

Case number: NAIH / 2020/2036.

Clerk:

Subject: Partial decision granting the application

termination order and order deadline

in the context of an overrun

The National Data Protection and Freedom of Information Authority (hereinafter referred to as the Authority) [...]

(residence: [...].) at the request of the applicant (hereinafter: the Applicant) with [...]. (registered office: [...])

hereinafter referred to as the "Requested") in the following data protection authority proceedings

brings:

I. In the decision of the Authority, at the request of the Applicant

partially upheld as follows:

a) finds that the Applicant has violated the personal data of the Applicant

by not responding to his request of 23 August 2019

provided full information on the proper treatment of the GDPR in accordance with Article 15 (1) a

On the processing of personal data of the applicant.

(b) instruct the Applicant, within 15 days of the decision becoming final, to:

Provide information in accordance with Article 15 (1) of the GDPR to the applicant.

II. The decision of the Authority shall include the part of the application concerning the imposition of a data protection fine rejects.

III. In the order of the Authority, the data protection authority procedure is available on the Applicant's website in the section on the compliance of the data management information with the GDPR terminates.

ARC. In view of the fact that the administrative time limit has been exceeded, the Authority shall that HUF 10,000, ie ten thousand forints, to the Applicant's choice - to be indicated in writing - pay by bank transfer or postal order.

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I. b. the fulfillment of the obligation pursuant to point 1 to the Applicant as of the taking of the measure

You must certify in writing within 8 days, together with the supporting evidence, that:

Towards an authority. In the event of non-compliance, the Authority shall order the enforcement of the decision.

Annexes I and II to this Decision and Annex III to this Decision. by order pursuant to

there is no administrative remedy against him, but within 30 days of notification

may be challenged in an administrative action before the Metropolitan Court. THE

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

forward it to the court. Only in proceedings against an order terminating proceedings

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it shall act in accordance with the rules of the simplified procedure. Indicate the request for a hearing in the application

must. For non-personal tax exemptions, judicial review

the fee for the proceedings is HUF 30,000, the lawsuit is subject to the right to record fees. Before the Metropolitan Court

legal representation is mandatory in these proceedings.

A IV. There is no place for an independent appeal against the order under point 1, only on the merits of the case

may be challenged in an appeal against a decision taken.

## EXPLANATORY STATEMENT

### I. Procedure and clarification of the facts

On 20 September 2019, the Applicant submitted an application to the Authority stating that

On August 23, 2019, he submitted a request for access to the Applicant, which request no

sent to the Authority as an annex.

The access request is evidenced by all requests handled by the Applicant

categories of personal data, but in particular those listed in points 1 to 7

requested information on, and access to, information on

From application. In points 1-7, the Applicant expressly requested the Applicant to a

provide information on the source of your personal data, the legal basis and circumstances of data processing,

and exactly what data the Applicant handles and why he did not receive it

Information on the handling of your personal data by 26 April 2019. The Applicant requested information on this also for the purpose and legal basis of which the Applicant transmitted the Applicant's personal data notary to the [...] notary and the [...] District Court, and whether the Applicant's personal data to other third parties, if so, for what purpose and legal basis, in the case of a transfer based on a legitimate interest, what was the result of the balancing test. According to the Applicant, the reply letter reads "GDPR III. information contained in Chapter failed to fulfill its obligations 'because it did not include all the information. It was sent by the Applicant as Annex No. 5 to the Applicant's request for access gave his answer.

The Applicant also submitted that the Applicant referred in its reply letter, the Applicant The data management information dated 24 May 2018 available on the website of the Company does not comply with the It is incomplete as regards the provisions of the GDPR and certain aspects of data processing. In the Applicant 's application, the establishment of the violations and the imposition of a data protection fine, as well as asked the Authority to instruct the Applicant to "disclose the case in the manner and with the content required by law ".

The Authority has issued NAIH / 2019/6938/2. information on the case in its order number requested the Applicant to clarify the facts.

