

Case number: NAIH / 2020/35/3.

Subject: Decision and procedure granting the application in part
partial termination order

History: NAIH / 2019/6755.

Before the National Authority for Data Protection and Freedom of Information (hereinafter referred to as the Authority) [...] upon the request of the Applicant (hereinafter: the Applicant), the personal data of the Applicant for the purpose of carrying out a valuation - with [...] (hereinafter: Applicant I) and [...] (hereinafter: Applicant II) (hereinafter together: Applicants) on 11 September 2019

make the following decisions in the proceedings.

In the decision of the Authority

I.1. data processing of the Applicant's application after 25 May 2018

in so far as it seeks to establish its illegality

gives place and

I.2. finds that the Applicants have violated the personal data of natural persons

the protection of individuals with regard to the processing of personal data and on the free movement of such data; and

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

Article 5 (1) (a) of the General Data Protection Regulation), ie the principle of transparency, and

Applicant I has infringed Article 5 (2) of the General Data Protection Regulation, ie

the principle of accountability and the general right of the Applicant to protest

Article 21 (4) of the Data Protection Regulation

provisions

I.3. ex officio obliges the Applicant I to be involved in the performance of the valuations

reshape its balance of interests to give the appearance of mandatory data management referring to legislation

and calls on Applicants to inform the Applicant accordingly

with regard to the processing of data relating to valuation, in particular for the purpose of protest

about the law.

I.3. to take the measures provided for in point a

shall be in writing within 15 days of the decision becoming final

together with the submission of evidence, to the Authority.

II. the part of the applicant 's application for the Authority to determine the applicant' s

the unlawfulness of the transfer of your personal data to [...]

rejects.

III. The Authority shall, by order of the official procedure, the data processing prior to 25 May 2018

examination

terminates.

ARC. The Authority will issue the Requested I ex officio due to the unlawful data processing carried out by it

HUF 500,000, ie five hundred thousand forints

data protection fine

obliges to pay.

V. The Authority shall issue the Requested II ex officio due to the unlawful data processing carried out by it

HUF 1,000,000, ie one million forints

data protection fine

obliges to pay.

No procedural costs were incurred during the official proceedings and therefore no costs were incurred

provided by the Authority.

VI. In view of the fact that the administrative deadline was exceeded, the Authority exceeded HUF 10,000, ie ten thousand

HUF to the Applicant, at his choice, by bank transfer or postal order

to pay.

The data protection fine shall govern the initiation of legal proceedings

15 days after the expiry of the time limit or, in the case of a review, by the court

within the Authority's centralized collection account for centralized revenue collection (1003200001040425-00000000)

Centralized collection account IBAN: HU83 1003 2000 0104 0425 0000

0000). When transferring the amount, NAIH / 2020/35. JUDGE. should be to refer to.

If the Applicants fail to comply with their obligation to pay the fine within the time limit, are required to pay a late payment allowance. The rate of the late payment allowance is the statutory interest, which is equal to the central bank base rate valid on the first day of the calendar half-year affected by the delay. THE in the event of non-payment of a fine and a late payment allowance, the Authority shall order the decision implementation.

A I., II., IV. and V and Annex III. against an order under

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

An action brought before the Metropolitan Court may be challenged in an administrative action. THE shall lodge the application electronically with the Authority, which shall submit it together with the case file forward it to the court. The request to hold a hearing must be indicated in the application. The procedure in an action for annulment, the court will act in accordance with the rules of the simplified proceedings. THE for those who do not benefit from full personal exemption, the judicial review procedure its fee is HUF 30,000, the lawsuit is subject to the right to record material fees. Before the Metropolitan Court legal representation is mandatory in these proceedings.

EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

I.1. The Applicant received data protection on 10 September 2019 by post initiated an official procedure.

The Applicant has requested from the Authority the unlawful processing and transfer of his personal data finding.

The Applicant submitted in his application that with the Applicant I on 7 October 2008 entered into a loan agreement, which was terminated by the Applicant I. on 12 June 2014. THE

the termination of the loan agreement was notarized. The claim is addressed to the Applicant I.

Assigned to Applicant II. The Requested II. at the request of the May 19, 2017 enforcement

claused the terminated loan agreement, on the basis of which enforcement proceedings were initiated a

Against the applicant. The executor carried out a valuation of the property in the summer of 2018.

The Applicant objected to the recovery or enforcement of the claim against him

during the II. (According to the Applicant, presumably together with the Applicant I)

on several occasions, most recently on 22 November 2018 to an "external" valuer

personal information. He has lodged several complaints in this connection and twice

also filed a complaint, one on 11 October 2013 and one on 7 January 2018.

The Applicant has attached a copy of the following documents:

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Notarial deed [...],

[...] letter,

[...] On December 9, 2018, Applicant II. letter addressed to the [...] branch,

Applicant II. Letter No. 363732898 to the applicant dated 3 January 2019

(hereinafter: letter No 363732898),

Reports made on October 11, 2013 and January 7, 2018,

[...] s. decision to reject an application,

[...] BÚ. Minutes of the hearing of witnesses.

No. 363732898, dated January 3, 2019. according to the letter in which the Requested II. the

Applicant responded to its "notification" filed on December 12, 2018, the valuation process

the Applicant I continued, the Applicant II. and reviewed after the assignment as

claim holder. No. 363732298. letter does not indicate that the valuation and its

when the review took place, and which data processor is performed on behalf of the Applicant I.

el. According to the letter, the Applicant also used a lump sum debt settlement offer in the II. towards

which justified the fact that in order to make a substantive decision, the II. encumbered with a mortgage

conduct a property valuation review.

