

Case number: NAIH- 1647-6/2022.

History case number: NAIH-5002/2021.

Subject: Decision

H A T A R O Z A T

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

(headquarters: [...]; company registration number: [...]; tax number: [...]; hereinafter: Company) vis-à-vis ex officio

started in an official data protection procedure, in which the Authority [...] concerned (hereinafter:

Complainant) has secured customer legal status, the Authority makes the following decisions:

I. The Authority determines that the Company has violated the general data protection regulation (a

hereinafter: GDPR) point f) of Article 5 paragraph (1).

II. The Authority finds that the Company has violated Article 6 (1) of the GDPR.

III. The Authority finds that the Company has violated Article 9 (1) of the GDPR.

ARC. The Authority finds that the Company has violated Article 15 (1) of the GDPR.

V. The Authority is the I-IV. Article 58 (2) b) GDPR

condemns the Company based on point

There is no place for administrative appeal against this decision, but the 30th from the date of notification

within days, it can be challenged in an administrative lawsuit with a letter of claim addressed to the Metropolitan Court. THE

claim letter must be submitted electronically to the Authority¹, which forwards it along with the case documents to the

to the court. For those who do not benefit from the full personal tax exemption, the administrative court fee

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

representation is mandatory.

I N D O C O L A S

I. Procedure of the procedure

On July 8, 2019, the Complainant's legal representative filed a report with the Polish Data Protection Authority

to an authority in which your personal data, including personal health data, is provided by the Company

objected to its illegal transmission.

According to the Complainant's point of view, the purpose-bound data management was violated during the transmission of his personal data

and the principle of data saving. He requested that the acting authority oblige the Company illegally to delete processed and forwarded personal data, or to notify the recipients with whom or with which you disclosed personal data. The Complainant also requested that the Company obligation to collect personal data for the purpose of handling complaints exclusively for this purpose handle it.

On December 3, 2019, the Polish data protection authority, according to Article 56 of the GDPR, the main authority and initiated a procedure to determine the relevant authorities. During this, on February 3, 2020 it was established that the Authority is the main authority in the case, since within the Company's organization the decisions regarding the purposes and means of personal data management are made in Hungary yes.

1 The NAIH_K01 form is used to initiate the administrative lawsuit: NAIH_K01 form (16.09.2019) The form it can be filled out using the general form filling program (ÁNYK program).

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In the case, on March 10, 2020, Article 57 (1) of the General Data Protection Regulation (hereinafter: GDPR) paragraph f) and on the right to self-determination of information and freedom of information

CXII of 2011 Act (hereinafter: Infotv.) an investigation was initiated based on point a) of § 38, paragraph (3).

The Authority invited him to make a statement on March 10, 2020 in order to clarify the contents of the notification up the Company. The Company received the Authority's request on March 16, 2020, March 24, 2020 and I applied to the Authority for a deadline extension. The Company's statement 2020. arrived at the Authority on April 21.

The Polish data protection authority within the framework of the voluntary mutual assistance procedure (A61 VMA [...])

On June 6, 2020, he informed the Authority that the Complainant, in terms of conducting the procedure submitted relevant documents to him and sent a copy of these documents to

To authority.

On June 22, 2020, the Authority launched the voluntary mutual assistance procedure pursuant to Article 61 of the GDPR initiated (A61 VMA [...]) with the Polish data protection authority, as it is available on the basis of documents, it was necessary to clarify additional questions. The Polish Data Protection Authority On September 24, 2020, he complied with the Authority's request (A61 VMA [...]). Authority dated 18 May 2021, NAIH-5002-1/2021. notified the Company in order no. that the investigation procedure in the case was closed, and that Infotv. Data protection based on § 60, paragraph (3). initiated an official procedure, the subject of which was the contents of the Complainant's report. On this in its ruling, the Authority invited the Company to make a statement in order to clarify the facts. The Company's statement was received on June 6, 2021 in response to the fact-finding order of the Authority through his authorized legal representative.

