

Case number: NAIH / 2020/4637/5.

Subject: Partial decision granting the application

DECISION

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

on the request of the Applicant (hereinafter: the Applicant) on 4 June 2020

in the event of improper execution of a request for access by [...] (hereinafter

The following decision is taken in the data protection authority proceedings against the applicant:

I.1. A part of the Authority's application

gives place and

I.2. finds that the Applicant violated the natural persons' personal

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:

GDPR) and Article 15 as the Applicant's access

at the request of the applicant did not provide adequate information and did not comply with the personal data of the Applicant obligation to make copies of your data.

I.3. The Authority obliges the Applicant to:

-

within 15 days of the decision becoming final, provide the Applicant with a

Full information in accordance with Article 15 (1) (a) to (h) of the GDPR a

Applicant's personal data processed by the Applicant, and

-

shall be released by the Applicant within 15 days after the decision becomes final

a copy of the Applicant's personal data is available free of charge!

I.3. the applicant from the time the measures are taken

within 8 days of receipt of the supporting evidence.

to the Authority.

II. A part of the Authority's application for the imposition of a data protection fine

rejects.

There is no administrative remedy against this decision, but from the date of notification

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

can be challenged. The application must be submitted to the Authority, electronically, which is the case

forward it to the court together with his documents. The request for a hearing must be indicated in the application. 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. In the proceedings before the Metropolitan

Court

legal representation is mandatory.

EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

I.1. The Applicant shall send a data protection e-mail to the Authority on 24 March 2020

requested an official procedure against the Applicant. The Authority shall act in accordance with NAIH / 2020/2928/2.

informed the Applicant in his letter no

CL of 2016 on administrative order. Section 35 (2) of the Act (hereinafter: the Act)

therefore, it was not sent by post with his signature

Article 57 (1) (f) of the GDPR and the right to information self-determination

and Act CXII of 2011 on Freedom of Information. Section 38 (3) of the Information Act (hereinafter: the Information Act)

An investigation was initiated pursuant to paragraph 1 (a). The Authority in this investigation procedure with reference

Infotv. § 52 (3), invited the Applicant to make a statement in connection with the fact that

consents to the disclosure of his identity to the Applicant, failing which the

test cannot be performed. The Applicant, at this request of the Authority, did not disclose his identity

contributed, but the Acre. Pursuant to Section 35 (2) - to the Authority on 3 June 2020

the receipt of a signed data protection official procedure in a request received by post

therefore NAIH / 2020/2928. pending case has been closed.

At the request of the Applicant, Infotv. Pursuant to Section 60 (1), on 3 June 2020, data protection official proceedings have been initiated.

I.1.1. The applicant submitted to the Authority on 3 June 2020 - Ákr. Section 35 (2)

appropriate - in a request for a data protection authority procedure, that Article 15 of the GDPR

submitted a request for access to the Applicant dated 3 March 2020

in a letter containing the following:

'In accordance with Article 15 (1) of the GDPR, please inform me that

- what personal data I have,

-

on what legal basis

-

for what data processing purpose,

-

in the context of which enforcement procedure,

-

how long you treat, in addition to that

-

when, on what legal basis did I grant access to which personal data or to whom?

transmitted my personal data,

-

the source of my personal data,

-

whether the Executive Agency uses automated decision-making and its logic,

including profiling.

Please let me know when, under what case

what enforcement proceedings have been or are in place to enforce the claim

information on the status of each enforcement procedure.

I also request that the copy be provided in accordance with Article 15 (3) of the GDPR

I would also like to grant my right of reply to all enforcement proceedings

copies of all enforcement documents should be provided free of charge. "

The Applicant alleges that it did not receive sufficient information from the Applicant for its application because

the Applicant in the [...]. Transcript No. only informed the Applicant that the enforcement

2

'Cases under Article LIII of 1994 on judicial enforcement. Act 1/2002. (I.17.) IM Decree,

and 35/2015. (XI.10.) IM, a copy can be requested based on this ".

In support of the Applicant's claims, he attached the following copies:

-

a request for access addressed to the Applicant dated 3 March 2020 and a

return receipt,

-

[...] s. transcript.

The Applicant shall examine the Applicant's data management and data protection in connection with the above

requested the Authority to:

-

establish that the Applicant has not granted the Applicant the right of access, and

thereby infringed Article 15 (1) and (3) of the GDPR and did not

duly informed the Applicant of the processing of his personal data

violated the transparent provisions of Article 5 (1) (a) and Article 12 of the GDPR

and the principle of fair data management;

-

oblige the Applicant to exercise the Applicant's right of access

and certify to the Authority that it has taken place;

-

order the Applicant to pay a data protection fine, given that a

He applied seriously during the execution of the application for the exercise of the right concerned

he acted carelessly.