No. 363732898. In addition to the above, in response to the processing of personal data, the referred to:

“Data processing referred to in EU General Data Protection Regulation 2016/679 (GDPR)

In view of the legal bases, we inform you that the processing of your personal data is subject to the provisions of on the day

In order to enforce a claim arising from a home loan agreement concluded with [...].

It should be noted that according to the EU General Data Protection Regulation (GDPR) 2016/679,

Our company does not process your data without consent.

In the event of failure to provide personal data, the data will be provided as a basis

a data management purpose (such as enforcing a claim arising from a home loan agreement) may be impossible.

We consider it important to note that due to non-payment our Company was entitled to enforcement

initiate the issuance of a clause against you. The enforcement clause for issuance

personal data has been handed over to the competent notary as well as the enforcement clause

your personal data have been transferred to the competent executor after his or her issuance.

Please note that EU General Data Protection Regulation 2016/679 (GDPR)

According to the Company, your data may be recorded by our Company as long as the purpose of data processing is

There is a claim for you. ”

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I.2. In the official procedure, the Authority will issue the Requested II for the first time on 29 October 2019

in order to clarify the facts.

The Requested II. - dated 20 November 2019 - according to the letter and annexes of the Requested I.

the assignment of his claim to the Applicant was made on 21 October 2014, and

16 May 2017 and - after 25 May 2018 - on 22 November 2018.

Valuation based on your existing agreement with II. Under the existing agreement

relied, on the one hand, on the basis of the II. the general

Article 6 (1) (b) of the Data Protection Regulation and that the

in the proceedings objected to the bailiff's bailiff and the court in connection with the objection called on the Requested II to declare the value of the property, this was done by the Kecskemét It was certified by a copy of the District Court's order of [...] dated 12 November 2018. Furthermore, the Applicant II. also referred to the fact that the Applicant had made a favorable lump sum payment offer. The II. attached to his statement the request to carry out a valuation with I. A copy of the "Business Contract" document dated July 22, 2019. The II. According to him, both the summons of the court and the favorable offer of payment justified it carrying out a valuation of the Applicant's property.

I.3.A Applicant II. was again invited by the Authority to make a statement on 9 January 2020

the Requested II. (hereinafter: Applicant's Declaration No. 2).

The Requested II. No. 2 According to the [...] website, the [...] link can be found on [...] 's website public information that the Applicant's business line I is for [..]

the valuation of the real estate carried out by the Applicant I.

assesses the properties used as collateral for [...] after the hedging has taken place from 1 March 2006 concentrating real estate valuation tasks [...]. The Requested II. the Applicant he did not specifically inform about it. The Requested II. also notified the Authority that in order to make the information even clearer for customers,

Applicant II. additionally, it completes its data management information and is included separately in the hedging the transmission of data related to the determination of the value of real estate to the Applicant I.

I.4.The requested I. was invited by the Authority on 13 December 2019 to make a statement provided the following information in its reply sent within the deadline:

From 1 March 2006, loans within the scope of [...] Applicant I will be covered the entire process of valuing the properties offered as collateral. Detailed on this information can also be found on the Applicant I website, on the "Property Valuation" page. THE According to the Applicant I, the Applicant was already aware of this when taking out the loan, as even then, Applicant I valued the property. According to Statement I of the Applicant a

The Applicant could also expect that the Applicant I would continue to take out the loan will prepare an appraisal opinion on the hedged property, as the information on this itself [...] no. can also be found in the notarized loan agreement, the following according to:

"Pledgers undertake to tolerate that during the term of the mortgage the

The pledgee is entitled to the existence, condition and proper use of the pledged object, as well as the Pledgors in their capacity as pledgers under this contract or as legislation on-the-spot checks on compliance with the obligations incumbent on them. "

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The Requested I. for the assessment of November 22, 2018 to perform primarily the same used data that has already been used in connection with the valuation made on 16.05.2017 were available to them.

Complaint to the Applicant I regarding the valuation or related data management not submitted by the Applicant.

The Requested II. ordered a valuation on the basis of which the Applicant I. on 22 November 2018 carried out a revaluation of the Applicant's property. Applicant I is the Applicant's appraisal personal data processed for the purpose of preparing an expert opinion after 25 May 2018 legitimate interest. The Requested I. the data processed under the relevant legislation Act V of 2013 on the Civil Code (a hereinafter referred to as the Civil Code) until the expiry of the limitation period (5 years).

The Authority also invited it to make a statement in this regard in order to clarify the facts

He asked I. whether they had been informed about their data management related to the valuation the Applicant pursuant to Article 14 of the General Data Protection Regulation and, if so, in that

In this case, attach the leaflet. The Applicant I attached to this notice of the Authority a the current version of which is available on the Applicant's website I.

available (called "Real Estate Valuation Information Management Information")

document).

According to the statement of the Applicant I, he acts as an independent data controller, as determined by the Applicant I.

the purpose and means of the management of the data relating to the valuation process, since

Applicant II. based on its own procedures and its own

using its IT systems.

The Applicant's Annex I was in force on 1 April 2015 and was in force until 22 July 2019, the

Applicant I and Applicant II. a business set up to value real estate

a copy of the contract.