The Authority NAIH-5002-3/2021. No., dated August 11, 2021, to the Complainant provided customer legal status, the order in this regard is voluntary mutual according to Article 61 of the GDPR informed the Complainant in the framework of the assistance procedure, with the cooperation of the Polish authorities.

II. The facts

The Complainant submitted that on April 6, 2019, he flew on one of the Company's flights, however, the your luggage has not arrived at your destination. In this regard, the Complainant is the Company for this purpose complained to the Company on its online interface on April 23, 2019, which received the [...] number (the hereinafter: complaint). The Complainant presented the damages incurred in connection with the disappearance of his luggage, in the framework of which he explained what kind of illness he suffers from and that he is receiving medical treatment for this illness takes prescription medications. He also mentioned that his checked luggage had the his medicine, which he was unable to take for four days, as a result of which certain symptoms returned, which because of this, you must also go for an unplanned control examination.

Regarding the Complainant's complaint dated April 23, 2019, the Company related to the handling of the complaint information, the list of documents required for this on April 25, 2019 at 12:59 p.m. [...] e-

e-mail address, however, the customer service employee sent this reply letter, not the Complainant's e-mail address, but sent it to the e-mail address [x], which is the e-mail address with which the account was registered the Complainant's plane ticket was purchased through As a precursor to the information, the letter itself is a also contained a complaint, as a result of which the content of the complaint was forwarded to the e-mail address [x]. for a third party user.

According to the Complainant's statement, the reservation was made by a company named [...] (hereinafter: [Y]). for him through a travel agency that the Complainant could not name.

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According to the Company's information and the copy of the correspondence submitted in support of this, a flight ticket was booked with the user account registered with the e-mail address [x], which is the [...] reservation (PNR) got a number. This reservation included a total of thirty passengers including the Complainant.

According to the Company's records, the user account number [...] registered with the e-mail address [x] is not one was created as a business account belonging to a travel agency, but as an account of a natural person through normal registration. The owner of the account is [...] (address: [...]).

During the procedure, the Company found out that the e-mail address [x] is available on the Facebook page under [...] according to published public information, it is linked to the Polish [...] - website: [...] - travel agency.

According to the Company's practice, when any passenger in a given PNR number makes a complaint, case links it to the reservation in the [...] case management system. This is necessary because it is the customer service can investigate the merits of a travel-related complaint and, if necessary be able to arrange for a refund.

If a complaint is received for a reservation, the customer service employee must check, whether the passenger making the complaint is on the given reservation and, if so, how to handle the complaint must be conducted directly with the complainant.

In the specific case, the administrator inadvertently sent the e-mail to the e-mail address of the customer making the reservation

A response message intended for the complainant on April 25, 2019, which is further related to the complaint

in addition to tasks, it also contained the Complainant's original complaint. 2019 by the same employee.

on April 29, he also sent a reminder letter to the e-mail address [x] addressed to the Complainant, in which reminded that the contents of the previous letter are necessary for the further management of the complaint case to his answer, and in the absence of an answer, closes the complaint case within 11 days.

The first letter sent by the administrator to the e-mail address [x] together with the complaint - presumably - the trip was forwarded by the travel agency entrusted with its organization to [...] ([...]), who forwarded it to [...] to ([...]), who are employees of [Y] and the Complainant's colleagues. The entire correspondence to the Complainant finally [...] forwarded it to the [...] e-mail address. The Complainant forwarded this entire correspondence to the Company on April 29, 2019 and requested information on the legal basis on which the Company forwarded the personal data, including health data, to third parties. The Complainant on this

he repeated his request on May 1, 2019. In his letter dated May 7, 2019, he informed the Company, that in the absence of a response from the Company, it will contact the Polish data protection authority.

On May 14, 2019, the Company's customer service employee erroneously informed the Complainant that that since you were on a group trip, the travel agency booking the flight ticket has the right to do so to participate in procedures related to road-related complaints, at the same time the Complainant may request, so that the communication is sent directly to you.