I.2. The Authority shall act in accordance with NAIH / 2020/4637/2. in order to clarify the facts

invited the Applicant to make a statement, to which the Applicant provided the following information:

I.2.1. In particular, the Applicant submitted that in its view the Authority could not examine the

Requested processing of data because in accordance with the provisions of Article 23 (1) of the GDPR

Act LIII of 1994 on Judicial Enforcement. Act (hereinafter: Vht.) § 225 (2)

and the provisions of Infotv. Pursuant to Section 38 (2b), the Authority has no

powers of the enforcement procedure as Vht. Pursuant to § 1 and § 9 of the Code of Civil Procedure

2016 CXXX. data processing of civil non-litigation court proceedings covered by law

to examine.

The Applicant also referred to the Infotv. Section 53 (3) (a), pursuant to which a

The Authority should have rejected the Applicant 's application without a substantive examination, as if it

proceedings are pending in a particular case, the Authority may not act in that case. THE

According to the Applicant, as enforcement proceedings are pending with the Applicant

as also referred to by the Applicant in his application and as this is a civil non-litigation

therefore Infotv should have been applied to this case. Section 53 (3) a)

to the Authority.

In connection with the above, the Applicant referred to the Ákr. prohibition of deprivation of competence.

In addition, the Applicant referred to the Infotv.

VI / A. to the legal institution of the data protection objection under Chapter II, on the basis of which the position of the Applicant

according to which the data management of the enforcement procedure can be examined by the competent and competent

an action before the district court.

I.2.2. The Applicant further submitted that if the Authority disregarded the rules of jurisdiction

examining the data processing of the Requested, Article 6 (1) (e) of the GDPR

and Infotv. In view of the provisions of Section 5 (3), it is not the rules of the GDPR but the

Vht. as the legal remedies in the Vht. are complete

and "their adjudication is not by the NAIH but by the competent district court

falls within its competence. The present procedure of the NAIH therefore violates Article XXVIII of the Basic Law. Article 1

3

The right to a fair trial as set out in paragraph 1 shall be exercised

the prohibition on disqualification also mentioned in a negative sense. '

I.2.3 The Applicant referred to Vht. The obligation of confidentiality prescribed by Section 229 (1),

therefore, it may not provide specific information to the Authority against the Applicant

in the context of an existing enforcement procedure. In this connection, the Applicant submitted that

in order to obtain an exemption from the obligation of confidentiality, the Hungarian

You must apply to the Faculty of Law Enforcement (hereinafter: MBVK).

I.2.4. The Applicant further submitted that he was not fully aware of a particular party

to declare the totality of the ongoing enforcement proceedings as an independent court

the jurisdiction of the bailiff is the same as that of the district court, so the jurisdiction of the Requested

enforcement proceedings may also be instituted against the Applicant. MBVK can provide information

provide the Applicant with all ongoing enforcement proceedings against him and her

a Vht. 253 / E. § (4) - (5), it shall also be made available to the Authority.

I.2.5. According to the Applicant's statement, the Applicant complied with its "request for data" and

if the Applicant did not consider the information sent to him to be sufficient, it shall

In this case, in the opinion of the Applicant, the transcript sent to the Applicant contains what

the remedy (complaint, objection to enforcement) and to which body it may be lodged, and

According to the petitioner, "objecting to the scope is not inherently a data protection issue".

I.2.6. According to the Applicant, the information in the enforcement proceedings is primarily not

in writing, but in person or by telephone, the rules of which are determined by the court

1/2002 on enforcement administration and financial management (I.17.) Of the IM Decree. E

only in the case of proof of identity or right of representation

information may be provided in an individual case. A simple application letter where even the execution

no case number is indicated, it is not suitable for personal identification and is an obstacle to the specific

information.

I.2.7. The Applicant also referred to Article 23 (1) (j) of the GDPR, which

allows Member States to introduce a restriction on the data subject through legislation

civil law claims for the application of the enforcement sections

in order to enforce it. According to the Applicant, the legislature of the Member States has given room for

restrictions on the law of a Member State in the field of enforcement.

II. Applicable legal provisions

The GDPR should be applied to personal data in a partially or fully automated manner

non-automated processing of personal data

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

intended to be part of a registration system. For data processing covered by the GDPR, the

Infotv. Pursuant to Section 2 (2), the GDPR shall apply with the additions indicated therein.

Pursuant to Article 5 (1) (b) of the GDPR, the collection of personal data is limited to certain

for a clear and legitimate purpose and not be treated in a way that is incompatible with those purposes

in a compatible manner; ("Purpose-bound").

Pursuant to Article 5 (1) (c) GDPR, personal data are for the purposes of data processing

they must be appropriate and relevant and necessary

limited ('data saving').

Processing of data pursuant to Article 6 (3) GDPR (1) (c) and (e)

should be determined by:

the)

EU law, or

(b) the law of the Member State to which the controller is subject.

