camera shots

(38)

The Applicant will take the following twelve camera recordings between 14 November and 6 March 2018:

requested the Applicant to restrict the data processing and that the data processing

inform the Applicant immediately in writing about the restriction (blocking):

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2018. 14. 14. 08: 51-09: 36; Budapest, [...] bank branch

2018. 11. 29. 11: 03-11: 32; Szeged, [...] bank branch

2018. 12. 03. 11: 51-12: 39; Szeged, [...] bank branch

6/12/2018 12:47-13:27; [...] Bank account

2019. 01. 10. 12: 08-12: 49; [...] Bank account

01/10/2011 14: 51-15: 22 and 15: 24-15: 36; Budapest, [...] bank branch

2019. 01. 14. 10: 21-10: 50; Budapest, [...] bank branch

2019. 01. 14. 12: 24-15: 57; Budapest, [...] bank branch

2019. 01. 31. 14: 43-16: 00; Szeged, [...] bank branch

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-

02/22/2011 13:32-13:58; Budapest, [...] bank branch

2019. 03. 01. 11: 39-12: 20; Budapest, [...] bank branch

06/03/2011 11: 30-11: 43 and 12: 57-13: 15; Budapest, [...] bank branch

(39)

In its Application, the Applicant requested the Authority to establish that the Applicant’s

replied incompletely, late and in breach of the right of access and

the right to restrict data processing.

(40)

The Applicant submitted a letter dated 11 January 2019 for the first six camera recordings

Applicant for a request for restriction of data processing, for which the Applicant is a notary

1.b.3) on 8 February 2019. Applicant's response at the request of the Applicant

to be examined together, from which it is clear that the Applicant has carried out the Applicant

request for a restriction on data processing with one exception. If point 1.b.3) of the notarial reply is not a

If the Applicant were to respond to a request for a restriction on data processing, the Applicant would not have had

is obliged to inform the Applicant that it was made on 3 December 2018 in Szeged

camera recording is not available.

(41)

The Applicant's data processing is included in point 4 of the Applicant's application dated 10 March 2019

II.3 of his reply of 4 April 2019 to his request for a restriction on informed the

request to "lock camera recordings" in respect of available recordings

we have done so. " Accordingly, in accordance with Article 12 § 3 of the GDPR and a

The Applicant was informed of the restrictions on both data processing within the deadline set in the GDPR

on the action taken in response to their request.

(42)

In this context, the Authority notes that the Management of the Requested Camera Recordings

its request for restriction did not include a request for the exercise of the right of access,

whereas information on the data processing measures taken in response to the data subject's requests - '

please inform us immediately in writing of the lock-up "- not Article 15 of the GDPR but

Obligation under Article 12 (3) to (4) of the GDPR fulfilled by the Applicant. From this

therefore, the Authority rejects the Applicant by restricting the handling of camera recordings

request for a finding of infringement of his right of access.

(43)

In view of the provisions of paragraph 35, there has been no violation of Article 18 of the Applicant's GDPR the right to restrict data processing, as no camera recording has been made which is the subject of the data could have constituted a restriction.

(44)

The Applicant's GDPR was damaged in connection with the recording made on 14 January 2019 at the [...] bank branch in Budapest.

The right to restrict the processing of data under Article 18, as it contains personal data recording is no longer handled by the Applicant, the locked file does not contain a copy of the recording, the original recording was deleted.

(45)

The request of the Applicant to establish the violation of the right to restrict data processing is the other cannot be interpreted in relation to the recording, as the restriction of the camera recordings is It was implemented in accordance with the applicant's requests, ie Article 18 (1) (c) GDPR acted properly.

(46)

The Applicant has requested the Authority to oblige the Applicant to provide information on how many limited the handling of the recordings he requested to one year. Item 4 of the Applicant's application of 11 January 2019 and Item 4 of his application of 10 March 2019 did not contain a request that the Applicant provide information on the number of years for which the camera recordings indicated by the Applicant are limited Thus, the Applicant did not inform the Applicant about it, only the data processing fulfillment of its request for restriction. On the duration of the restriction on data processing information would have been required if the Applicant had complied with it for a period other than that requested.