According to the Applicant, the Applicant has contacted the Applicant's administrator several times by telephone and in the hands of the Applicant during telephone conversations also received information on documents. In support of this claim of the Applicant attached the e-mail sent by the Applicant to the Applicant on 18 June 2015, in which it responds to a telephone conversation with a previous Applicant and on 08 May 2019 prepared audio material in which the Applicant through the Applicant's telephone customer service requested and received information about the debt owed to him.

The Applicant 's response to the Applicant' s request for access and information a

stated as follows: we really did not return in our letter of 10 September

detailed list of the documents kept in the file, but we referred to the fact that [...]

The complete documentation of the personal loan with contract number has been handed over [...] in Hungary

By branch. The detailed listing was not done because it was done on a mobile phone

During the discussions, it was agreed what kind of loan agreement, employer certificate,

Copies of personal documents, letters of resignation and letters of formal notice can be found in the file,

on the basis of which documents and loan agreement we demand from him the debt written in the letters of formal notice. ”

## II. Applicable legal provisions

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

Article 5 (2) GDPR: The controller is responsible for complying with paragraph 1,

and must be able to demonstrate this compliance ("accountability").

Article 12 (4) GDPR: If the controller does not take action on the data subject's request

without delay, but no later than one month after receipt of the request

inform the data subject of the reasons for not taking action and that he or she is concerned

you can lodge a complaint with a supervisory authority and have the right to a judicial remedy.

Article 12 (5) GDPR: Information under Articles 13 and 14 and Articles 15 to 22 and Article 34

The information and action referred to in paragraph 1 shall be provided free of charge. If the request of the person concerned

clearly unfounded or, in particular due to its repetitive nature, excessive, the controller,

providing the requested information or information or taking the requested action

administrative costs:

(a) charge a reasonable fee, or

(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) to (2) GDPR: The data subject has the right to receive feedback from the controller

whether your personal data is being processed and if so

data processing is in progress, entitled to personal data and the following

get access to information:

- (a) the purposes of the processing;
- (b) the categories of personal data concerned;
- (c) the recipients or categories of recipients with whom the personal data are held have been or will be communicated, including in particular to third country consignees, and 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 understandable information about the significance of such data processing and what it is for the data subject with expected consequences.

If personal data is transferred to a third country or to an international organization the data subject is entitled to be informed of the transfer appropriate guarantees in accordance with Article 46.

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Article 58 (2) (b) and (d) GDPR: Acting in the corrective capacity of the supervisory authority:

- (b) condemn the controller or the processor if he or she has breached his or her data processing activities the provisions of 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, in accordance with the provisions of this Regulation

Article 77 (1) GDPR: Without prejudice to other administrative or judicial remedies,

all parties concerned shall have the right to lodge a complaint with a supervisory authority, in particular the habitual residence, place of employment or in the Member State of the alleged infringement

- if the data subject considers that the processing of personal data concerning him or her infringes this Regulation.

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

shall apply with the additions provided for in

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

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

free movement of personal data within the European Union

promoting. According to paragraph (2a) of the same § in the GDPR for the supervisory authority

established entities and entities under the jurisdiction of Hungary

as defined in the GDPR and this Act.

The Ákr. 51, if the authority

(b) the administrative time limit has expired and there was no need to take a decision with pending effect,

the amount corresponding to a fee or charge for the conduct of the proceedings, failing which ten thousand forints

pays the applicant client, who is also exempt from paying the costs of the proceedings.

Infotv. Pursuant to Section 60 (1), the enforcement of the right to the protection of personal data

the Authority shall, at the request of the data subject, initiate a data protection authority procedure.

Infotv. Pursuant to Section 60 (2), an application for the initiation of official data protection proceedings a

It may be submitted in the case specified in Article 77 (1) GDPR.

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

In its decision, the Authority With the data management operations specified in Section 2 (2)

in this context, the legal consequences set out in the General Data Protection Regulation

you can apply. According to Article 58 (2) (b) of the General Data Protection Regulation, the supervisory

authority shall condemn the controller or the processor if it acts as a data controller

has infringed the provisions of this Regulation or, in accordance with point (d) of the same paragraph,

the supervisory authority, acting in its corrective capacity, shall instruct the controller to  
where appropriate, within a specified manner and within a specified period of time  
with the provisions of this Regulation.