4

The purpose of the processing shall be determined by reference to this legal basis and in accordance with paragraph 1 (e).

with regard to the processing of data referred to in point (a), it must be necessary in the public interest

or a task performed in the exercise of a public authority conferred on the controller

to implement. This legal basis may include the application of the rules contained in this Regulation

adjusting provisions, including the lawfulness of the processing by the controller

general conditions, the type of data subject to data processing, the data subjects, the

the entities with which personal data may be disclosed and the purposes of such disclosure,

restrictions on the purpose of the data processing, the duration of the data storage and the data processing

operations and other data processing procedures, such as lawful and fair

necessary measures to ensure data management, including the defined in Chapter

for other specific data management situations. EU or national law is in the public interest

it must serve a purpose and be proportionate to the legitimate aim pursued.

Pursuant to Article 6 (1) (c) GDPR, the processing of personal data is lawful,

if necessary to fulfill a legal obligation to the controller.

Pursuant to Article 6 (1) (e) of the GDPR, the processing of personal data is lawful,

in the public interest or in the exercise of official authority vested in the controller

necessary for the performance of the task.

Pursuant to Article 12 (3) of the GDPR, the controller shall, without undue delay, but

in any case, it shall inform the data subject within one month of receipt of the request

a 15-22. on the action taken in response to a request under Article. If necessary, taking into account

the complexity of the application and the number of applications, this deadline is a further two months

extendable. The extension of the deadline by the data controller shall be the reasons for the delay

within one month of receipt of the request.

If the person concerned submitted the application electronically, the information shall be provided as far as possible shall be provided by electronic means, unless otherwise requested by the data subject.

Pursuant to Article 15 (1) of the GDPR, the data subject has the right to obtain from the controller receive feedback on whether your personal data is being processed, and if such processing is in progress, you have the right to access the personal data and the access to the following 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, failing that 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 sources information;
- (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 comprehensible information on the significance of such data processing and the the expected consequences for the data subject.

Under Article 15 (3) to (4) of the GDPR:

- (3) The data controller shall receive a copy of the personal data which are the subject of the data processing

make it available. For further copies requested by the data subject, the controller shall:

may charge a reasonable fee based on administrative costs. If concerned

5

submitted the application electronically, the information is widely used electronically

shall be provided in a format other than that requested by the data subject.

4. The right to request a copy referred to in paragraph 3 shall not be adversely affected

the rights and freedoms of others.

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 Information Act.

Pursuant to Article 23 (1) of the GDPR, it applies to the controller or processor

Union or Member State law may restrict the application of Articles 12 to 22 by means of legislative measures. Article 34 and

Article 34.

and Articles 12 to 22. with the rights and obligations set out in Article

the rights and obligations set out in Article 5 in respect of

if the restriction respects the essential content of fundamental rights and freedoms,

and a necessary and proportionate measure to protect the following is a democratic one

in society:

the)

national security;

b)

national defense;

c)

public safety;

(d) the prevention, investigation, detection or prosecution of criminal offenses; or

enforcement of criminal sanctions, including for threats to public security

protection against and prevention of these dangers;

(e) other important general interest objectives of general interest of the Union or of a Member State, in particular:

Important economic or financial interests of the Union or of a Member State, including monetary,

budgetary and fiscal issues, public health and social security;

(f) protection of judicial independence and judicial proceedings;

g) in the case of regulated professions, the prevention and investigation of ethical violations,

reconnaissance and related procedures;

(h) in the cases referred to in points (a) to (e) and (g), even occasionally,

control, inspection or regulatory activity related to the provision of

(i) the protection of the data subject or the protection of the rights and freedoms of others;

j) enforcement of civil claims.

According to recital 20 of the GDPR, although this regulation is the responsibility of the courts and others

shall also apply to the activities of judicial authorities, Union or Member State law shall

in connection with the processing of personal data by courts and other judicial authorities

you can specify the treatment operations and procedures performed. In the interest of,

in the performance of their judicial duties, including decision-making

independence of the judiciary, the powers of the supervisory authorities should not extend to personal matters

processing of data by courts in the exercise of their judicial functions

are performed. Member States should be allowed to supervise such data processing operations

within its judicial system, specialized bodies which are primarily

ensure compliance with the rules set out in this Regulation, increase the number of judges

their obligations under this Regulation and shall deal with them

complaints about data management activities.

Pursuant to Article 55 (3) of the GDPR, the powers of the supervisory authorities do not extend to:

data processing operations carried out by courts in the performance of their judicial tasks

supervision.

Pursuant to Article 58 (1) (e) of the GDPR, the supervisory authority has investigative powers acting:

(e) obtain access from the controller or processor to perform his or her tasks necessary for all personal data and all information;

A Pp. Pursuant to Section 162 (5), information on the procedure may be given to the person to whom the has a legal interest in the conduct or outcome of the proceedings. President of the trial court - after proving the legal interest in this, - allows the inspection of the documents about them make a copy or extract of the information or provide the necessary information.

The Ákr. Under Section 17, the authority has the powers and competencies at all stages of the proceedings ex officio. If you notice any of its deficiencies and it can be established beyond doubt in the case competent authority shall transfer the case, failing which the application shall be rejected or terminate the proceedings.

The Ákr. § 46 [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, or

(b) a request by a court or authority to enforce the same right

has already been assessed and the content of the application and the applicable legislation have not changed.

