

Case number: NAIH- 2441-8/2021.

Subject: request

decision,

termination

the

partially correct

proceedings

partial

H A T A R O Z A T

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

to the applicant (place of birth, time: [...]; hereinafter: Applicant) the [...] District Court

(headquarters: [...]; hereinafter: Requested) in connection with its data management electronically

data protection authority initiated based on the request submitted to the Authority on February 11, 2021

procedure, the Authority makes the following decisions:

The Authority grants the Applicant's request and condemns the Applicant for violating the

Article 15 of the General Data Protection Regulation (hereinafter: GDPR) on the Applicant is of an administrative nature

in connection with personal data handled in procedures.

FINAL

The Authority terminates the procedure regarding the Applicant's request to convict the

Requested because you did not provide the Applicant with transparent information about his personal data

personal data processed in connection with the judicial activities of the Respondent

regarding data.

* * *

There is no place for administrative appeal against this decision and order, but a

within 30 days from the date of notification, with a letter of claim addressed to the Capital Court

can be challenged in a lawsuit. The letter of claim must be submitted electronically to the Authority in charge of the case

forwards it to the court together with its documents. The request to hold a hearing must be indicated in the statement of claim.

The

The petition submitted against the order terminating the proceedings was simplified by the Capital Court judge it in a lawsuit, outside of a trial. For those who do not receive full personal tax exemption a the fee for an administrative lawsuit is HUF 30,000, the lawsuit is subject to the right to record fees. The Metropolitan Court legal representation is mandatory in the procedure before it.

I N D O C O L A S

I. Procedure of the procedure

(1)

The Applicant submitted his request for the data protection authority procedure on February 10, 2021 at 6:21 p.m. It was submitted to the Authority by e-mail, authenticated with the AVDH service. He attached it to the application a copy of the request for access sent to the Respondent by fax on April 26, 2020, and the fax report.

According to the contents of the Applicant's request, the Respondent did not respond to the access request your request, did not inform you of the measures taken based on the request, or of the lack thereof reasons, and thus did not ensure his right of access.

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In his application, the Applicant asked the Authority to establish that the Respondent was not ensured your right to information about your personal data, as well as the personal did not provide transparent information about the handling of his data. The Applicant also requested that a The Authority condemns the Applicant for the above violations.

On March 2, 2021, the Authority requested the Respondent to clarify in order to determine whether the Applicant has the authority to examine the submissions, subject to Article 55 (3) of the GDPR, as well as the right to informational self-determination and CXII of 2011 on freedom of information. Act (hereinafter: Infotv.) judicial VI/A on the control of data management operations. to the chapter.

The Applicant's statement was received by the Authority on March 23, 2021, to which he attached the The summary table of administrative cases initiated by the applicant in 2020, which based on this, the Authority's competence is realized in connection with administrative matters could be determined in connection with data management.

The Authority dated May 19, 2021, NAIH-2441-4/2021. in the order registered informed the Applicant that it is the Applicant's request to examine its data management on the basis of which a data protection official procedure has been initiated, in which you are participating as a customer. At the same time and invited him to make a statement in order to clarify the facts.

The Respondent's statement was received by the Authority on June 3, 2021, however, based on the provisions, the Authority considered it necessary to clarify additional issues, therefore, in 2021. dated June 10, NAIH-2441-6/2021. called him to make a statement again in the order registered up the Requested. The Applicant's statement was received by the Authority on July 1, 2021.

II. Fact

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On April 26, 2020, the Applicant contacted the Respondent with a request for access by fax,

which was sent by the Applicant on April 27, 2020 and filed under [...]. The Applicant

in point 2 of the access request, Infotv. With reference to § 15, he requested that the Respondent

inform that, if the Requested uses a data processor, what it is

name and address of the data processor, the activity carried out by it on the personal data of the Applicant,

as well as the start and end date of the activity performed by him.

In point 3 of his application, the Applicant also requested information about whether the Applicant is the preliminary

in order to assert his right to information, what steps did he take in Infotv

whether he fully complied with his fixed obligations, and if not, how and when

there has been an omission on the part of the Respondent.

In point 4 of the access request, the Applicant also requested that the Respondent be tabular

form, electronically, by e-mail, the data management Infotv. Section 15 (1)

on circumstances according to paragraph

The Applicant also requested - point 5 of the application - that the Respondent prepare and issue

for a list of all documents handled by the Applicant that contain personal data

contain or which can be linked to your person.