Applicant I uses subcontractors to perform the valuation tasks, who a

On behalf of the Applicant I, the given will be carried out in accordance with the performance order received from the Applicant I.

on-site condition survey related to real estate, as well as the value of turnover and loan collateral

a calculation proposal for the Applicant I will be prepared in connection with the determination of

In connection with the valuation of the Applicant's property on 22 November 2018, the Applicant's I.

acting on behalf of [...], which qualified as a data processor in the course of its data processing. The

the Business Contract concluded with the Applicant II on 1 May 2018 for the data processor

"Data processing activities performed by a data processor" in Annex 13

applies on 1 May 2018.

Applicant I further stated that in the course of his activities he would comply with the

legal requirements for carrying out valuations, including non-agricultural land

on the methodological principles for determining the value of credit collateral for real estate

25/1997. (VIII.1.) PM. The personal data of the Applicant is required by law

as a result, it was absolutely necessary to deal with it in order to prepare an expert opinion.

In the attached balancing test, the Applicant I. in addition to the above legislation, the following

listed by:

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Act XXX of 1997 on Mortgage Credit Institutions and Mortgage Bonds law

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-
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CCXXXVII of 2013 on Credit Institutions and Financial Undertakings law

54/1997 on the methodological principles for determining the value of credit collateral for arable land.

Decree of the Ministry of Finance (VIII.1.)

The Magyar Nemzeti Bank 11/2018. (II.27.) On financial institutions

management of real estate risks

II. Applicable law

On the protection of individuals with regard to the processing of personal data and

on the free movement of such data and repealing Directive 95/46 / EC

Article 2 (1) of Regulation (EU) No 2016/679 (hereinafter referred to as the General Data Protection Regulation)

The Regulation applies to all or part of personal data

automated processing of non-automated data

which are part of a registration system or which are part of a

intended to be part of a registration system.

According to recital 47 of the General Data Protection Regulation, if the data processing

legal basis is a legitimate interest, a prior balancing of interests must be carried out

it is necessary to determine, inter alia, the legitimate interest, the effect on the data subject and whether

whether the processing is necessary or proportionate and whether a legitimate interest or consideration is required

and whether the right of the data subject is superior.

According to Article 4 (10) of the General Data Protection Regulation, "third party" means a natural person

or a legal person, public authority, agency or any other body which is not the same

with the data subject, the controller, the processor or the persons who are the controller

or authorized to process personal data under the direct control of a data processor

they got.

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

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

("Legality, fairness and transparency")

Processing of personal data under Article 6 (1) of the General Data Protection Regulation

lawful only if and to the extent that at least one of the following is met:

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

...

(f) processing for the legitimate interests of the controller or of a third party

necessary, unless the interests of the data subject take precedence over those interests

or fundamental rights and freedoms which call for the protection of personal data,

especially if the child concerned.

Pursuant to Article 58 (2) (b), (c) and (i) of the General Data Protection Regulation

acting within the corrective power of the competent authority:

(b) reprimands the controller or the processor if he or she is acting in a data-processing capacity

has infringed the provisions of this Regulation;

(c) instruct the controller or processor to comply with this Regulation

the exercise of his rights under this Regulation;

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

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

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Pursuant to Article 17 (3) of the General Data Protection Regulation, paragraphs 1 and 2 do not

applicable if data processing is required:

...

e) to file, enforce or defend legal claims.

Pursuant to Article 21 (1) of the General Data Protection Regulation, the data subject is entitled to:

protest at any time for reasons relating to his or her situation in accordance with Article 6 (1).

based on those provisions, including those provisions

based profiling. In this case, the data controller may not process the personal data

further, unless the controller proves that the processing is so compellingly legitimate

justified by reasons which take precedence over the interests, rights and freedoms of the data subject

or to bring, assert or defend legal claims

are related.

Pursuant to Article 21 (4) of the General Data Protection Regulation in paragraphs 1 and 2

this right shall be expressly invoked at the latest at the time of the first contact with the data subject

its attention and information in this regard clearly and from all other information

should be displayed separately.

Pursuant to Article 28 (1) of the General Data Protection Regulation, if the processing is

performed on behalf of another controller, the controller may only use data processors

who provide adequate guarantees regarding the processing of data in accordance with the requirements of this Regulation

appropriate technical and organizational arrangements to ensure compliance and protection of the rights of data subjects

measures.

Pursuant to Article 28 (3) of the General Data Protection Regulation, by the controller

processing of data which is governed by Union law or the law of a Member State

the duration, nature and purpose of the data, the type of personal data, the categories of data subjects and the

obligations or rights of the controller

which binds the processor to the controller. The contract or other legal

In particular, the act requires the processor to:

(a) process personal data only on the basis of written instructions from the controller, including

personal data to a third country or international organization

unless the processing is subject to an EU or EU law applicable to the processor

required by the law of a Member State; in this case, the data controller shall inform the controller of this legal requirement prior to the processing of the data, unless the notification of the data controller is relevant to the relevant legislation prohibits it in the public interest;

(b) ensure the confidentiality of persons authorized to process personal data under an appropriate obligation of professional secrecy based on law are available;

(c) take the measures provided for in Article 32;

(d) respect the conditions laid down in paragraphs 2 and 4 for the use of an additional data processor; the conditions referred to in paragraph 1;

(e) appropriate technical and organizational arrangements, taking into account the nature of the data processing measures to the extent possible to assist the controller in obligation to comply with Annex III requests relating to the exercise of the rights provided for in this Chapter in terms of answering;

(f) assist the controller in complying with Articles 32 to 36. fulfillment of its obligations under Article the nature of the data processing and the information available to the processor;

(g) the decision of the controller upon termination of the provision of the data management service deletes or returns all personal data to the data controller and deletes the existing one copies, unless Union or Member State law requires the storage of personal data;

(h) provide the controller with any information referred to in this Article necessary to demonstrate the fulfillment of certain obligations and which allows

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perform and facilitate audits by the controller or another auditor appointed by the controller, including on-site inspections.