2. The authority may reject the application if it is not submitted in the prescribed form. If

the applicant resubmits his application in the prescribed form within five days, the authority shall

proceeds in full throughout the proceedings, with the application being filed at the time of the original filing

shall be deemed to have been submitted, but the time limit for administration shall run from the day following that on which it is resubmitted

to be calculated.

The Ákr. Section 47 [Termination of proceedings]

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
- (b) the applicant client does not make a statement at the request of the authority and, failing that, the application cannot be adjudicated and does not pursue the proceedings of his own motion,
- (c) the proceedings have become devoid of purpose,
- d) the client fails to comply with the obligation to advance procedural costs,
- (e) the proceedings were initiated upon request and the request of all requesting customers was withdrawn; or counterparty customers in proceedings against the counterparty on request (a hereinafter referred to as "the dispute procedure") and the proceedings may not be resumed of their own motion,
- (f) the authority finds that another authority has acted in the matter or another authority has been designated, or
- (g) a decision on the substance of the case shall be subject to the prior examination of a matter (hereinafter: which falls within the jurisdiction of a court or other body and the client does not comply with its request to initiate proceedings.

2. In the case referred to in points (e) and (f) of paragraph 1, the authority shall take a decision if necessary in the case referred to in paragraph 1 (f) or to a designated authority.

About the identification methods that replace the personal identification number and the use of identification codes XX of 1996 Pursuant to Section 4 of the Act (hereinafter: the Szasz Act):

§ 4. (1) The citizen

- a) with personal identification data,
- (b) selected from naturally identifiable data for the purpose of the processing with the necessary and appropriate amount of data or
- (c) in the case provided for by law, by his surname and forename and by this law with a defined identification code

(hereinafter together referred to as identification methods).

7

(2) A citizen may use only one method of identification for the purpose of his / her identification to oblige.

(3) Unless otherwise provided by law, the citizen shall certify the data referred to in subsection (1) you are free to choose the method.

(4) Natural identity data of the citizen

a) surname and forename, surname and forename at birth,

b) place of birth,

(c) date of birth; and

(d) mother's birth surname and forename.

Infotv. Pursuant to Section 38 (2b), the Authority shall provide personal data in Section (2)

litigation for the purpose of litigation and

in non-litigious proceedings, by a court in accordance with the rules applicable to them

data processing operations shall not be covered by paragraph 3

exercise their powers.

Infotv. 60-61. § Based on:

§ 60. (1) In order to enforce the right to the protection of personal data, the Authority shall

at the request of the data subject, initiate a data protection official procedure and

may initiate official proceedings.

(2) An application to initiate official data protection proceedings shall be made in accordance with the general data protection rules

in the case specified in Article 77 (1) and Section 22 (b) of the Decree

may be submitted.

(4) If the official data protection procedure has been preceded by an investigation by the Authority based on a notification, the notifier of the initiation or termination of the official data protection authority procedure

notify you.

5. In the case provided for in paragraph 2, the application shall be of a general administrative nature in addition to those specified in the Public Order Act

- (a) an indication of the alleged infringement,
- (b) a description of the specific conduct or condition which led to the alleged infringement,
- (c) to identify the controller or processor who is carrying out the alleged infringement necessary data available to the applicant,
- (d) the facts and evidence supporting the allegation of an alleged infringement evidence, and
- (e) a firm request for a decision to remedy the alleged infringement.

(6) In proceedings before the data protection authority, the applicant shall be entitled to legal aid, the Authority advance the costs of the proceedings, the advance of which would be borne by the applicant.

60 / A. (6) if the Authority is the data protection authority for the application within ninety days of the submission of the application shall notify the applicant of the procedural steps taken up to the date of notification.

§ 61 * (1) In its decision made in a data protection official procedure, the Authority

- a) in connection with the data processing operations specified in Section 2 (2) and (4) apply the legal consequences set out in the General Data Protection Regulation,
- b) in connection with the data processing operations specified in Section 2 (3)
 - (ba) establish the unlawful processing of personal data,
 - bb) order the correction of inaccurate personal data,
 - (bc) order the blocking, erasure or blocking of personal data which have been unlawfully processed destruction,
 - bd) prohibit the unlawful processing of personal data,
 - (b) prohibit the transfer or transfer of personal data abroad,
 - (bf) order the data subject to be informed if it has been unlawfully refused by the controller,

and

(bg) impose a fine,

(c) the control provided for in Article 41 (1) of the General Data Protection Regulation

Article 41 (5) of the General Data Protection Regulation.

may apply the legal consequences set out in

8

(2) The Authority may order the identification of the data controller or the data processor

by publishing its data, if

(a) the decision affects a wide range of persons,

(b) it was made in the context of the activities of a public body, or

(c) the gravity of the infringement justifies disclosure.

5. In deciding whether paragraph 1 (b) (bg) is justified, the Authority shall:

In the case of imposition of a fine pursuant to

taking into account the circumstances of the infringement, in particular the size of the number of persons affected by the infringement,

the gravity of the infringement, the imputability of the conduct and the fact that it is against the infringer

whether a personal data breach has been identified in the past.