(47)

The Applicant has submitted NAIH / 2019/1859/4. 1.1.e of the Declaration dated 12 March 2019, registered under stated that from July 2018 the five-year data management of the Applicant is sufficient

application for a restriction. A public version of this document, which is also available to the Applicant, is a NAIH / 2019/1859/8. was registered under the sub-number provided by the Applicant in the framework of personal access to the file

On 15 April 2019, a copy of the

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according to the minutes also signed by Therefore, the Applicant should be aware that that the Applicant shall, in accordance with his requests, limit the camera recordings indicated by him to five years treatment. Accordingly, the Authority requests the Applicant to order the Applicant to provide information regarding the request for restriction of data processing for how many years, the Applicant already has this information.

III.3. Access to protocols recorded by [...]

(48)

In relation to the minutes recorded by [...], the Applicant requested the Authority to establish that the The applicant did not reply to that request and his right of access was thereby infringed. He also asked the Applicant is required to respond to the above request and thereby comply with the access and, in that connection, order the applicant to file a copy of the minutes to make it available.

(49)

In Section 1.b.2) of the Notary's reply dated 8 February 2019, the Applicant replied to the request for the exercise of the right of access, in which it informed the Applicant that the protocols are used to prove the legitimacy of the on-site disembarkation, it does not contain personal data, so you will not be able to provide a copy to the Applicant.

(50)

On this basis, the Authority rejects the Applicant 's finding of non - response and The applicant 's request to be ordered to reply, as the Applicant replied to the Applicant's application. The Authority states that the fact that a response has been received is not affected by the

the content of the reply and whether the Applicant agrees with it.

(51)

In its requests of 14 June, 22 August and 5 November 2018, the Applicant had already requested information that in connection with the protocols recorded by [...] on disembarkations, what is the legal basis, purpose, duration of the data processing, and a copy of the data already requested by 5 November 2018. protocols.

(52)

The Authority has previously examined the above requests of the Applicant and NAIH / 2019/1859/13. number found in its decision that the right of access of the Applicant was not violated when the Applicant has not provided information on the legal basis, purpose and duration of the handling of the minutes recorded by [...], and did not provide a copy of them and did not provide access to the original documents, as they do not contain the Applicant's personal data, the minutes are not aimed at personal data they do not mention the person whose conduct required the [...] Procedure, since the purpose for which the minutes are drawn up does not make the requested identification of those concerned.

(53)

The content of the application has not changed significantly from the above, as the Applicant has not changed before compared to the period for which he requested access exercise in connection with the protocols. The Authority maintains NAIH / 2019/1859/13. in its resolution no that the applicant's right of access under Article 15 of the GDPR has not been infringed, given that the minutes do not contain the personal data of the Applicant. From this the Authority rejects the Applicant's request to order the reply, setting out the legal basis, purpose and duration of the handling of the minutes. Given that the personal data of the Applicant are not included in the minutes, the Authority it also rejects the Applicant's request for a copy of the minutes.

III.4. Access to audio recordings

(54)

The Applicant has informed the Authority that the Applicant was informed by [...] between 25 November 2013 and 2019.

a copy of his conversations between 26 March

DVD) as an annex to the letter of 4 April 2019

accompanied by a protocol, he wished to hand it over to the Applicant in person on 16 May 2019, when

appeared at the Applicant's registered office to get acquainted with these sound recordings and camera recordings,

however, the Applicant refused to accept the data carrier.

(55)

A copy of this medium (hereinafter referred to as the DVD) was sent to the Applicant by letter dated 31 July 2019.

sent to the Authority as an annex.

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(56)

In connection with the discussions with [...], the Applicant requested the Authority to establish that:

the Applicant did not reply to his request incompletely and unlawfully, as he did not send him the

next to the media that contains a copy of the audio recordings, a list that contains the conversation

the date, start, duration, name of the administrator, and the unique ID of the conversation.