According to the Company's point of view, the customer service employee

[...]
points [...] of its business rules (hereinafter: Business Rules), which are the person making the reservation have their rights and obligations. Neither the Terms of Business nor the Company are travel related T&C for offices does not contain provisions that the person making the reservation is would be entitled to rights in a passenger-initiated complaint procedure.

The customer service representative does not refer to the customer service manual during complaint handling acted appropriately. According to point [...] of the customer service manual from the Complainant on April 29, 2019 incoming request, in which you inquired about the legal basis of data transfer, other data protection should have been treated as a case and forwarded to the data protection officer.

as a result of an internal investigation, the Company found that

Concerning the issue

a data protection incident occurred due to incorrect data transmission by a customer service employee, which misinterpreted the

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Reported to the Authority on April 22, 2020, which is NAIH/2020/3601. received a case number. The Authority a

33-34 GDPR. compliance with its articles in this, NAIH/2020/3601. in procedure no., official

examined as part of an inspection. During this, NAIH-1248/2022. stated in document no. that a

33-34 GDPR. to conduct official proceedings in connection with compliance with the obligations contained in Article

did not reveal any causative circumstances, so the case does not require further action in this matter.

On April 23, 2020, the Company's data protection officer informed the complainant that in detail

investigated your complaint regarding the transmission of your personal data to third parties,

during which he determined that a data protection incident had occurred concerning his personal data,

which he notified to the Authority as stated above. The Company's data protection officer also says so

informed the Complainant that the customer service employee had wrongly informed him that a

the person making the reservation would have any rights during individual complaint handling.

Simultaneously with the information letter sent to the Complainant, the Company contacted the recipient -

[...] [x] - and requested that you immediately delete the personal data sent to you in error, or

requested that the persons to whom he forwarded the incident be notified of the incident

An e-mail containing the complainant's personal data and ask them to delete it. The Company requested it

and that the recipient confirms that he has deleted the personal data, however, by June 24, 2020

he did not receive any response from the addressee, nor did he subsequently inform the Authority that he had received it

would have received any feedback from the addressee.

In the Company's statement, the European referred to the weight and legal judgment of the case

The Data Protection Board (hereinafter: the Board) put it out for public consultation, in the meantime 2021.

adopted on December 14 01/2021. (Examples regarding Data Breach

Notification), and within this to examples 6.2-6.4, especially 6.3. for example. On this

for example, the confidentiality of healthcare data was damaged in the case of two stakeholders due to a wrongly addressed e-mail.

According to the Board's point of view, although the confidentiality of health data is violated, it has a low probability that it could be used to the disadvantage of the affected parties - "Even if the information that someone who is lactose intolerant is health data, the risk that this data will be used in a detrimental way should be considered relatively low." – and register the incident accordingly take, however, due to the low risk, neither the supervisory authority nor the data subject is obliged to notify about this.

In summary, according to the Company's point of view, due to an error caused by administrative negligence, the confidentiality of data on the complainant's medical condition by not mistakenly a

It was sent by the Company to the Complainant, but to the e-mail address [x] of the person handling the reservation intended letter, but this did not entail any actual risk to the rights and freedoms of the Complainant.

After noticing the incident, the Company immediately took measures to ensure that it sent an invitation to the recipient affected by the incident to delete the erroneously transmitted personal data, and called on him to take measures to delete the data also in relation to third parties, to whom you may have forwarded personal data related to the incident.

Therefore, taking into account the referenced guidelines of the Board, the weight of the case, the nature of the data management, it

the circumstances of the incident, the people involved, the nature of the data handled and that confidentiality due to his injury, the present case did not cause an actual disadvantage to the rights of the concerned Complainant and regarding his freedoms, according to the Company's point of view, the application of an adverse legal consequence is not justified.