Until the expiry of the time limit for bringing an action against the decision, or

in the case of the initiation of an administrative lawsuit, the disputed data processing is involved until the final decision of the court

data cannot be deleted or destroyed.

Infotv. Pursuant to Section 71 (1), during the proceedings of the Authority - for the conduct thereof

to the extent and for the time necessary - may process all personal data as well as by law

data covered by the obligation of professional secrecy and professional secrecy

which are dealt with in order to ensure the efficient conduct of the proceedings

required.

Infotv. 75 / A. § pursuant to Article 83 (2) - (6) of the General Data Protection Regulation

exercise the powers set out in paragraph 1 in accordance with the principle of proportionality,

in particular by providing for the law or regulation on the processing of personal data

Requirements laid down in a binding act of the European Union

Article 58 of the General Data Protection Regulation

in particular by alerting the controller or processor.

The Ákr. Pursuant to Section 64 (2), if, despite the other knowledge of the client or his representative, the

misrepresents or omits information relevant to the case - not including if against it

there is a reason specified in Section 66 (2) or (3) (b) and (c) -,

or if in the absence of the reason included in Section 105 (2) within the scope of mandatory data provision

fails to comply with its obligation to provide information, may be subject to a procedural fine.

The Ákr. Pursuant to Section 66 (2) (b), protected data may not be heard as a witness

who has not been exempted from secrecy.

A Vht. Pursuant to Section 225 (2), the enforcement proceedings - as civil non-litigation proceedings - a

identical to court proceedings.

III. Decision:

III.1. Jurisdiction and GDPR priority

III.1.1. The applicant disputed during the proceedings that the Authority had competence to:

to examine its data management activities.

The Ákr. Pursuant to § 17, the Authority shall exercise its powers and competences upon receipt of the application

examined ex officio, taking into account the following.

According to recital 20 of the GDPR, in accordance with Article 23 of the GDPR, although

This Regulation shall also apply to the activities of courts and other judicial authorities,

EU and national law in relation to the processing of personal data by courts and tribunals

handling operations and procedures carried out by other judicial authorities

you can specify. In order to carry out their judicial duties,

including decision-making, to ensure the independence of the judiciary, the supervisory authorities
its competence should not extend to the processing of personal data by the courts
acting in their judicial capacity. It must be possible to have such

9

supervision of data processing operations within the judicial system of the Member States
specialized bodies responsible in particular for ensuring compliance with this Regulation
increase the awareness of the judiciary in accordance with this Regulation
in relation to those data processing activities
complaints.

Pursuant to Article 55 (3) of the GDPR, the powers of the supervisory authorities do not extend to:
data processing operations carried out by courts in the performance of their judicial tasks
supervision.

Infotv. Pursuant to Section 38 (2b), the Authority shall provide personal data in Section (2)
litigation for the purpose of litigation and
in non-litigious proceedings, by a court in accordance with the rules applicable to them
data processing operations shall not be covered by paragraph 3
exercise their powers.

The above legislation applies only to the processing of data by the courts in the performance of their judicial duties
the competence of the Authority is excluded, however, as it is an independent court
executive Article 25 of the Basic Law and the 2011 Act on the Organization and Administration of Courts.

year CLXI. is not considered part of the judicial system by law and does not perform
judicial activity, and therefore the performance of the duties of an independent bailiff

The Authority shall exercise supervisory powers over its activities.

The above is also supported by the fact that it is an exception to the powers of supervisory authorities
it is a rule, it cannot be interpreted broadly from the outset, that is to say, the solution which is only
would involve the bailiff in this circle, it is not possible from the outset, as it is a legal item

regulation would be needed.

The Authority's interpretation of the law, as detailed above, is supported by the argument that the executor not a judge, does not meet, or even have to meet, any judicial requirement. Others a the conditions of appointment and candidature in the judicial system and for bailiffs, and the legalization of the profession at all, hence the requirement to be an independent bailiff have a university degree in law, only the result of recent years. The court their separation from the organizational system is also indicated by the fact that the bailiffs do not stand trial in the service relationship, but also with the MBVK, an advocacy organization of its own. All this In addition, the Infotv. 71 / B. § (1), which is "acting judge, presiding judge or considers the data processing activities of a "judicial officer" to be open to challenge in the opposition proceedings. This is also the case, as explained above for the GDPR, that as this is an exception rule, a "judge" cannot be interpreted as "bailiff".

Accordingly, Vht. § 225 (2), according to which the procedure of the bailiff - as civil non-litigation - is the same as a court proceeding and cannot be interpreted as meaning that the GDPR For the purposes of its applicability, "judge" shall include "bailiff".

The Authority would also like to note that it is officially aware that this is

The legal interpretation of the Ministry of Justice is the same as that of the Hungarian Faculty of Justice HIV.1515 / 2018/1. XX-AJFO / ID / 129/2018 issued in May 2018. number as described in its resolution.