In relation to point (h) of the first subparagraph, the controller shall immediately inform the controller if it considers that any of its instructions infringe this Regulation or the

or EU data protection provisions.

Pursuant to Article 83 (1) of the General Data Protection Regulation, all supervisory authorities

ensure that any infringement of this Regulation referred to in paragraphs 4, 5 and 6 is in accordance with this Article

The administrative fines imposed pursuant to this Regulation shall be effective, proportionate and dissuasive in each case
be dissuasive.

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

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

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

to impose an administrative fine or to determine the amount of the administrative fine

in each case due account shall be taken of the following:

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

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

the extent of the damage they have 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 Articles 25 and 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, what

in detail;

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

one of the measures referred to in Article 58 (2) has been ordered orally

compliance with revolving 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,

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

avoided loss.

Pursuant to Article 58 (2) of the General Data Protection Regulation, the supervisory authority

acting in its corrective capacity:

(a) warn the controller or processor that certain data processing operations are planned

its activities are likely to infringe the provisions of this Regulation;

(b) reprimands the controller or the processor if he or she is acting in a data-processing capacity

has infringed the provisions of this Regulation;

(c) instruct the controller or processor to comply with this Regulation

the exercise of his rights under this Regulation;

(d) instruct the controller or processor to carry out its data processing operations, where applicable

in a specified manner and within a specified period, bring this Regulation into line

with its provisions;

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

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

is;

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

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

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

or with whom personal data have been communicated;

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

revoke a duly issued certificate or instruct the certification body not to grant it

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

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

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

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

suspension.

3. Acting within the scope of the supervisory and advisory powers of the supervisory authority:

(a) advise the controller in the framework of the prior consultation procedure referred to in Article 36;

(b) on his own initiative or at his request, relating to the protection of personal data

the national parliament, the government of a Member State or the

other institutions and bodies and the public in accordance with the law of the Member States;

(c) authorize the processing in accordance with Article 36 (5), if the law of the Member State so provides in advance subject to authorization;

(d) issue opinions and approve codes of conduct in accordance with Article 40 (5)

draft;

(e) accredit certification bodies in accordance with Article 43;

(f) issue and approve certification certificates in accordance with Article 42 (5)

aspects;

(g) adopt the measures referred to in Article 28 (8) and Article 46 (2) (d)

general data protection provisions

(h) authorize the contractual provisions referred to in Article 46 (3) (a);

(i) authorize the administrative procedure referred to in Article 46 (3) (b)

agreements; and

(j) approve binding corporate rules in accordance with Article 47.

Infotv. Pursuant to Section 2 (2) of the European Parliament (EU) 2016/679

and Council Regulation (hereinafter referred to as the General Data Protection Regulation)

the general data protection regulation in accordance with Articles III-V. and VI / A. Chapter and Section 3 (3), (4),

6, 11, 12, 13, 16, 17, 21, 23-24. Section 4 (5), Section 5 (3) to (5), (7) and (8)

§ 13 (2), § 23, § 25, § 25 / G. § (3), (4) and (6)

in paragraph 25 / H. § (2), 25 / M. § (2), 25 / N. §, 51 / A.

§ (1), Articles 52-54. § 55 (1) - (2), 56-60. §, 60 / A. §

(1) - (3) and (6), Section 61 (1) (a) and (c), Section 61 (2) and (3)

paragraph 4 (b) and paragraphs 6 to 10, paragraphs 62 to 71. § 72

in Section 75 (1) - (5), Section 75 / A. With the additions specified in § and Annex 1

should be used.

CL of 2016 on General Administrative Procedure. 46 of the Act (hereinafter: the Act).

§ [Rejection of application]

The authority shall reject the application if:

(a) the statutory condition for initiating proceedings is absent and this law

it has no other legal consequences for it.

The Ákr. Section 47 [Termination of proceedings]

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The authority shall terminate the proceedings if:

(a) the application should have been rejected but the reason for it was to initiate the procedure

came to the attention of the authority.

III. Authority decision

III.1. Data processing period examined

In the present proceedings, the Authority will only decide on the requested data processing on 25 May 2018.

the findings made in connection with the data management after the day of Section 47 (1)

In accordance with paragraph 1 (a), the Authority shall initiate the data protection authority proceedings before 25 May 2018.

terminated the data management part of the period as the request was not answered

and Infotv. Section 60 (2), since the requested data processing

The General Data Protection Regulation was not yet applicable for this part of the period

An application for an official data protection procedure may not be submitted to the Authority in respect of

III.2. Quality of data controllers for applicants

The Applicant I stated to the Authority that the purpose and means of data processing were independently

therefore an independent data controller, as it has its own procedures for preparing the expert opinion

also has. In the interest balance, he detailed his data management operations as well as the evaluation

legislation on the standards to be followed during the

It can be stated from the statements of the Applicants and the documents attached by them that a