Unless otherwise provided by the GDPR, the data protection authority proceedings initiated upon request shall be  
CL of 2016 on general administrative order. Act (hereinafter: Act)  
shall apply with the exceptions specified in the Infotv.

Section 10 (1) of the Act: A customer is a natural or legal person, other organization to whom  
(whose) right or legitimate interest is directly affected by the matter for whom the authority is  
records contain data or who have been placed under official control.

Paragraph 35 (1) of the Act: The application is a statement of the client by which it is an official procedure

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enforcement of his right or legitimate interest

in order to.

The Ákr. Pursuant to § 36, the application is a written or personal statement from the customer  
requesting an official procedure or a decision of the authority in the interests of his right or legitimate interest  
in order to enforce it.

The Ákr. Pursuant to Section 62 (4), the authority is free to choose the method of proof, and a  
assess the available evidence in its sole discretion.

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 binding European Union law

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

by alerting the controller or processor.

### III. Decision

#### III.1. Obligation of the Applicant to provide information

Under Article 15 of the GDPR, the data subject has the right to have access to personal data processed about him or her access information on data management. In the absence of adequate information, the on the data controller's side, an information dominance may develop which the data subject may use your rights and interests may be harmed. The data subject has, of course, a fundamental right in the handling of claims, to monitor the processing of your personal data. According to Article 15 of the GDPR, the controller must provide full information to data subjects about the processing of their personal data, Thus, also in view of the content of the application, it is not sufficient for the individual to refer only to personal data contained in registers and documents, and the so-called Give the data subject a 'template response'. The information shall be relevant to the data subject and it must cover all personal data which the controller has in relation to the data subject without restriction and regardless of where and in what form the data is located available and what data processing operation you perform with them.

In this respect, the Applicant partially complied with its obligation to provide information, as the content of the reply letter sent to the Applicant does not exhaust the items listed in Article 15 (1) (a) (f) and (h) of the GDPR. It does not include the purpose, legal basis, duration, relevant personal data category and information on the personal data communicated to third party recipients, information on the rights of the data subject is completely lacking, as well as information on the right to appeal to a supervisory authority. THE The Applicant provided incomplete information to the Applicant which did not comply with Article 15 of the GDPR. Article 1 (1) (a) to (f) and (h).

According to the Applicant's statement, he did not provide complete information at the request of the Applicant on the processing of personal data because "during negotiations on a mobile phone what kind of loan agreement, employer's certificate, copies of personal documents, a letter of termination or a letter of formal notice can be found in the file, what kind of documents, loan agreement the debt written in the letters of formal notice '. Although referred to by the Applicant an audio recording of a telephone conversation was made on May 8, 2019, from the Statement of the Applicant



it does not appear that any further "telephone conversations" he made are in addition to the GDPR

occurred before or after its applicability and their content has not been proven.

Under Article 12 (5) of the GDPR, if the repeated nature of the data subject's request is excessive, it is

the controller may refuse to act on the request. Article 12 (4) of the GDPR

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If the controller does not act on the data subject 's request, it shall inform the data subject

the reasons for not taking action and the possibility of lodging a complaint with one of the parties

supervisory authority and may exercise its right of judicial review. Response sent to the Applicant

However, it did not deny that the application was dismissed on the ground that it was excessive due to the repetitive nature of

the application

The request for information requested and the reply were not included in Article 12 (4) of the GDPR.

that the Applicant may lodge a complaint about the rejection of the application

to the Authority and may exercise its right of judicial review.

The burden of proving that the request is excessive due to the repetitive nature of the request shall be on the controller,

however

The Applicant did not prove that the Applicant's request was excessive due to its repetitive nature.

An audio recording of the telephone conversation referred to by the Applicant was made on 08 May 2019

According to the applicant, during the interview, the Applicant did not request information on the processing of his personal

data, and

consequently, the Applicant did not provide any personal information to the Applicant by telephone

in connection with the processing of his / her data, as its subject matter is not provided by the Applicant to the Applicant

personal data processed for the purposes of the loan agreement

there was general information (e.g. request for information on installment payment, etc.) but only one

in any case, a request for access does not necessarily mean that the next request is excessive.