III.1.2. With regard to sectoral legislation and the GDPR, it should be emphasized that the GDPR its rules must be complied with in addition to the provisions of sectoral legislation, as the sources of law hierarchy, the rules of the GDPR take precedence as the principle of the primacy of EU law the application of the GDPR is mandatory under national law that may conflict with it despite. The Court of Justice of the European Union has ruled on several occasions¹ that it is contrary to EU law the obligation not to apply national law is not limited to national law

Case 103/88 Costanzo [1989] ECR C: 1989, paragraph 31; CIF Judgment of 9 September 2003, C-198/01, EU: C: 2003: 430,

Point 49; Petersen judgment of 12 January 2010, C-341/08, EU: C: 2010: 4, paragraph 80; September 14, 2017 The Trustees of the BT Pension

Scheme judgment, C-628/15, EU: C: 2017: 687, paragraph 54

1

10

but is intended to apply EU law within the limits of its powers

public body, including the administrative authorities, ie the Authority. In the present case, that is

means that the implementation of sectoral legislation also applies to GDPR rules

it should be borne in mind that in the event of a conflict between the GDPR and sectoral legislation,

then the application of the GDPR is mandatory under national law that may conflict with it, in this case

even in spite of implementing sectoral legislation.

III.2. Infotv. Refusal pursuant to Section 53 (3) (a)

During the proceedings, the Applicant objected to the fact that the Authority did not comply with the Infotv. Section 53 (3) pursuant to paragraph 1 (a) of this Article.

Infotv. VI. Chapter I deals with the Authority's procedures and this chapter deals with the Authority's investigation procedure contains the reason for rejection pursuant to Section 53 (3) (a). The Authority

however, its investigation procedure is not the same as that of the Authority's data protection authority

provisions related to Infotv. 60-61. §. In cases not regulated here

the Ákr. rules apply, in particular to the rejection of the application and the procedure

the rules for its termination.

Based on the above, the Authority could not reject the Applicant's application in accordance with Infotv. Section 53 (3)

with reference to paragraph 1 (a), since in the present case, which is an official data protection procedure,

Infotv. this provision shall not apply.

III.3. Restriction by a Member State under Article 23 (1) (j) GDPR

The Authority does not agree with the Applicant's view that this provision of the GDPR

sectoral legislation in implementing law would limit the provisions of the GDPR. A Vht. and the

1/2002 on judicial enforcement administration and financial management. (I.17.) IM Decree (a hereinafter: Vüsz.) does not contain such a provision, so it is not stated in one piece of legislation nor is it express that the provisions of the GDPR are limited or non-existent provisions of this legislation that would apply to the provisions of the GDPR as a result of its application.

III.4. Applicant 's request for access

The Applicant requested information in a letter sent to the Applicant on 3 March 2020, which shall be deemed to be a request for access under Article 15 of the GDPR, as to the Requested explicitly referred to this GDPR provision in his application and by the Applicant requested information about the personal data processed, ie the data processing performed by the Applicant. THE the information which is the subject of the request is personal data pursuant to Article 4 (1) of the GDPR are considered.

III.4.1. Applicability of GDPR rules to requests for information on enforcement proceedings in case of

The Authority agrees with the Applicant's position that during the enforcement proceedings The information to be provided is also governed by sectoral legislation, but is the opinion of the Authority considers, however, that the rules of the GDPR should apply in the first instance when providing information, as the rules of the GDPR take precedence over the hierarchy of sources of law, it is EU law due to the principle of primacy, the application of the GDPR is mandatory under national law to the contrary despite.

It follows from the above that the Applicant, as the controller of personal data, is not limited to Vüsz. 40. § is required to provide information in person and by telephone, but the GDPR the provisions of Articles 12 and 15 of the GDPR and the data subject you must respond to your request for access accordingly.

The Authority does not agree with the Applicant's view that the applicability of the GDPR is

also rules out the possibility of a separate redress system for enforcement in enforcement proceedings

and the transcript sent to the Applicant shall state what

the remedy (complaint, objection to enforcement) and to which body it may be lodged, and

According to the petitioner, "objecting to the scope is not inherently a data protection issue". The Requested

[...]. copy no

education. Furthermore, in the Authority's view, it relates to the transcript of the Applicant

nor shall the existence of a legal remedy prevent the Authority from acting on the applicant's request

as this is not and cannot be ruled out by law,

hence the obligation to apply the GDPR on a primary basis.

III.4.2. Identification of the person requesting the information

The Applicant claimed that it had prevented the provision of adequate, specific information,

that the Applicant did not indicate the enforcement case number in the letter requesting information,

and the Applicant does not have any information, ie no such information

to a national register from which all data against the Applicant is retrieved

provide information on the ongoing enforcement process.

The Authority does not accept the above arguments of the Applicant as the request for access is not appropriate

in connection with the following:

The Applicant has indicated in his request for access the personal information necessary for his identification

data as follows:

-

name,

place and date of birth,

His mother's name.