In the framework of Outsourcing I, the Candidate will perform the valuation on a permanent basis for Candidate II,

Applicant II. it does not deal with real estate appraisal at all. The Requested II. the claim

the holder of the claim - and as an independent data controller - for the purpose of claim management, or the specific

case at the request of a court in enforcement proceedings relating to the valuation of real estate

ordered the performance of the valuation from the Applicant I in order to make a statement. The Requested

I. therefore carries out the valuation on the basis of the Applicant's contract with II.

In the opinion of the Authority, the Requested I can be considered as an independent data controller because it is independent

has a purpose for data management and makes substantive decisions about the conditions of data management itself

will not receive detailed instructions from the Applicant II. The Requested I.

determine which personal data of the Applicant is required for the expert opinion

and determine their storage period and, where appropriate, the

you can also decide to delete and destroy them.

III.3. The Requested II. data management

III.3.1. The Requested II. legal basis for the transfer of data

According to the Applicant's I. statement, the Applicant's II. ordered a new valuation, so in 2018.

carried out the valuation on 22 November. To perform the valuation primarily

used the same data as in Annex II. have already been made available in connection with the valuation prepared for your order on 16.05.2017. Dated April 1, 2015

Until 22 July 2019, the Applicant I and the Applicant II were in force. between, real estate

Clause 1.3 of the business contract concluded for the valuation of the company (hereinafter: the Contractor Contract)

pursuant to Annex II. uploads its orders to Applicant 's System I; and

attach your deed of ownership and a copy of the official land registry map, if any, to your order

does not yet have the requested II.

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In view of the above, the Authority did not examine the requested Annex II. data transfer valuation

for the purpose of the Authority's data protection authority proceedings for the period before 25 May 2018

in the part dealing with the examination of his data management.

The Contractor 2.2. "The Contractor - if necessary

with the rights - is entitled to download orders from the Customer's electronic system. "

According to Article 4 (2) of the General Data Protection Regulation, "processing" means personal data

making it available in other ways, so that the Requested Annex II. by connecting to your system

provides access to the Applicant I, data processing regarding the personal data of the Applicant

for which it must have an appropriate legal basis. The Requested II. according to the statement

transmission of data for valuation purposes in accordance with Article 6 (1) (b) of the General Data Protection Regulation

with reference to point. The Requested II. The plea in law relied on by the

due to:

The Authority considers that Article 6 (1) (b) of the General Data Protection Regulation

with the exception of certain pre-contractual steps, is only applicable if

if it is necessary for the performance of the contract, so this plea cannot be extended as such

data processing operations for which the situation is due to the non-performance of the contract by the data subject

the Contracting Parties in order to remedy the situation

necessary to take action beyond that. They may still be covered by the contract

the steps taken by the data controller who concluded the contract with the data subject - that is, who in the event of a delay in performance, the other party shall call on the person concerned to perform the contract. However, it is contractual under Article 6 (1) (b) of the General Data Protection Regulation

The plea is no longer applicable in the event that the concessionaire is liable for non - performance to enforce a claim against the data subject.

The contract was terminated on July 3, 2014. The fact of assignment and termination a

It is also recorded in the letter sent to the applicant on 8 November 2018.

Namely, the justification of Act V of 2013 on the Civil Code (hereinafter: the Civil Code)

According to the Commission, the transfer of claims follows the same logic as the transfer of ownership, ie the assignment is, in fact, nothing more than a transfer of ownership of the claim. The by assignment, the claim is separated from the original legal relationship from which it arises, and the concessionaire enters only in respect of the claim and not in respect of the fundamental relationship in place of the transferor. By assigning the claim to the from the fundamental right and the assignee becomes the holder of the claim, the assignment of the claim enforcement of the contract, and no longer the performance of that contract from which the claim originally arose, since in this case it is the assignee should assert it not for his own benefit but for the benefit of the assignor assigned claim. By assignment, if it is for consideration, the receivable from the assignor in whole or in part, depending on the purchase price return.

The contract concluded with the Applicant, from which the Applicant II. claim of the assignee was transferred on 21 October 2018.

Processing of data pursuant to Article 6 (1) (b) of the General Data Protection Regulation - if not the steps taken at the request of the data subject prior to the conclusion of the contract is related to the performance of the contract and not to the post-assignment for claim enforcement.

The Requested II. however, it also did so with reference to a lump sum, favorable payment offer valuation, which is also Article 6 (1) (f) of the General Data Protection Regulation, for which however, the existence of a legitimate interest must be established by a general balance of interests on the basis of recital 47 of the Data Protection Regulation, which it did not do.

However, the above erroneous legal indication does not mean that Applicant II is the Applicant there was no transfer of personal data for the purpose of ordering a new valuation legal basis, since in order to determine the value of the hedging property in the management of the claim, and in a specific case, the Kecskemét District Court - dated 12 November 2018 - [...]

Applicant II may have a legitimate interest in

or, in the particular case, there was a legitimate interest in complying with the summons contained in the order.

III.3.2. Applicant II. valuation data management

The Requested II. the management of the data relating to the valuation carried out by the use) of the Requested Annex II. Article 6 (1) of the General Data Protection Regulation paragraph b), on the other hand, the execution of a summons and the payment of the Applicant in the context of its offer.