The Applicant's access request - point 6 - also included the fact that if the Applicant

restricts or has restricted your right of access in relation to any of your personal data, or

you refuse to exercise your right of access, mark the data affected by the restriction as

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and provide information about the fact of access restriction or denial, legal and

about its factual reasons.

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The Applicant also requested information regarding data management

about stakeholder rights and legal remedies in point 6 of the application.

In point 7 of his access request, the Applicant requested information on when he would know

view or copy all documents containing your personal data

contain or can be linked to your person in any way. He asked that if the

The applicant does not allow the documents to be viewed or copied, so send the

these documents electronically to your e-mail address.

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in progress

(15) The Applicant's access request was therefore of a general nature, and all the Applicants

was directed at the personal data managed by

to personal data, but all before the Respondent

you are in

litigation and non-litigation procedures were in progress, as well as judicial activity

also to your personal data in connection with administrative matters that do not fall within its scope.

The Applicant dated March 17, 2021, NAIH-2441-3/2021. registered, the Authority

In his statement to his request, he informed the Authority that the Applicant in 2020.

the request submitted on April 27 was deemed by the deputy president of the court to be

"does not require action for the time being".

The Applicant is NAIH-2441-4/2021. in his statement for fact-finding order no

he also submitted that the Applicant submitted numerous requests with different subjects a

In the case of the respondent, as a complaint, a request for data in the public interest, an objection, and the person acting

examined and judged as a request for the disqualification of a judge. Many submissions overlap

contained requests.

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The Respondent informed the Authority that a legal proceeding was pending before it, in which the Applicant participated as a retrial plaintiff, in which a first-instance judgment was rendered [...] on the day of, however, it has not yet entered into force. In this procedure, the Applicant is the documents he refused to receive it in person at the management office of the Applicant [...], for the Applicant did not appear for summonses delivered to the address given in [...], so the Respondent decided to deliver the notice, and then started sending the documents by e-mail as well deliver to the Applicant.

On April 6, 2020, the Applicant filed an objection to delivery by fax in a document, the submitted an objection against delivery and a request for exclusion, which was filed under [...] under. In this submission, the Applicant objected to the notice service and requested it to establish its irregularity, since according to his point of view, it is not in the procedure had a place, since his place of residence and notification address were known to the Respondent. He asked that has arisen and is arising in the case - electronically available to the court standing documents - send them to the Requested e-mail in addition to the valid postal route.

On April 26, 2020, another fax was received by the Applicant, which was filed under [...].

The faxed document consisted of 3 pages, the first page was described in the previous paragraph in connection with the case, he stated that the Respondent submitted his previous application under [...] Contrary to your information dated April 24, 2020, you are not only requesting it as an exclusion request to judge, but also based on the objections detailed therein. In addition, he repeatedly requested a change your delivery address, and the documents generated in the procedure are sent by e-mail sending. He concluded this statement with the phrase "Sincerely" and his signature. Sent by fax pages 2 and 3 of the letter contained the Applicant's request for access, the subject of which

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"Request for information on the management of personal data" was indicated, and which is also

closed with his signature, i.e. one

content

submitted a statement or application to the Respondent, who submitted it as a single document

was handled, and the registrar marked it on the first page with the note "no action required for the time being".

under stamp. The Applicant does not fax the first page of the document sent to the Respondent

attached to the request for official data protection procedure submitted to the Authority.

at two different times

by fax, on the same

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The Applicant is on the first page of the application received by fax on April 26, 2020, all

according to his statement, he fulfilled the request to send legal documents electronically

On May 15, 2020, and in his statement dated June 28, 2021, he admitted that the Applicant

"in addition to his request sent on April 26, 2020, the court did not grant

information to the applicant about the management of his personal data by e-mail

provided the documents that had not been sent to him before." In this regard, the

The respondent explained that "in view of the fact that the applicant previously had the referenced document

failure to send it caused harm, the court complied with this request." His position

according to the Applicant's right of access was not limited.

In addition to the above, the Applicant referred in his statement dated May 28, 2021 to

7/2018 on the procedure for public interest reports and complaints. (VII.11.)

OBH instruction (hereinafter: OBH instruction 7/2018) to point b) of § 7, according to which other

in the case of a submission - depending on its content - the addressee will examine the submission and a

you can refrain from responding to the notification, or Infotv. to paragraph (1) of § 26, as well as Infotv. With reference to § 29, he explained that the body performing a public task is only in the public interest or is obliged to release public data in the public interest, which is under its management, no is obliged to produce the data at the request of the data requester, and also indicated that the requester is the same with the same content as a data request for the same data area submitted by within one year fulfillment of a data request can be refused, provided that in the data belonging to the same data scope there was no change. Based on his access request, the Respondent did not inform the Applicant that he does not take measures based on his access request, as his position took continuous measures with regard to all of the Applicant's submissions, those were continuously assessed.