The Szasz tv. According to the provisions of Section 4 (4), the citizen is a natural personally identifiable data

a) surname and forename, surname and forename at birth,

b) place of birth,

(c) date of birth; and

(d) mother's birth surname and forename.

When contacting in absentia, whether by letter or telephone, the controller must in some way identify the data subjects by whose identity there were reasonable doubts under Article 12 (6) of the GDPR. Of this however, the controller must ensure that the identity is verified and identification are not the same concepts, so identification is only required in exceptional cases enter all four natural identities, in most cases the name and one of the other three pieces of personally identifiable information, insofar as it is used to identify the customer actually necessary.

In view of the above, the data controller must examine whether the e-mail or whether the identity of the specific person initiating the letter / initiating telephone administration is a Reasonable doubt under Article 12 (6) GDPR and to dispel it precisely which personal data - exceptionally personal data - you need to provide Based on the above, the Applicant therefore made the personal information available to the Applicant data on the basis of which the Applicant has become identifiable, ie the data subject's application proper performance cannot be refused on the grounds that the Applicant has doubts regarding his identity.

12

III.4.3. Requirement for adequate information

The Applicant is the [...]. In Transcript No. No., he informed the Applicant that the enforcement “cases of LIII of 1994 on Judicial Enforcement. Act 1/2002. (I.17.) IM decree, and a 35/2015. (XI.10.) IM, a copy can be requested based on this ”.

Based on the above, the Applicant did not receive any information despite the express request for information information item by item (by case number) on the following

-

Applicant providing personal data

-

on what legal basis

-

for what data processing purpose,

-

in the context of which enforcement procedure,

-

how long you treat, in addition to that

-

when, on what legal basis did you grant access to which personal data or to whom

transmitted your personal data,

-

the source of the Applicant's personal data,

-

whether the Applicant uses automated decision-making and its logic,

including profiling.

Also about:

-

when,

under what case number

for the purpose of enforcing a claim

what enforcement proceedings have been initiated against the Applicant and what of these proceedings

its status.

In addition to the above, the Applicant invokes Article 15 (3) of the GDPR free of charge

also requested copies of documents from the Applicant about his personal data, but neither did this request

fulfilled by the Applicant.

The Authority does not agree with the Applicant's view that the § 40

information only and precludes the provision of information under the GDPR as under the GDPR

the information to be provided is not the same as the information to be provided in accordance with

shall also apply if the other party or a third party so requests

who proves his legal interest. A request for access under Article 15 of the GDPR

contrary to its provisions, it only contains rules on the information to be provided to the data subject.

For this reason, the copy of the document requested under the right of access is not the same as Vűsz. with a copy of the document requested,

whereas the copy of the file provided on the basis of the GDPR's request for access is relevant only personal data pursuant to Article 15 (4) of the GDPR.

According to the Authority, the Applicant 's argument that it could not have been

provide information on ongoing enforcement proceedings as against the Applicant

enforcement proceedings which are not pending before the Applicant may also be pending,

in addition, the Applicant requested information on "all proceedings that have ever taken place". That's the argument cannot be accepted because it is not required to provide information on such data

Requested which data is not available to you, but for all personal data

is obliged to provide access in connection with which the Applicant carries out data management.

13

The Applicant's request for access was not of a general nature, it was specific, well apart asked questions about the processing of your personal data.

To fulfill access requests in a manner that complies with data protection requirements

a formal response without relevant information is not sufficient. The right of access

The obligation to provide information on the side of data controllers as a result of the exercise of an administrative obligation that can be fulfilled in a template. Fulfill access requests

by tailoring the information to the data subjects, personalizing it and

questions raised by stakeholders should be considered at their disposal

to release. Failing this, data subjects will not be given a clear picture of their personal details

it does not become transparent to them.

The right of access in Article 15 of the GDPR consists of three parts. The data subject is entitled to information

to receive information about whether your personal data is handled by the data controller, exactly what kind of data it handles

and

on the conditions of data processing.

Article 12 of the GDPR stipulates that the controller is obliged to submit a request to a data subject

if he does not take action, he shall inform the person concerned, inter alia

the refusal to grant access in the present case and the reasons therefor.

The Applicant did not fulfill this legal obligation.

In cases under Article 12 (5) of the GDPR and Article 15 (4) of the GDPR, the controller

may refuse a request for a copy pursuant to paragraph

The Applicant did not refer to any of these during the proceedings, but wrote to the Authority that:

the Applicant exercised an abusive legal practice against him.

According to the GDPR, information on data processing is a fundamental data subject's right, which the

the data controller is obliged to perform as detailed in the GDPR, in case of request a

access in the form of a data copy.

This means that a copy of the personal data processed by the controller must be provided, which

however, it is not always the same as a full copy of a record. They may be on the record

comments, legal provisions, other passages, personal data, technical

information which, if no conclusion is reached on the data subject

do not constitute personal data of the data subject, such as access under the GDPR

No copy of them can be requested, nor can the data controller request these parts of the record on the GDPR.

is not required to provide a copy based on

So on request for access to data management, these details are in the form of a copy

the data controller is not obliged to issue it under the GDPR and by obscuring the parts that are not to be released the request can be complied with.