Pursuant to Article 5 (2) of the GDPR, the controller must be able to protect data

to demonstrate compliance with the rules. Although the Applicant filed on August 23, 2019

in any case, the information to be accessed was wider than relevant

information on "what kind of loan agreement, employer certificate, copies of personal documents, letter of resignation or letters of formal notice are in the file ", the Applicant did not certify the provided this information to the Applicant.

On the basis of the above, it can be concluded that the Applicant has violated Article 15 of the GDPR

Paragraph 1, because in its reply to the Applicant's request dated 23 August 2019, the

At the request of the applicant, it provided incomplete information which did not comply with Article 15 (1) of the GDPR. paragraph 1 (a) to (f) and (h).

In view of the above, the Authority grants the Applicant's request in which the Applicant infringement of the obligation to grant access, and requested an obligation to provide the requested information.

III.2. Compliance of the data management information available on the Applicant's website with the GDPR

Infotv. Pursuant to Section 60 (2) and Section 77 (1) of the GDPR, interested parties may request a

Initiation of data protection authority proceedings for violation of their rights under the GDPR.

The Applicant has generally applied in a non-affected capacity on the Applicant's website

examination of the published data management information. The application is specifically for customers, concerned protection of his rights as the purpose of the application.

Consequently, the Authority With regard to the basis of Section 46 (1) (a), the Act no. 47.

§ (1) a) according to the operative part.

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III.3. The part of the application concerning the imposition of a data protection fine

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

the application of a legal sanction does not directly affect the rights or legitimate interests of the Applicant such a decision of the Authority shall not create a right or an obligation;

the imposition of a fine with regard to the application of a sanction falling within the scope of the enforcement of the public interest

the Applicant does not qualify as a customer in accordance with Ákr. Pursuant to Section 10 (1), or -  
whereas the Ákr. Does not comply with Section 35 (1), there is no application in this regard  
this part of the application shall not be construed as an application.

#### III.4. Deadline exceeded

During 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.

#### III. 5. Legal Consequences

III.4.1. Pursuant to Article 58 (2) (b) of the GDPR, the Authority condemns a  
Applicant for violating Article 15 (1) of the GDPR.

III.4.2. Pursuant to Article 58 (2) (c) of the GDPR, the Authority instructs the Applicant to:

In order to comply with the applicant's request for access, Article 15 (1) (a) to (f) and (h) of the GDPR  
personal data handled by the Applicant

shall certify the fact that the information has been provided to the Authority

by sending a copy of the information to the addressee and a copy of the post office certifying that it has been sent by post.

ARC. Other issues:

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

covers the whole territory.

The decision is based on Ákr. 80.-81. § and Infotv. It is based on Section 61 (1). The decision is based on Ákr. § 82

Shall become final upon its communication pursuant to paragraph 1. The Ákr. § 112 and § 116 (1),

or pursuant to Section 114 (1), there is an administrative action against the decision

redress.

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

The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (11)

the Metropolitan Court has exclusive jurisdiction. 2016 on Civil Procedure

CXXX. Act (hereinafter: Pp.) - the Kp. Applicable pursuant to Section 26 (1) - Section 72 provides for legal representation in a case falling within the jurisdiction of the Tribunal. Kp. Section 39 (6)

unless otherwise provided by law, the date of filing of the application

has no suspensory effect on the entry into force of an administrative act.

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

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

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

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

Information on the possibility of requesting the maintenance of the It is based on § 77 (1) - (2). THE

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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.

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

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

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

decision of the Ákr. Pursuant to Section 82 (1), it becomes final with the communication. The Ákr. The Ákr. Under Section 133,

enforcement is the decision, unless otherwise provided by law or government decree

ordering authority. The Ákr. Section 134 of the Enforcement - if law, government decree

or in the case of a municipal authority, a decree of a local government does not provide otherwise

carried out by a state tax authority. Infotv. Pursuant to Section 60 (7) in the decision of the Authority

to perform a specific act, conduct or tolerate a specific act

to stop

aimed at

obligation

with regard to

the

decision

implementation

the

Authority.

Budapest, February 24, 2020

Dr. Attila Péterfalvi

President

c. professor