III. Findings of the Authority

III.1. Forwarding the Complainant's complaint to a third party

According to Article 4, Clause 12 of the GDPR, a data protection incident is a breach of security that a

accidental or illegal destruction of transmitted, stored or otherwise handled personal data,

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loss, alteration, unauthorized disclosure or unauthorized access to the data

results in Different types of data protection incidents resulting from the definition

we distinguish, one of them is the confidentiality breach, which is personal data

unauthorized or accidental disclosure or unauthorized or accidental access to such data

results in In the case that is the subject of the complaint, such a data protection incident involving a breach of confidentiality occurred,

since, due to the carelessness of its employee, the Company unauthorizedly communicated the

The applicant's personal data was sent to the e-mail address [x] with [...], who made the flight ticket reservation, on 2019. with his letter of April 25, in violation of Article 5 (1) point f) of the GDPR.

According to Article 4, point 2 of the GDPR, the transmission and communication of personal data is also data processing qualifies, so it can only be legal if it has the conditions according to Article 6 (1) of the GDPR

legal basis. If the data management also affects special categories of personal data - in this case

health data: what kind of disease you suffer from, the disease is available with a doctor's prescription

he is taking medication, his condition has worsened due to the failure to take the medication, as a result of which must go for a review - then the data controller must have Article 6 (1) of the GDPR

according to the legal basis, and the data management must comply with Article 9 (2) of the GDPR included in a case.

The complaint containing the Complainant's health data was forwarded due to an administrative error, that is there was no pre-planned data management. Due to the nature of data management, it was not you can name a legal basis that would have made this data transfer legal, your complaint

the Complainant did not consent to its transmission, there was no contract or legal obligation to fulfill necessary and did not serve the legitimate interests of the Company. In this case, GDPR Article 6 (1) d)

and the application of legal grounds according to points e) is conceptually excluded. It also follows that it is Article 9 (2) of the GDPR is unnecessary for the assessment of the legality of data management

examination of the fulfillment of a condition, since data management is Article 6 (1) of the GDPR

does not correspond to any of the legal grounds under

Based on the above, it can be concluded that the Company due to the carelessness of its employees unlawfully, in the absence of an adequate legal basis, it was forwarded to the e-mail address [x] by the Complainant's healthcare

your complaint including your data, thereby violating Article 6 (1) of the GDPR, or

in relation to health data, also Article 9 (1) of the GDPR.

According to the Authority's point of view, the Company's responsibility is only for the email address [x] on April 23, 2019 in connection with illegal data transmission, it can be established that the recipient [...], then he [...] forwarded the e-mail containing the Complainant's personal data, from whom the Complainant eventually received it, is no longer the responsibility of the Company.

III.2. Assessment of the Complainant's access request

The Complainant's letter of April 29, 2019, in which he requests information from the Company that the Third, on what legal basis did the company forward its complaint, which also included your health data person, it is considered an access request according to Article 15 of the GDPR.

The Company responds to this access request within one month of receipt of the request answered, however, it contained incorrect, misleading information, since the

On May 14, 2019, a company employee erroneously informed the Complainant that because a participated in a group trip, the travel agency booking the flight ticket has the right to travel to participate in procedures related to complaints, at the same time the Complainant may request that a communication should be sent directly to you.

The Company also acknowledged the fact of the wrong information in its statement to the Authority, and the

In his letter dated April 23, 2020, he wrote to the complainant from [...] e-mail address.

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steps in order to

As a result, the Authority concludes that the Company has violated the GDPR. Article 15 (1)

paragraph when you did not provide information about the legal basis for the transfer of your data and instead it is wrong provided information on the complaint handling process.

III.3. Deletion of the Complainant's personal data

In his complaint submitted to the Polish data protection authority, the Complainant requested that the Authority oblige him the Company to delete illegally processed personal data and oblige it to "do it can reasonably be expected inform the data manager data controllers that the data subject has requested from them links to the personal data in question or deleting a copy or duplicate of these personal data."