(57)

The Authority has reviewed the files in the [...] folder on the audio DVD. THE [...]

folder contains eight subfolders (2013; 2014; 2015; 2016; 2017; 2018; 2019; 52018294) and one

Excel file (filename: [...] _ [...] _2013_2018, hereinafter referred to as the table). The table is between 2013 and 2019

includes the following: the start and end dates of the call; the duration of the call;

incoming or outgoing call; the phone number called [...] or from which [...] was called and Segment

ID, which is the unique identifier of the call and two additional data sets (Participant Station; Segment UCID),

which are not relevant to the Applicant's application. The Segment ID is included in the audio files

after their serial number, which indicates the chronological order of the sound recordings, so the Segment

Based on the ID, the recording can be identified and its parameters can be known from the table

(58)

The folder named 52018294 has two subfolders - 2015; 2016 - includes and a table

([...]_52018294_2013_2018; hereinafter: Table2). Table2 contains a breakdown by file of

call

beginner

the date

duration

seconds

(e.g.

the

20150909_1819_1_6192550771766133894_1_47 The call duration was 11 minutes, 49 seconds, which

corresponds to 709 seconds in the table) and the direction of the call (incoming or outgoing).

(59)

On the basis of the above, the Authority finds that the Requested has arranged the audio files on the DVD in chronological order.

at the request of the Applicant and made available to the Applicant by the

lists of audio recordings that include the date of the conversations, its accurate

the start, duration, and unique ID of the call. The tables do not include the call

the names of the receiving or initiating administrators, but shall not be considered as personal data of the Applicant, and

it is not necessary for the transparency of the information provided. Consequently, the Authority concludes that

The Applicant complied with the Applicant's request and thus rejects the present decision (56).

requests pursuant to paragraph

III.5. Access to photos from the branch circular dated June 30, 2017

(60)

In relation to the photographs attached to the circular dated 30 June 2017, the Applicant requested the Authority to:

state the following:

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(61)

the Applicant did not respond to his request, thus violating his right of access and data processing
the right to restrict;

the Applicant transmitted the photographs without legal basis and purpose on 30 June 2017 a
managers of various bank branches;

the photographs are handled by the Applicant without proper purpose;

the photographs will be handled by the Requested in the absence of legal authorization and consent.

The Applicant further requested that the Authority bind the Applicant

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to respond fully to your requests for photographs;

to issue copies of photographs;

to provide information as to whether the Applicant has taken photographs

request for a restriction and, in this context, provide information that the

how many years you will not be able to delete your photos based on your request.

Information provided by the Applicant regarding the photographs

(62)

At the request of the Applicant, he informed the Applicant that two photographs of him had been sent in the circular,
however, the two photos are in one file. A copy of these images is attached to the notarial response
has already made it available to the Applicant. Accordingly, the Authority rejects the Applicant
Application for an order requiring a copy to be issued, since the copies of the photographs were

It was made available to the applicant before the Authority initiated the procedure.

15

(63)

The Applicant has already informed the Applicant in point 1.b.5) of the notarial reply that a the taking of photographs and their transmission to bank branches in the legitimate interest of financial and ancillary financial services and investment and ancillary investment services to ensure the smooth running of the system. The Applicant gave the same point informing the Applicant that the photographs have been placed in the Applicant's bank branches from recordings made by cameras. However, in its reply, the Applicant did not when and in which branch the recording was made. Article 15 (1) (g) of the GDPR states that In that case, it shall require the controller to exercise the right of access in the context of the exercise of the right of access inform us of any available information on the source of your personal data, if the data is not collected from the data subject. In the case of camera footage, the image of the subjects in each case comes from them, it is conceptually excluded that the image in the camera image does not come from the data subject. Therefore the Applicant has no obligation under the GDPR to provide information the Applicant as to exactly when and in which bank the recording was made.

(64)

To take photos, more precisely, the photo is taken from a camera who will be instructed, and when the Applicant received it earlier information on the handling of the photographs does not constitute the personal data of the Applicant, it does not data that can be contacted by him, from which the Applicant cannot be identified, so it is not covered by Article 15 of the GDPR.

the Applicant did not have to inform him. As a result, the Authority notes that it has no competence and competence to examine these issues and the identity of the competent body cannot be established beyond a reasonable doubt, so that the proceedings in this part it is eliminated.