The Authority considers that Article 6 (1) (b) of the General Data Protection Regulation with the exception of certain pre-contractual steps, is only applicable if if it is necessary for the performance of the contract, so this plea cannot be extended as such data processing operations for which the situation is due to the non-performance of the contract by the data subject the Contracting Parties in order to remedy the situation necessary to take action beyond that. They may still be covered by the contract the steps taken by the controller who entered into the contract with the data subject - that is, who the other party to the contract shall, in the event of a delay in performance, call on the person concerned to perform. However, it is contractual under Article 6 (1) (b) of the General Data Protection Regulation The plea is no longer applicable in the event that the concessionaire is liable for non - performance

to enforce a claim against the data subject.

The contract was terminated on July 3, 2014. The fact of assignment and termination a

It is also recorded in the letter sent to the applicant on 8 November 2018

Namely, the justification of Act V of 2013 on the Civil Code (hereinafter: the Civil Code)

According to the Commission, the transfer of claims follows the same logic as the transfer of ownership, ie

the assignment is, in fact, nothing more than a transfer of ownership of the claim. The

by assignment, the claim is separated from the original legal relationship from which it arises, and

the concessionaire enters only in respect of the claim and not in respect of the fundamental relationship

in place of the transferor. By assigning the claim to the

from the fundamental right and the assignee becomes the holder of the claim, the assignment of the claim

enforcement of the contract, and no longer the performance of that contract

from which the claim originally arose, since in this case it is

the assignee should assert it not for his own benefit but for the benefit of the assignor

assigned claim. By assignment, if it is for consideration, the

receivable from the assignor in whole or in part, depending on the purchase price

return.

The contract concluded with the Applicant, from which the Applicant II. claim of the assignee

was transferred on 21 October 2018.

Processing of data pursuant to Article 6 (1) (b) of the General Data Protection Regulation -

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if not the steps taken at the request of the data subject prior to the conclusion of the contract

is related to the performance of the contract and not to the post-assignment

therefore cannot be upheld in the present case on the basis of this plea

reference.

The Requested II. however, it also did so with reference to a lump sum, favorable payment offer

valuation, which is the legal basis under Article 6 (1) (f) of the General Data Protection Regulation, which

However, the existence of a legal basis for a legitimate interest must be established by a balancing of interests on the basis of recital 47 of the Data Protection Regulation, which, however, did not me.

However, the above does not mean that the Applicant II has new personal data of the Applicant there was no legal basis for its use in connection with the valuation, as in the handling of the claim to determine the value of the hedged property, and in the specific case the Kecskemét District Court - to comply with the order contained in its order of 12 November 2018 [...]

legitimate interest of the Requested II or, in the specific case, the summons contained in the order there was a legitimate interest in

III.3.3. Information to the applicant

Among the attached documents, there was no document containing the November 22, 2018 valuation would have provided adequate information on the legal basis of the to the Applicant.

III.3.3.1. No. 363732898 sent to the Applicant - dated 3 January 2019.

reply letter, which is a reply to the Applicant's letters received on 12-09 and 10 December 2018, nor did it provide adequate information on the legal basis of its data processing, as it only referred to that no consent is the legal basis.

On the basis of the above, it can be concluded that the Requested II. it does not indicate in its information clearly refers to the legal basis, only for the purpose of data processing, thus violating the general rule Article 5 (1) (a) of the Data Protection Regulation, ie the principle of transparency.

It infringes Article 5 (1) (a) of the General Data Protection Regulation

nor does it appear from the letter that the valuation and its revision

when it took place and who carried it out on behalf of the Applicant I. According to the letter, the Applicant also applied for a lump sum debt settlement offer in the II. towards which it was justified to be substantive

In order to make a decision, the Applicant II. a review of the valuation of the mortgaged property conduct it.

III.4. Data management of the Applicant I.

III.4.1. Legal basis for 2018.11. On the 22nd day of valuation and loan aftercare

question

Based on the attached documents and the Declaration of the Applicants, the Applicant I completed the examination on 22.11.2018.

valuation.

According to the statement of the Applicant I, he acts as an independent data controller, as determined by the Applicant I.

the purpose and means of managing the data relating to the valuation process. THE

Applicant I. - Article 2.18 of the Contractor Agreement. - treats the valuation for 5 years

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personal data related to the application of the Civil Code, which according to the Statement of the according to the statute of limitations

adjusts to time.

According to the Applicant's Declaration I, the Applicant's personal data is subject to general data protection pursuant to Article 6 (1) (f) of that Regulation.

The opacity of the Requested I data processing is caused by the fact that the public (published on the website)

according to the data management information, it is managed for that purpose by the person involved in the valuation

personal data that he has entered into a contract with the customer (in this case the Applicant II)

fulfill, ie prepare the expert opinion. These data with reference to the Civil Code for 5 years

however, this does not mean that this data can be reassessed

could use.

Based on the above, the Applicant I did not make it clear in his information (website

data management information) that the Requested I. for the purpose of valuation in 2017

the purpose and legal basis of the personal data received after the valuation

so that it could have used it for a new valuation, as it stated in its statement for 2018.

used mainly the same data for the evaluation on 22 November,

which were already available in connection with the valuation made on 16.05.2017. Erre

In view of the Authority, it found that Applicant I had violated the General Data Protection Act the principle of transparency under Article 5 (1) (a) of this Regulation.

III.4.2.Breach of the principles of balance of interests and accountability

The existence of a legitimate interest is justified by a balance of interests in the general data protection recital 47 of the basic Regulation. The Applicant I. satisfying the above a attached a statement of interests to his statement.