In his report, the Complainant objected that the Company provided access illegally to the personal data of a third party described in the complaint addressed to the Company, the Authority therefore examined only this. The Company is the wrong addressee of the Complainant's complaint - the plane ticket the person making the reservation - committed the violation by forwarding it to the It was limited to the personal data recorded by the complainant in the complaint.

CLV of 1997 on consumer protection. Act (hereinafter: Law) 17/A. (7) of § stipulates for the Company that the complaint or the record taken about it with the answer given to it keep it for five years and present it to the inspection authorities at their request.

The Ftv. in order to check compliance with its regulations, if the complaint was not made in writing, but, for example, by telephone or using other electronic communication services, then a

it is not enough for a company to record the complaint itself, but also to record such additional data necessary to judge that the complaint was properly handled by the company

e, and which are otherwise included in a written complaint in itself. These data are as follows: a

name and address of the consumer; the place, time and method of presenting the complaint; detailed description of the complaint, a

list of documents, documents and other evidence presented.

By handling the complaint, and thus the data contained therein, the Company complies with Ftv. fulfills its requirements, thus

them on the basis of the Company's legal obligation according to Article 6 (1) point c) of the GDPR

legally managed, and they cannot be deleted by the Ftv based on point b) of Article 17 (3) of the GDPR. by
before the end of a specified five-year retention period.

On April 23, 2020, after becoming aware of the illegal data disclosure, the Company called the
addressee to delete the e-mail containing the Complainant's personal data, or to inform about the incident
also notify the persons to whom he forwarded the Complainant's personal data
containing an email and ask them to delete it.

Based on the above, the Authority does not accept the Complainant's complaint No. 1, given that
the Company legally, the Ftv. shall handle the Complainant's complaint on the basis of his legal obligation prescribed by
his personal data provided by him, so based on point b) of Article 17 (3) of the GDPR, they are not
you can delete it, while you have called the recipient to delete personal data. The Authority further notes that it is
during the procedure, no information emerged that the Company is the Ftv. 17/A. from paragraph (7) of §
would handle the Complainant's personal data provided in the complaint for a different purpose, therefore this part of the
complaint
baseless.

The Authority also notes that the legal consequence of the second round of complaint No. 1

[GDPR Article 58(2)(g)] - according to which the Authority instructs the Company to "do

and the reasonably expected steps in order to inform the data controller

data controllers that the data subject has requested from them links to the personal data in question or

deleting a copy or duplicate of these personal data" - not in relation to the specific case

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to delete,

can be applied, as it can only take place and can only be interpreted if the personal data

the data controller has made public, in accordance with Article 17 (2) of the GDPR, the type of data management

it did not happen in a specific case.

However, the Company notified the user of the e-mail address [x] that it is data protection

incident occurred and requested that the Complainant's personal data, including his health data, delete the e-mail illegally forwarded to you, the content of the second part of complaint No. 1 has been satisfied since, according to the Authority's point of view, the requested measure was actually aimed at this.

The Authority also notes that in the specific case, the personal data according to Article 19 of the GDPR to correct you

and notifications related to the limitation of data management

cannot be interpreted as an obligation either, given that Article 16, Article 17 (1) of the GDPR did not occur or the exercise of the rights of the data subject pursuant to Article 18.

III.4. Violation of the principle of purpose-related data management and data saving

In his statement to the Polish data protection authority, the Complainant requested that the Authority oblige the Company to handle the Complainant's request only for the original purpose of handling the complaint your personal data provided for the purpose, or, according to your opinion, the transmission of your data the data saving requirement was also violated.

Based on what was presented in the request to the Polish data protection authority and clarification of the facts during the process, no circumstances or information arose regarding the fact that the Company by the Complainant a you have used your personal data recorded in the complaint for a purpose other than the purpose of handling the complaint would have handled it any other way.