Legality of the transmission of photographs

(65)

The Applicant forwarded the photographs to the directors of some of its branches on 30 June 2017.

At that time, the GDPR was not yet applicable, hence the photo transmission

the application for legality does not comply with Article 77 (1) of the GDPR and the Infotv.

Section 60 (2), so in this regard the Authority's data protection

official proceedings cannot be initiated either, therefore the Ákr. Pursuant to Section 47 (1) (a), the Authority shall terminated the proceedings in this part of the application.

Purpose and legal basis for the management of photographs

(66)

The Applicant stated that the two photographs were taken by Hpt. Provided for in Section 288 (3)

as part of the response to the Applicant's complaint. The

The purpose of the data processing is also to fulfill this legal obligation, ie to prove that the

he handled and responded to the complaint received in accordance with the law.

(67)

In addition, in view of the proceedings initiated by the Applicant before the Authority and the MNB, the recordings may be used to bring, assert and defend legal claims for which

the legal basis is the legitimate interest of the Applicant. In the Authority's view, the Applicant has a legitimate interest during each of the data protection authority proceedings initiated by the Applicant

In order to substantiate the claims of the Applicant,

The replies sent to the applicant, as well as its annexes, are all personal together with the data, as otherwise all the information and data that necessary to protect their rights and interests.

(68)

In the light of the above, the Authority concludes that the photographs were lawfully

with the right purpose and legal basis - as it is handled by proper complaint handling

In order to prove the occurrence of Hpt. Section 288 (3) prescribes for him, i.e. data management its legal basis is Article 6 (1) (c) of the GDPR.

(69)

The legal basis for the handling of photographs in order to protect the legal interests of the Requested is Article 6 GDPR Legitimate interest within the meaning of paragraph 1 (f). For this reason, the Applicant has appropriate purposes and legal grounds for handling the photographs, so the Authority will reject the Applicant's photographs request for a declaration that the purpose and unjustified treatment of the

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(70)

The Authority draws the Applicant's attention to the fact that the data processing of the complainant by the GDPR, not Infotv. so data management is not just a legal obligation (statutory authorization) or with the consent of the data subject may be lawful, but

In all cases covered by Article 6 (1) of the GDPR.

Restrict photo management

(71)

The Applicant did not inform the Applicant whether the photographs were completed did not inform the Applicant of his request for a restriction on data processing the measures taken or the reasons for not taking measures. Consequently, the Applicant violated Article 12 §§ 3 to 4 of the GDPR by failing to respond to the Applicant's request.

(72)

The Applicant did not restrict the handling of the photographs as Article 18 (1) of the GDPR conditions do not apply.

(73)

Under Article 18 of the GDPR, data subjects may request the processing of their personal data in four cases restriction. Of this, Article 18 (1) (b) and (c) of the GDPR may be relevant.

(74)

In its request for a restriction on data processing, the Requested stated that it considered the photos, but requests that they not be deleted in order to enforce your legal claims.

This request is an application under Article 18 (1) (b) of the GDPR, but its fulfillment it is a precondition that the processing of personal data which the data subject requests to be restricted, be illegal. The Authority has found that the handling of account manager records is not illegal, Thus, pursuant to Article 18 (1) (b) of the GDPR, the Applicant is not obliged to limit the records management.

(75)

Article 18 (1) (c) GDPR applies when the controller no longer needs a personal data for the purpose of data processing, however, the data subject requires them for legal claims to submit and validate. However, in view of the fact that the Applicant needs a to manage the records of the branch manager for the purpose of their processing - claim enforcement, so the Applicant nor is the GDPR obliged to comply with the Applicant's restrictions on data processing under this section application.

(76)

In view of the above, the Authority finds that the Applicant has not infringed the Applicant's The right to restrict the processing of data under Article 18 of the GDPR when it did not restrict this photography as its GDPR conditions were not met.