According to the GDPR, the data controller shall be provided with a copy of the personal data which are the subject of the data processing

the party concerned shall have a copy of the right of access

the right to make available. As a general rule, the GDPR in the context of the right of access is

record the legal aid for the issue of the first copy. The copy

in accordance with the rules laid down in Article 12 (5) of the GDPR

can be limited. In this case, it is

obligation of the data controller. Providing information is a small expense

application may not be refused under the general rule, otherwise it shall be

the controller must prove the existence of one of the conditions or the administrative costs

also its size.

The Authority found that the Applicant had not granted the Applicant access to the

personal data provided by him when he has not provided him free of charge

a copy of the documents containing the personal data which are the subject of the data processing. THE

14

The applicant thereby infringed Article 15 § 3 of the GDPR.

In view of the above, the Authority therefore finds that the Applicant has infringed Article 12 of the GDPR.

Article 15 (1) and the provisions of Article 15, as it did not inform the Applicant of the

With personal data processed in enforcement proceedings pending before an applicant

in the context of the purpose of data processing, the legal basis, the duration of data processing, the implementation

the status of the enforcement proceedings and the status of the enforcement proceedings

copies of documents containing your personal data are available to you, therefore, subject to the above

Authority shall, in the operative part, call upon the Applicant to provide it free of charge to the Applicant

provide access to and provide copies of documents containing your personal information

appropriate information to the Applicant.

III.5. Application for a data protection fine

III.5.1. The Authority rejected the Applicant's request for a data protection fine,

whereas the application of this sanction does not directly affect the right or legitimate interest of the Applicant

such a decision of the Authority shall not create any right or obligation for it

the application of this legal consequence, which falls within the scope of the public interest

With regard to the imposition of fines, the Applicant shall not be considered a customer in accordance with Ákr. § 10

(1), and since the Act on Does not comply with Section 35 (1) in this regard

there is no place to file an application, this part of the petition cannot be interpreted as an application.

III.5.2. However, the Authority has examined of its own motion whether it is justified to

imposition of a data protection fine. In this context, the Authority will comply with Article 83 (2) of the GDPR and

Infotv.75 / A. § considered ex officio all the circumstances of the case and found that

the imposition of a fine for the infringement found in the present proceedings is disproportionate and unnecessary,

given that the violation of the Requested GDPR has not previously been established

row.

III.6. Comments from the Requested Confidentiality

In the present proceedings, the Authority's decision was not impeded by the fact that the Applicant did not

granted access to the Applicant's personal data to the Authority as the Applicant

did not comply with the Applicant's request for access at all. However, if the Applicant

would have complied in part with the request of the data subject and the Authority should have examined whether

specifically which personal data the Applicant did not have access to, then

it would have been essential for the Authority to have access to the confidentiality referred to by the Applicant

data. The Authority has the appropriate authorization and authority to get to know this data

has Infotv. § 71 and Article 58 of the GDPR.

However, the Authority notes here that the exemption from confidentiality must be

and it is not for the Authority to contact the MBVK in this matter, and the Applicant should only

you may invoke a refusal to make a statement lawfully if the request is made by the MBVK

he refused. This follows the Ákr. § 64 (2) and § 66 (2), according to which as a witness

a person who has not been exempted from confidentiality may not be heard about a fact that qualifies as protected data

therefore, in the course of clarification of the facts, the statement may also be refused with reference to this.

IV. Other issues:

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

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

§ (1), it becomes final with its communication. The Ákr. Section 112 and Section 116 (1)

and § 114 (1) by way of an administrative action against the decision

there is room for redress.

15

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

The administrative lawsuit against the decision of the Criminal Court falls within the jurisdiction of the court. Section 13 (11)

The Metropolitan Court shall have exclusive jurisdiction pursuant to On civil procedure

on the 2016 CXXX. Act (hereinafter: Pp.) - the Kp. Pursuant to Section 26 (1)

applicable - legal representation in a lawsuit falling within the jurisdiction of the tribunal pursuant to § 72

obligatory. Kp. Pursuant to Section 39 (6), unless otherwise provided by law, the application

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

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

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 Applicant does not duly prove the fulfillment of the required obligation, the Authority shall:

it considers that it has failed to fulfill its obligations within the prescribed period. The Ákr. According to § 132, if a the obligor has not complied with the obligation contained in the final decision of the authority, it shall be enforceable.

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

133, unless otherwise provided by law or government decree

- ordered by the decision-making authority. The Ákr. Pursuant to § 134 - enforcement if law,

a government decree or, in the case of a municipal authority, a local government decree otherwise

does not have - the state tax authority implements it. Infotv. Pursuant to Section 60 (7) a

To carry out a specific act contained in a decision of an authority, specified

the decision as to the obligation to conduct, tolerate or stop

shall be carried out by the Authority.

Budapest, October 29, 2020

Dr. Attila Péterfalvi

President

c. professor

16

17

18