III. Applicable legislation

According to Article 55 (3) of the GDPR, the powers of the supervisory authorities do not extend to the courts to supervise the data management operations carried out by them in the performance of their judicial duties. According to recital (20) of the GDPR, the GDPR is enforced by courts and other judicial authorities shall also be applied to its activities, EU and Member State law with regard to the management of personal data in connection with processing operations carried out by courts and other judicial authorities and you can define procedures more precisely. In order to fulfill their judicial duties during its provision, including decision-making, the independence of the judiciary, the supervisory authorities may not extend to the processing of personal data in a way that the courts they perform in the course of their judicial duties.

14/2002 on the rules of court administration. (VIII. 1.) According to § 2. 6. of the IM decree, the presidential case a case in which the president of the court, or by law or the National Court Office (a hereinafter referred to in the regulations of the president of the OBH), another court leader is the court acts outside the scope of judgment in matters belonging to its administration.

GDPR Article 2 (1)-(2): (1) This regulation shall be applied in the personal data section or for processing it in an automated manner as a whole, as well as the gender of those personal data

for handling in an automated manner, which are part of a registration system, or

which they wish to make part of a registration system.

(2) This regulation does not apply to the processing of personal data if:

a) they are carried out during activities outside the scope of EU law;

b) it is carried out by the member states in the course of activities falling within the scope of Chapter 2 of Title V of the EUSZ;

c) carried out by natural persons exclusively in the context of their personal or home activities;

d) it is

prevention and investigation of crimes by competent authorities,

investigation, prosecution

conducted for the purpose of conducting or enforcing criminal sanctions, including public safety

protection against threats and the prevention of these threats.

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

within one month from the receipt of the request, it informs the person concerned of the 15-22. according to article

on measures taken following a request. If necessary, taking into account the complexity of the request and

number of requests, this is the deadline

it can be extended by another two months. The deadline

extension, the data controller indicating the reasons for the delay from receipt of the request

informs the person concerned within one month. If the person concerned has submitted the

application, the information must be provided electronically, if possible, unless the person concerned does so

asks otherwise.

GDPR Article 12 (4): If the data controller does not take measures following the data subject's request,

without delay, but at the latest within one month from the receipt of the request

data subject about the reasons for the failure to take action, as well as whether the data subject can file a complaint

with a supervisory authority and may exercise his right of judicial remedy.

GDPR Article 15 (1): The data subject has the right to receive feedback from the data controller

regarding whether your personal data is being processed and if such data processing is taking place is in progress, you are entitled to the personal data and the following information get access to:

- a) the purposes of data management;
- b) categories of personal data concerned;
- c) recipients or categories of recipients to whom the personal data was disclosed or will be communicated, including in particular third-country recipients and international organizations;
- d) where appropriate, the planned period of storage of personal data, or if this is not possible, criteria for determining this period;
- e) the data subject's right to request personal data relating to him from the data controller rectification, deletion or restriction of processing and may object to such personal data against treatment;
- f) the right to submit a complaint addressed to a supervisory authority;
- g) if the data were not collected from the data subject, all available information about their source;
- h) the fact of automated decision-making referred to in paragraphs (1) and (4) of Article 22, including profiling as well as, at least in these cases, the applied logic and its comprehensibility information about the significance of such data management and what can be expected for the data subject has consequences.

GDPR Article 23 (1) point f): The EU country applicable to the data controller or data processor

Member State law can limit the provisions of Articles 12-22 by means of legislative measures. Article and Article 34, and 12-22. defined in Article

being

regarding its provisions, the scope of the rights and obligations contained in Article 5, if the limitation respects the essential content of fundamental rights and freedoms, as well as the following

a necessary and proportionate measure to protect in a democratic society:

f) protection of judicial independence and judicial proceedings;

in accordance with rights and obligations

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Article 58(2)(b) GDPR: Acting within the supervisory authority's corrective powers

condemns the data manager or data processor if its data management activities have violated the provisions of the decree;

Infotv. Section 2 (2): Personal data according to (EU) 2016/679 of the European Parliament and of the Council regulation (hereinafter: general data protection regulation) is the general

data protection decree III-V. and VI/A. In Chapter 3, as well as § 3, 4, 6, 11, 12, 13, 16, 17,