III.6. [...] Request for access to account agreements

(77)

In connection with the [...] invoice, dated 10 March 2019, the Applicant requested that a Authority finds that the Applicant has not responded to its request for the exercise of the right of access, thereby violating his right of access. It further requested that the Authority order the Applicant to: request for access and a copy of your contract and account statements (account statements for the first three months and July-November 2013).

(78)

In connection with [...] 's account, the Applicant informed in its reply dated 4 April 2019 that Applicant that the date of opening of account [...] [...], the date of account closing [...]

(79)

According to the Applicant's statement, the account opening document is not available to him, presumably was handled together with non-transferable invoice documentation. This account opening the circumstances of the disappearance of the documentation, its date are unknown to the Applicant.

(80)

The Applicant attached a copy of the last monthly statement of the savings account in the notarial reply, a copy of the account closing document of the savings account and a 2013 [...]

A transaction receipt called "cash deposit to a customer's account". He also informed the Applicant to be designated for it by Resolution No. [...] of the Magyar Nemzeti Bank

17

provided bank statements and sent additional bank statements he has no obligation to him.

(81)

The Applicant further informed the Applicant that it has no legal obligation to would be required to provide the Applicant with a "draft blank contract" or model contract. The Applicant shall make available its general terms and conditions and business rules, also with archive files. In addition, the Business Rules and the Also for handing over the GTC. A Hpt. Pursuant to Section 271 (1a) of the Applicant's website a must make its business rules in force prior to the amendment available for five years.

(82)

Based on the above, it can be concluded that the Applicant replied within the deadline set in the GDPR at the request of the Applicant to exercise the right of access and thus did not infringe Article 12 of the GDPR Paragraphs 3 and 4 respectively.

(83)

The MNB, in accordance with Article IV.3.3.1. and IV.3.3.2. in points a Applicant's USD foreign currency retail account and HUF foreign currency retail bank account examined the availability of its extracts to the Applicant, ie its contents do not mean that the that it would not apply to the Applicant's further contracts with the Applicant obligation to provide a bank statement.

(84)

The account statements are considered to be the personal data of the Applicant, so the Authority has established that the Applicant infringed Article 15 (3) of the GDPR by refusing to pay the first three monthly and between July and November 2013 to the Applicant.

(85)

The Applicant informed the Applicant that the account opening documentation and contract are not available therefore the Authority cannot oblige the Applicant to provide a copy to the Applicant. to make it available. The Applicant's request is unfounded, as he has already been informed of it that the contract is not available to the Applicant - the Applicant is dated 4 April 2019 received its reply on 10 April - before requesting the Authority to An obligation to provide the requested copy. Accordingly, the Authority rejects the Applicant's decision request as action by the Authority - Requested a copy of the contract unexpected result, as it would be aimed at achieving an impossible goal obligation.

(86)

The GTC for a given banking product, the related announcements and sample contracts do not are considered personal data as they are not identified or identifiable as natural information about individuals may not be the subject of data processing, so in connection with them a nor can the right of access be exercised. Providing access to these documents is financial sectoral legislation, as referred to by the Applicant in his reply. Therefore

the Applicant did not infringe the Applicant's right of access under Article 15 of the GDPR when it did not provided the above documents.

(87)

Whether the Candidate has provided the Candidate with a copy of the contract at the time of concluding the contract, or whether he has signed it, and the content of the contract is also not a data protection issue. The contracts handing it over to the customer is not a matter of data protection law but of financial law regulated by sectoral legislation - Hpt. Section 279 (1) - thus the issues related to it, requests should not be interpreted within the framework of data protection law, their possible non-compliance with data protection cannot be sanctioned. Consequently, the Authority Pursuant to § 17 of the case the transfer part of the account agreement to the MNB.

III.7. Access to account manager records

(88)

In paragraph 13 of the letter of 4 April 2019, the Applicant informed the Applicant that his name, and manages data on your account visits, of which you have previously been notified, the fact of which is also known to the Applicant from the ongoing civil litigation and other proceedings. THE account managers provide information about what is happening in the account according to appropriate reporting processes in written form are internal administrative documents which, in the opinion of the Applicant, do not constitute personal data of the Applicant.