The Authority found that the list of legislation listed in the balancing of interests was not it is sufficient because a precise place of law should also have been indicated, which is a legitimate interest supports.

Applicant I referred in his statement to the Authority that the Applicant could expect the collateral to be valued after the loan was taken out expert opinion.

Furthermore, Applicant I relied on Article [...]. notarial deed p. 9 Paragraph 3, according to which "A Pledgers undertake to tolerate that during the term of the mortgage the The pledgee is entitled to the existence, condition and proper use of the pledged object, as well as the Pledgors in their capacity as pledgers under this contract and the law on-the-spot checks on compliance with the obligations incumbent on it. "

The above reference of the Applicant I cannot be accepted either, as, as mentioned above, the The contract concluded with the applicant was transferred on 21 October 2014, therefore a in accordance with the foregoing, the assignment separates the claim from the original from the legal relationship from which it arises and the assignee is solely the claim and not the replaces the assignor in respect of a fundamental right. By making a concession the claim separates from the basic legal relationship and the assignee becomes the holder of the claim, the the enforcement of the claim by the assignee and the related data management are no longer valid not for the performance of the contract from which the claim originally arose,

whereas in this case the assignee should not benefit himself but the assignor enforce the assigned claim.

In addition to the above, it should also be noted that there is a precise legal position in the balancing of interests mentioned in the Hpt. it does not entitle credit institutions but credit institutions debtors (pursuant to Section 99 (3) of the Credit Institutions Act). The factor company has no data management authority same as your credit institution. There is data that is handled by a credit institution authorized, but this right to process data may not be transferred, and Considering that Applicant I has no contractual relationship with the Applicant, only the II. therefore only have the rights with which the principal, ie in this case the credit aftercare, the Hpt. Section 99 (3) with reference to paragraph

Given that, under Article 5 (2) of the General Data Protection Regulation, the data controller must be late in complying with the data protection requirements but, on the basis of the above, its balance of interests does not is capable of justifying its existing legal basis, the Authority therefore concluded that Applicant I infringed Article 5 (2) of the General Data Protection Regulation.

III.4.3. Information to the applicant

The Applicant I. at the request of the Authority to attach to the Applicant the valuation provided for in Article 14 of the General Data Protection Regulation copy of the information provided only on the website "Related to Real Estate Valuation Activity data management information ", which is a general information on page 7 and, on page 5 of which, in addition to the other rights of the data subject, there is also a reference to "... and may object to the processing of such personal data ".

Given that the Applicant I - the statement sent to the Authority and is available on its website

In accordance with the "Data Management Information" - with reference to a legitimate interest for valuation purposes a Personal data of the Applicant and should therefore have clearly informed the Applicant,

and should have drawn the Applicant's attention to the right to protest in such a way that it be clearly separated from the other content items of the information.

Based on the above, it can be concluded that as the Applicant was not properly informed by the data processing and the right to protest in connection with the valuation, therefore the Requested I breached the information requirements of Article 21 (4) of the General Data Protection Regulation provision on the obligation to

III.4.4. Data was transferred to [...] as a data processor

In connection with the valuation of the Applicant's property on 22 November 2018, the Applicant's I. acting on behalf of [...], which qualified as a data processor in the course of its data processing.

In this connection, the Applicant I. referred to the fact that the data processor can be found in Annex 13 of the Business Agreement concluded with the Applicant on 1 May 2018.

It is dated May 1, 2018, entitled "For data processing activities performed by a data processor" contract applies.

Pursuant to Article 5 (2) of the General Data Protection Regulation, the main purpose of data processing is data controller is responsible.

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Article 4 of the General Data Protection Regulation defines who is a controller and who to the data processor. The data controller is entitled to outsource certain data management tasks and for this purpose a data processing order pursuant to Section 28 (3) of the General Data Protection Decree a contract must be concluded. This does not require the consent of those involved in the processing. The most important conceptual element is the requirement that the processor act "on behalf of the controller". In data protection law, the task of the data processor is to execute the data provided by the data controller instructions, at least as regards the purpose of the processing and the essential elements of the method. Thus, in distinguishing between the quality of data controller and data processor, it is important that who determines the purposes and means of data management and who is determined by the other processes personal data on its own merits and not in its own name and on its own behalf.

According to the contracts attached by the Applicant I, [...] is a general data protection received a data processing order pursuant to Article 28 (3) of the Regulation he may act only on the instructions of the Applicant I. In light of all this, the general pursuant to Article 4 (8) of the Data Protection Regulation during the valuation.

In view of the above, the Authority has established that the personal data of the Applicant are: a Transferred by Applicant I to his data controller is covered by the General Data Protection Regulation It does not constitute a transfer to a third party within the meaning of Article 4 (10). The general Pursuant to Article 28 (1) of the Data Protection Regulation, the data controller on behalf of the data controller, subject to the data management authority of its principal adjust.

The Authority found that the above-mentioned company was the data controller of the Applicant I. with regard to data processing, as it carries out its activities on the instructions of the Applicant I, and does not make a substantive decision regarding the data processing - the Attached to his statement sent to the Authority - dated 1 May 2018 "By the Data Processor 5.1-2. based on point.

Applicant I, as a data controller, may legally use it in the course of its data management data processors, ie for the purpose of valuing [...], the Applicant by not transmitting the necessary personal data to the general public provisions of the Data Protection Regulation, therefore the Authority is unlawful with the request of the Applicant rejected the part aimed at establishing the transfer of data.