21., 23-24. point, paragraph (5) of § 4, paragraphs (3)-(5), (7) and (8) of § 5, § 13 (2)

paragraph, § 23, § 25, § 25/G. in paragraphs (3), (4) and (6) of § 25/H. § (2)

in paragraph 25/M. in paragraph (2) of § 25/N. § 51/A. in paragraph (1) of § 52-54. §-

in, paragraphs (1)-(2) of § 55, paragraphs 56-60 § 60/A. (1)-(3) and (6) of § 61 (1)

paragraphs a) and c), § 61 paragraphs (2) and (3), paragraph (4) b) and (6)-(10)

in paragraph 62-71. §, § 72, § 75 (1)-(5), § 75/A. in § and 1.

shall be applied with the additions specified in the annex.

Infotv. Validation of the right to the protection of personal data based on § 60, paragraphs (1) and (2).

in order to do so, the Authority will initiate a data protection official procedure at the request of the data subject. The

for official data protection procedure CL. of 2016 on general public administrative order. law (a

hereinafter: Ákr.) rules shall be applied with the additions specified in the Infotv. and the

with deviations according to the general data protection regulation. For the initiation of the official data protection procedure

a request can be submitted in the case specified in Article 77 (1) of the GDPR.

Acr. § 17 [Examination of authority and competence]

The authority examines its authority and competence ex officio at every stage of the procedure. If

notices the absence of one of them, and it can be established without doubt that the person having jurisdiction in the case

authority, transfers the case, failing which the request is rejected or the procedure is terminated.

7/2018. OBH instruction § 3. 2-5. point:

2. other submission: 3-5. submission not specified in points;

3. public interest announcement: CLXV of 2013 on complaints and public interest announcements. law (a hereinafter: Law) a submission defined in Section 1 (3);

4. complaint: a submission defined in Section 1 (2) of the Act;

5. submission on the merits of the case: pending before a court or public administrative authority
a request for a case that has been legally (finally) completed by him

7/2018. OBH instruction § 7 point b): In the case of other submissions - depending on its content - the addressee a
can omit the examination of the submission and the response to the notifier.

ARC. Decision

IV.1. Power of the Authority - partial termination of the procedure

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The Applicant's request for access to all personal data managed by the Applicant

aimed at

regardless of whether the personal data is processed by the Applicant

in the course of judicial or non-administrative activities

took place. The Applicant's request for official data protection procedure is all about that

for non-fulfillment of an access request covering personal data by the Respondent, and because of this

aimed at condemning

The rules of the GDPR also apply to the data management of courts, but Article 2 of the GDPR does not

takes it out of the material and personal/organizational scope of the decree, however, the judiciary and

in order to ensure the independence of courts, Article 55 (3) of the GDPR so

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provides that the powers of the supervisory authorities do not extend to the judicial by the courts

to supervise the data management operations performed during the performance of their duties. This means that a

Authority of the courts, including the Respondent, data processing is exclusively judicial
can be examined in connection with matters of an administrative nature outside of its activities. The
with possible illegal data processing in the course of judicial activity
a data protection complaint can be filed against Infotv. VI/A. according to the provisions of chapter
on or before

As a result, the Authority determines that when submitting the application before the Respondent
in progress

with closed litigation and non-litigation procedures

non-fulfilment of an access request for personal data processed in connection with

based on Article 55 (3) of the GDPR, it does not have the authority to investigate, so it is

procedure in this, in connection with cases falling within the scope of judicial activity

in the part related to managed data, Art. terminates it based on § 17.

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IV.2. Ensuring the Applicant's right of access

(26) Request for access by the Applicant - letter sent by fax to the Applicant on April 26, 2020

Pages 2 and 3 – was of a general nature, and according to the Authority's interpretation, all, a

It was aimed at the personal data managed by the applicant, i.e. not only the litigant affected by the renewal of the lawsuit
to personal data processed in the procedure.

(27) In this connection, according to the Authority, it is necessary to note that the Applicant is two different

sent a letter with the subject via fax to the Respondent, the first page is specifically the renewal of the lawsuit

was connected to a first-degree procedure in progress based on - objection to delivery, electronic

request for delivery - while pages 2 and 3 of the faxed document are independent of the specific case, the

It was an access request pursuant to Article 15 of the GDPR, even if otherwise the Requester is Infotv.

points of similar content, but not applicable to the data processing performed by the Requested Party

referred. The simultaneous sending of two documents with different purposes and contents is the responsibility of the

Requested Party

could have been misleading for him, and thus he could have come to the conclusion that the two requests is related.