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(89)

According to the information provided to the Requested Authority, the records shall contain the name of the Applicant or monograms in each case and describe the events detected by the account managers. THE According to the Applicant, the obligation to provide information only applies to the fact that the Applicant which data it handles in this area, for what purpose, on what legal basis, however, it does not cover internal to provide access to documents drawn up for administrative purposes. For account visits

data is handled by the Requested for the purposes of complaint handling and enforcement and is handled by various authorities

and use it in court proceedings. The legal basis for data processing is legal in the case of complaint handling fulfillment of an obligation, inter alia, in the legitimate interest.

(90)

With regard to the branch manager's records, the Applicant requested that the Authority establish that the did not respond to your request for access; in the absence of legal authorization and consent, manages the personal information in the records; did not respond to a request for a restriction on data processing. He asked and that the Authority be bound by its request to restrict access and data processing to respond to the Applicant; order the execution of your request for a restriction on data processing, or to provide a copy of these account manager records.

Responding to requests from data subjects for the exercise of access rights and restrictions on data processing

(91)

The Applicant replied to the Applicant's request for the exercise of the right concerned, when the GDPR 12.

In accordance with Article 4 (4), it stated that, in its view, the notes did not does not do so on the basis of a request for restrictions on your personal data, such as access and data processing measures.

(92)

The Applicant erred in informing the Applicant that the account manager's records are not personal as each of its records contains its name or monogram, on the basis of which the

The parts of the notes relating to the Applicant are considered to be the personal data of the Applicant, as the identifiable by. Consequently, the Applicant violated Article 15 of the Applicant's GDPR

right of access when he did not inform the Applicant of the number of account manager records

was born in connection with your account visits, which day, in which account they were made, what on this

the purpose, legal basis and duration of the processing of records. The Authority obliges the Applicant to do so provide information to the Applicant.

(93)

In cases under Article 12 (5) of the GDPR and Article 15 (4) of the GDPR, the controller may refuse a request for a copy pursuant to paragraph The Applicant is did not refer to any of them during the proceedings and did not prove that a copy of the branch manager's notes making it available to the Applicant adversely affects the rights and freedoms of others, only on this referred to the nature of an internal administrative document, the contents of which, however, did not they lose their personal data character. As a result, the Applicant violated Article 15 of the GDPR. the right to make a copy under Article 3 (3) when he has not provided him with a copy of that Article account manager records, subject to the protected data and information contained therein. THE Authority shall oblige the Applicant to provide the Applicant with the records of the branch manager. copies that do not contain proprietary data and information.

Purpose and legal basis for the management of account manager records

(94)

According to the Applicant's statement, the legal basis for the management of the data in connection with the records of the branch manager is a legitimate interest and purpose of enforcement.

(95)

It is in the interest of the Applicant to become aware of the non-existence in each bank branch normal events other than the general session, the identity of the person who caused it, and what measures the branch manager has taken to eliminate and manage the situation. That's why it is necessary because, where appropriate, the person whose appearance or action is disturbing the bank branch on a daily basis may also engage in conduct that constitutes an offense or a criminal offense qualify or substantiate the Claimant's claim for a civil right, such as damages. THE a description of the act and a description of the actions taken by the branch manager as a result of the act is also necessary because if, for example, account managers switch clients after a session is disrupted

may lead to customer complaints being lodged with the bank branch

The applicant must provide a description of the situation, without disclosing the identity of the person who caused it respond to your complaining customers.

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(96)

In the records of the branch manager made available to the Authority, only the name of the Applicant or monogram, the fact of its appearance in the bank branch, made on the basis of this in the bank branch measures and, only occasionally, a description of the behavior of the Applicant. Therefore it can be stated that the account managers really only record the data in the records that necessary to know what happened at the bank branch and the legitimate interest of the Applicant to validate.