ARC. Legal consequences

The Authority granted the Applicant's request in part and Article 58 of the General Data Protection Regulation (2) (b) condemns Applicant I and Applicant II for infringement of Article 5 (1) (a) of the Data Protection Regulation and the Article 5 (2) and Article 21 (4) of the General Data Protection Regulation

and instructed the Applicants to comply with Article 58 (2) of the General Data Protection Regulation.

pursuant to paragraph (d).

In imposing the fine, the Authority took into account the following aggravating factors:

-

Inadequate data management for the valuation of Candidates

the infringement has been in existence since 22 November 2018, so that a

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Since then, the applicant has not been able to exercise his right to protest (General

Article 83 (2) (a) of the Data Protection Regulation).

The Authority also considered the following other factors:

-

The violation is serious because the Requested I of the General Data Protection Regulation is transparent

infringed the principle of proportionality by giving the impression, in the context of the balancing of interests, that

as if he were processing a personal data subject on the basis of a legal obligation,

and the Requested II. also violated the general data protection regulation transparency

the principle of non-compliance with the right to which the data subject is concerned

(Article 83 (2) (a) of the General Data Protection Regulation).

-

The violation committed by the Applicants is their intentional conduct, data processing

caused by their practice. (Article 83 (2) (b) of the General Data Protection Regulation)

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The Requested II. Article 5 (1) of the General Data Protection Regulation

Much has already been done in connection with the breach of paragraph 1 (a)

NAIH / 2019/6689. in case no. where to pay a data protection fine of HUF 500,000

the Authority ordered the Requested II and where, as in the present case, the Authority is

found an infringement in the context of the information provided to the data subject.

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

In imposing the fine, the Authority took into account the following mitigating factors:

-

To convict the Applicant I for violating the General Data Protection Regulation

it hasn't happened yet. (Article 83 (2) (e) and (i) of the General Data Protection Regulation)

-

Based on the nature of the breach - a breach of the principles of data management - a fine may be imposed

pursuant to Article 83 (5) (a) of the General Data Protection Regulation 20

EUR 000 000 or up to 4% of the total worldwide turnover in the preceding business year. (Article 83 (5) (a) of the General Data

Protection Regulation)

-

Based on the Profit and Loss Account of the Applicant I for 2018, the pre-tax profit

It was HUF [...] Million. The data protection fine imposed shall not exceed the fine that may be imposed

maximum. (Article 83 (5) (a) of the General Data Protection Regulation)

-

The Requested II. Based on its income statement for 2018, its pre-tax profit

It was HUF [...] million. The data protection fine imposed shall not exceed the fine that may be imposed

maximum. (Article 83 (5) (a) of the General Data Protection Regulation)

In determining the amount of the fine to be imposed, the Authority shall take into account the specific purpose of the retaliation

also took into account the general preventive purpose of the fine, which, according to the

the data management practices of all market participants

to move towards legitimacy. The correct indication of the plea in law and

certification is an essential requirement for data controllers in all cases

they must prove.

V. Rules of procedure

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

covers the whole country.

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The Ákr. Section 112 (2) (d) and Section 116 (1) and Section 114 (1)

the decision and the order may be the subject of an administrative appeal.

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

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

Pursuant to point (aa) of the Act, the Metropolitan Court has exclusive jurisdiction. A Kp. Section 27 (1)

(b), legal representation shall be required in legal proceedings before the General Court. A Kp. § 39

(6) of the application for the entry into force of the administrative act

has no suspensive effect.

A Kp. Section 29 (1) and with this regard Pp. Applicable in accordance with § 604, electronic

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

hereinafter: the e-administration Act), the client's legal representative pursuant to Section 9 (1) (b)

obliged to communicate electronically.

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

Information on the possibility of requesting a hearing is provided in the CM. Section 77 (1) - (2)

based on. The amount of the fee for an administrative lawsuit shall be determined in accordance with Act XCIII of 1990 on

Fees. law

(hereinafter: Itv.) 45 / A. § (1). From the advance payment of the fee is

Itv. Section 59 (1) and Section 62 (1) (h) shall release the party instituting the proceedings.

If the Applicants do not duly demonstrate that the required obligations have been met, a

The Authority considers that their obligations have not been fulfilled in due time. The Ákr. Section 132

if the Applicants fail to comply with the obligation set out in the final decision of the Authority

meet, it is doable. The decision of the Authority With the communication pursuant to Section 82 (1)

it becomes final. The Ákr. Section 133 of the Enforcement - if by law or government decree unless otherwise provided by the decision-making authority. The Ákr. Pursuant to § 134 a enforcement - if local in a law, government decree or municipal authority matter the decree of the local government does not provide otherwise - it is carried out by the state tax authority. Infotv. Pursuant to Section 60 (7), a specific act included in the decision of the Authority obligation to perform, to behave, to tolerate or to stop implementation of the decision shall be carried out by the Authority.

Pursuant to Section 46 (1) (a) of the Act, the authority rejects the application if the procedure there is no statutory condition for initiating proceedings, and this law is different has no legal effect.

The Ákr. Section 47 (1) (a) states that the authority shall terminate the proceedings if a would have been the subject of the rejection of the application, but for a reason after the initiation of the proceedings came to the attention of the authority.

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

Budapest, July 16, 2020

Dr. Attila Péterfalvi

President

c. professor