(28) According to the Respondent's statement, all documents created in the retrial case were a He made it available to the applicant, however, for examination of this, IV.1. included in point based on justification, the Authority is not authorized due to its lack of competence. The Applicant is June 2021 In his statement dated 28, he admitted that the letter sent by the Applicant on 26 April 2020 in addition, he did not provide information about his personal data in his access request management, that he made available by e-mail the previously - described above - arose in legal proceedings and was not previously sent to him in electronic form documents.

(29) The Authority considers it necessary to respond to the arguments presented by the Respondent to state that the data processing carried out by him falls under the scope of the GDPR, and thus is affected by it during the evaluation of applications, the guidelines contained in Article 12 of the GDPR are primarily applicable. 12 of the GDPR.

the expectation expressed in paragraphs (3)-(4) of Article that the data controller responds to the data subject for requests for the exercise of rights, which is even in accordance with Article 12 (4) of the GDPR it may properly include that the data controller does not take action on the data subject's request based on, also explaining the reasons for this decision. The GDPR itself also names specific cases, with reference to which the fulfillment of the data subject's request can be refused, e.g. Article 12 (5) paragraph or Article 15 (4).

(30) In addition, point f) of Article 23, paragraph (1) of the GDPR provides that the data controller applicable EU or Member State law may limit the provisions of Articles 12-22 by means of legislative measures. Article and Article 34, as well as Articles 12–22. with the rights specified in Article and

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with regard to its provisions in accordance with obligations, the rights contained in Article 5 and scope of obligations, if the restriction respects fundamental rights and freedoms

its essential content, as well as for the protection of judicial independence and judicial proceedings
a necessary and proportionate measure in a democratic society. Article 23 (2) of the GDPR
paragraph defines that legislative measures introducing restrictions
what they should contain in detail.

(31) According to the Authority's point of view, 7/2018 referred to by the Respondent. OBH instruction no
can be considered a legislative measure prescribing such a limitation, since it is about legislation
CXXX of 2010. according to Section 23 (4) point d) of the Act, a public law organization regulator
device in which the president of the OBH is under his leadership, management or supervision
it can regulate the organization and functioning of organs, as well as their activities, it is its binding force
it is exclusively within the organization and cannot be contrary to law, which also means that
is not suitable for the right to the protection of personal data as a fundamental right
limited in form. In addition, the additional provisions contained in Article 23 (2) of the GDPR
does not meet the requirements either. That is, with reference to point b) of § 7 of the OBH instruction, no
stakeholder requests can be left unanswered, just like Infotv. to § 29
nor by reference, since it is Infotv. data in the public interest and in the public interest
its provision regarding its knowability.

(32) Based on the above, the Authority concludes that the Applicant has violated the GDPR
his right of access according to Article 15, when he did not grant it despite his request
information to the Applicant in connection with administrative matters
data, disregarding the provisions of Article 12 (3)-(4) of the GDPR.

IV.3. Legal consequences

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The Authority finds that the Applicant has violated Article 15 of the GDPR by the Applicant
In relation to the personal data handled by the respondent in relation to administrative matters,
and therefore granting the Applicant's request based on Article 58 (2) point b) of the GDPR
condemns.

The Authority will proceed with the Applicant's request to condemn the Requested because the personal did not provide the Applicant with transparent information on the management of his data, managed in connection with the judicial activities of the Respondent regarding personal data, terminates.

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

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A. Other questions

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

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

Based on § 82, paragraph (1), it becomes final upon its publication.

The Akr. § 112, and § 116, paragraph (1), and § 114, paragraph (1) with the decision and there is a legal remedy against the termination order 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. Based on § 12, paragraph (1), by decision of the Authority

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the administrative lawsuit against falls within the jurisdiction of the court, the lawsuit is referred to in the Kp. Section 13, paragraph (3).

Based on point a) subpoint aa), the Metropolitan Court is exclusively competent. The Kp. Section 27 (1) legal representation in a lawsuit within the jurisdiction of the court based on paragraph b).

obligatory. The Kp. According to paragraph (6) of § 39, the submission of the claim is administrative

does not have the effect of postponing the entry into force of the act.

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), the legal representative of the customer 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 information about the possibility of a request to hold a hearing in Kp. Paragraphs (1)-(2) of § 77 is based on.

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. From the advance payment of the fee

the Itv. Paragraph (1) of § 59 and point h) of § 62 (1) exempt the person initiating the procedure

half.

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Budapest, August 5, 2021

Dr. Attila Péterfalvi

president

c. professor