(97)

The Applicant and the Applicant have had a number of disputes with each other in recent years, different before the courts or authorities (for example, in 2019, pending the adoption of this decision, the Applicant initiated ten data protection official proceedings before the Authority against the Applicant).

For this reason, the Applicant must have access to the Applicant's branch visits information contained in the records of the branch manager as he knows it as evidence used in various court and regulatory proceedings for enforcement purposes. The Authority notes that that the Applicant makes audio recordings for the same purpose, as he acknowledges, at the during branch visits, which restricts the Applicant 's staff to a much greater extent, the The right to information self - determination of persons providing security services to an applicant, such as branch manager's records the right to protection of the Applicant's personal data.

(98)

In view of the above, the Authority notes that the account manager's notes have been lawfully, since its legal basis is a legitimate interest within the meaning of Article 6 (1) (f) of the GDPR, and its purpose is enforcement, which is a legitimate aim under Article 5 (1) (b) of the GDPR. THE

The Authority draws the Applicant's attention to the fact that the data processing of the not Infotv. provisions of the Directive apply, so data management is not only a legal obligation (statutory authorization) or with the consent of the data subject, but in accordance with Article 6 of the GDPR. in all cases referred to in Article 1 (1).

Restrictions on the handling of account manager records

(99)

Under Article 18 of the GDPR, the data subject may request a restriction on the processing of his or her personal data in four cases.

Of this, Article 18 (1) (b) and (c) of the GDPR may be relevant in the context of a specific application.

(100) In its request for a restriction on data processing, the Requested State claimed that the records, but requests that they not be deleted in order to enforce their legal claims. On this application is an application under Article 18 (1) (b) of the GDPR, the fulfillment of which, however, it is a precondition that the processing of personal data which the data subject requests to be restricted, be illegal. The Authority has stated in the previous paragraph that the management of account manager records is not illegal, so under Article 18 (1) (b) of the GDPR the Applicant is not obliged to restrict managing account manager records.

(101) Article 18 (1) (c) GDPR applies when the controller no longer needs the personal data for the purpose of data processing, however, the data subject requires them for legal claims to submit and validate. However, in view of the fact that the Applicant needs a to manage the records of the branch manager for the purpose of their processing - claim enforcement, so the Applicant the GDPR is not obliged to comply with any restrictions on the Applicant's data processing under this section application.

(102) In view of the above, the Authority concludes that the Applicant has not infringed the The right to restrict the processing of data under Article 18 of the GDPR when it did not restrict this management of account manager records as its conditions under the GDPR were not met.

III.8. Legal consequences

(103) The Authority grants the applicant's request and pursuant to Article 58 (2) (b) of the GDPR

Condemns the Applicant for violating Article 12 (3) and (4) of the GDPR and Article 15 of the GDPR;

Article 18 (1) and (3) and Article 18 (1) (c) of the GDPR.

(104) Pursuant to Article 58 (2) (c) GDPR, the Authority instructs the

IV. of the exercise of the rights of the Applicant concerned

requests.

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(105) The Authority examined of its own motion whether a data protection fine against the

imposition. In this context, the Authority will amend Article 83 (2) of the GDPR and Infotv. 75 / A. §

considered all the circumstances of the case. In view of the circumstances of the case and the fact that

This is not the first time that the applicant has infringed the provisions of the GDPR, and the Authority

that, in the case of the infringements detected in the present proceedings, that conviction is neither proportionate nor

proportionate

a dissuasive sanction, it is therefore necessary to impose a fine.

(106) In imposing the fine, the Authority took into account the following factors:

(107) In particular, the Authority noted that the infringements committed by the Applicant were covered by Article 83 of the GDPR.

Infringement falling within the higher category of fines under Article 5 (5) (b)

as they infringed the rights of the data subject.