Due to the inattention of the Company's employee, the personal data of the Complainant a

Unlawful disclosure of the complainant's flight ticket to a third party is not covered by Article 5 of the GDPR

Purpose-bound data management according to paragraph (1) point b) and Article 5 paragraph (1) point c) of the GDPR violation of the principle of data saving according to

in which the Company relates to the complaint

and the attachment

wanted to inform the Complainant about documents, and which had the Complainant as antecedents letter of complaint, took place in connection with the handling of the complaint.

Given that the security of personal data has been compromised and a data protection incident has occurred,

thus, in relation to data transmission, neither the purpose-bound data management nor the principle of data saving its validity cannot be interpreted, since they assume planned data management.

Incorrect or inappropriate addressing makes data management limited to its purpose, or data saving requirement is not affected according to the Authority's point of view, and as a result, the Authority rejects Complainant 2. does not accept his complaint no.

III.5. Legal consequences

The Authority finds that the Company has violated Article 5, Paragraph 1, Point f) of the GDPR, Article 6 (1), Article 9 (1) and Article 15 (1). Due to these violations, the Authority condemns the Company based on point b) of Article 58 (2) of the GDPR.

The Authority does not consider it necessary that in accordance with Article 58 (2) point c) of the GDPR instruct the Company to comply with the Complainant's access request, as it concerns this on the one hand the Complainant did not make a request in his submission to the Polish authorities, on the other hand, the procedure during the process, it was established that the data transfer took place in the absence of a legal basis, i.e. a new, personal one you would no longer receive meaningful information about the management of your data from the Company. about things to do,

further

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In the matter of whether the imposition of a data protection fine is justified, the Authority is the general one Article 83 (2) of the data protection decree and Infotv.75/A. based on §, considered the case ex officio all the circumstances and found that there is no violation in the case of the violation discovered during this procedure it is necessary to impose a data protection fine, the condemnation of the Company by him is a sufficient measure due to violations of the law.

Based on the above, the Authority decided in accordance with the provisions of the statutory part.

ARC. Other questions

The competence of the Authority is set by Infotv. Article 38, Paragraphs (2) and (2a) defines it, the jurisdiction of the country covers its entire territory.

The decision is in Art. 80-81 § and Infotv. It is based on paragraph (1) of § 61. The decision is in Art. Section 82 (1) based on paragraph

The Akr. § 112, and § 116, paragraph (1), respectively, based on § 114, paragraph (1) with the decision and the a termination order can be appealed through an administrative lawsuit.

The rules of the administrative trial are set out in Act I of 2017 on the Administrative Procedure

hereinafter: Kp.) is defined. The Kp. Against the decision of the Authority based on Section 12 (1).

administrative proceedings fall within the competence of the courts, the proceedings are governed by the Kp. Section 13 (3) point a) point aa)

on the basis of subsection, the Metropolitan Court is exclusively competent. The Kp. Section 27, subsection (1), point b).

legal representation is mandatory in a lawsuit within the jurisdiction of the court. The Kp. § 39, paragraph (6).

according to the effect of delaying the entry into force of the administrative act of the submission of the claim there is none.

The Kp. Paragraph (1) of § 29 and, in view of this, Pp. According to § 604, the electronic one is applicable

CCXXII of 2015 on the general rules of administration and trust services. law (a

hereinafter: E-administration act) according to § 9, paragraph (1), point b) of the customer's legal representative obliged to maintain electronic contact.

The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). The trial information about the possibility of an application for holding the Kp. It is based on paragraphs (1)-(2) of § 77.

The information about the simplified trial can be found in Kp. It is based on § 124, paragraph (5).

The amount of the fee for the administrative lawsuit is determined by Act XCIII of 1990 on fees. law (hereinafter: Itv.) 45/A. Section (1) defines. Regarding the advance payment of the fee, the Itv. Section 59 (1) paragraph and § 62 paragraph (1) point h) exempts the party initiating the procedure.

Budapest, August 15, 2022.

Dr. Attila Péterfalvi

president

c. professor