(108) In imposing the fine, the Authority took into account the following mitigating circumstances:

-

the violations discovered concern only the Applicant, the violations are not continuous

nature and can be remedied by appropriate measures [Article 83 (2) (a) GDPR

point];

-

the Authority, in particular the operative part of Part I.1 of this Decision. point

in respect of the infringements found - took into account that the Applicant

(every two weeks, monthly) to the Applicant

applications, which in each case consist of several points, are often repeated in the past

or contain only minor deviations from their applications, and the applications are

in the vast majority of cases involve several different data treatments, these circumstances

and significantly and to the extent recognized by the Authority, make it more difficult for the Applicant

accurate, comprehensive applications from a large number of stakeholders

answer. Accordingly, Article I.1. point

The infringements found are all negligent [Article 83 (2) GDPR

paragraph (b) and (k)];

•

the management of the recording made on 14 January 2019 at the [...] bank branch in Budapest

the Applicant wished to carry out the restriction of the file at the request of the Applicant

therefore, the infringement resulting from the technical error constitutes negligent infringement

[Article 83 (2) (b) GDPR];

•

in connection with camera recordings made between 14 November 2018 and 3 March 2019 a

The Authority notes that NAIH / 2019/1859/13. Decision No

accordingly, on a voluntary basis, prior to the adoption of this Decision

in the absence of an official request, provided the Applicant with the information requested in the present proceedings

a copy of the camera recordings without protected data, ie the

to remedy the infringement and complied with the Authority's earlier ruling on the same subject matter

[Article 83 (2) (c) and (i) of the GDPR].

(109) In setting the fine, the Authority took into account as an aggravating circumstance:

•

the Applicant himself acknowledged that he was the account manager for the Applicant's branch visits

records are considered to be the personal data of the Applicant, a copy of which is a

However, the applicant was deliberately refused access to it [GDPR 83.

Article 2 (2) (b)];

•

the Authority in NAIH / 2019/1859/13. has already condemned the

The Applicant does not comply with the Applicant's requests for the exercise of rights

infringement of the rights of the data subject (Article 83 (2) (e) GDPR).

point].

21

(110) The Authority further notes that the data breaches found do not affect the

special categories of personal data [Article 83 (2) (g) GDPR], and that a

became aware of the violation on the basis of the Complainant's complaint. [Article 83 (2) (h) GDPR

point]. The latter circumstance was not considered an aggravating circumstance by the Authority because

In relation to a breach, the controller has no obligation to notify the GDPR to the Authority

as in the case of incidents.

(111) In imposing the fine, the Authority did not consider Article 83 (2) (d), (f),

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

(112) According to the Applicant's consolidated accounts for 2018, its pre-tax profit is [...] million

the amount of the data protection fine imposed is considered to be extremely low and does not exceed

beyond the maximum fine that may be imposed.

(113) In view of the above, the imposition of a fine on the Applicant is necessary despite the fact that

the present case concerns an infringement relating to the exercise of the rights of a single data subject.

(114) The amount of the fine was set by the Authority in accordance with its statutory discretion.

(115) In view of the above, the Authority has decided in accordance with the operative part.

ARC. Other issues:

(116) The Authority's powers are governed by Infotv. Section 38 (2) and (2a) determine the jurisdiction of the country

covers the whole territory.

(117) The decision is based on Article 80.-81. § and Infotv. It is based on Section 61 (1). The decision is based on Ákr. 82. § (1), it becomes final with its communication.

(118) Art. § 112 and § 116 (1) and § 114 (1), respectively

there is an administrative remedy against him.

(119) 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.

(120) 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 referred to as the Customer's legal representative pursuant to Section 9 (1) (b) of the E-Administration Act obliged to communicate electronically.

(121) The time and place of the submission of the application are set out in Kp. 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.

(122) If the applicant fails to provide adequate evidence of compliance with the required obligation, the Authority will:

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. The

Ákr. Section 133 of the Enforcement - unless otherwise provided by law or government decree
ordered by the decision-making authority. The Ákr. Under section 134 of the enforcement - if
a law, government decree, or local government decree in a municipal authority matter

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unless otherwise provided - by the state tax authority. Infotv. Section 60 (7)
to carry out a specific act contained in a decision of the Authority
the decision as to the obligation to conduct, tolerate or stop
shall be carried out by the Authority.

Budapest, December 20, 2019

Dr. Attila Péterfalvi

President

c. professor