

Case number: NAIH / 2018/5573/6 / H.

Subject: Personal data

communication to a third party

SIX PRICES

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

[... ..] (hereinafter: the Applicant) registered by [... ..] (hereinafter: the Applicant)

to establish the unlawful disclosure of personal data to a third party

shall take the following decision in the data protection authority proceedings initiated at the request of:

The Authority shall grant the application and establish that the Applicant is the Applicant

processed his personal data unlawfully because the statement of reasons II. as explained in point

they were communicated to a third party on 18 July 2018 without any legal basis.

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

provided by the Authority.

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 shall be submitted to the Authority, electronically, which shall be

forward it to the court together with the case file. Request for a hearing in the action

to be indicated. For those who do not benefit from full personal exemption, the court

the fee for the review procedure is HUF 30,000, the lawsuit is subject to the right to record fees. The Capital

Legal proceedings are mandatory in proceedings before the General Court.

EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

Through the Authorized Legal Representative of the Applicant to the Authority August 2018

In its request, received on the 23rd day, it initiated the initiation of official data protection proceedings,

the Authority on the right to information and freedom of information

CXII of 2011 Pursuant to Section 60 (1) of the Act (hereinafter: the Information Act), personal

in order to enforce the right to data protection in case number NAIH / 2018/5573 / H

initiated a data protection authority proceeding.

According to the application, the employee of the Applicant is the consent of the Applicant, respectively

issued to a third party by telephone on 18 July 2018 without any other legal basis a

personal data when a third party not included in the mortgage contract

called the applicant on the ground that the Applicant was not paying the installments and

informed him of his personal data, including his address. Unjustified disclosure

the Applicant sought a finding of infringement from the Authority.

The Authority issued a decision on the initiation of the data protection authority procedure NAIH / 2018/5573/1 / H.

notified the Applicant in his order and the facts in the same order

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In order to clarify the matter, he called for a statement on the General Administrative Procedure

2016 CL. with reference to § 63 of the Act (hereinafter: the Act).

The Applicant stated in his reply letter J / 245/2018 / JI that the Authority had

and informed the Authority that his Data Protection Officer was internal

initiated an investigation and the outcome of that investigation.

According to the Applicant's statement, on January 27, 2006, the mortgage loan agreement (a

hereinafter referred to as the Mortgage Loan Agreement) with the Applicant. In the Mortgage Agreement

incorrectly recorded the topographical number of the pledged object and therefore the incorrect data was also entered into their database.

was recorded. Their internal investigation revealed that the mortgage agreement at a later date

has been modified on a paper basis so that it already includes the correct hedging property, however

due to an administrative error, "the transfer of the modification of the hedging property data to the bank system has not occurred '.

The Applicant's personal data of the Applicant with a third party - incorrect in the database

to the owner of the pledged property.

that the third party has been contacted and for the personal data of the Applicant

edition is also topographical of the original hedge property incorrectly recorded in the 2006 contract can be traced back to.

In his letter, the Applicant informed the Authority that “the system error was telephone colleagues were not aware at the time of the call, however, after the error was discovered Our bank corrected the hedging property data in the system without delay ”, the Applicant transaction.

The Applicant is the subject of J / 275/2018 / JHA. In its reply, No a third party was recorded on 24/05/2018 as a party to the transaction and the Applicant due to repeated delays in order to:

the bank must comply with the MNB's recommendation on debt settlement. That's right Personal data of the owner of the property incorrectly listed as a pledged object in the database a at the time of telephone inquiries, July 18, 2018, contract number 217109 were recorded in the system.

## II. Authority decision

### II.1. The examined data management

On the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC Regulation (EU) No 2016/679 (hereinafter referred to as the General Data Protection Regulation) According to Article 2 (1), the Regulation applies to personal data in part or automated handling of data and the non-processing of data which are part of a registration system, or which are intended to be part of a registration system. The concept of data management is Article 4 (2) of the General Data Protection Regulation<sup>1</sup>.

The processing of personal data communicated by telephone which is the subject of the proceedings is computerized from the basic system of the Applicant and based on it

consists of a receivables management system. Insight into the receivables management system as a result of which was communicated by telephone, so in the light of the above, the investigated activity is considered as data processing, which is covered by the general data protection regulation

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Article 4 of the General Data Protection Regulation 2. "processing" means the processing of personal data or data files any operation or set of operations carried out in an automated or non-automated manner, such as collection, recording, organizing, segmenting, storing, transforming or altering, querying, viewing, using, communication by transmission, distribution or otherwise making available, coordination or linking, restricting, deleting or destroying;

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applicable.

II.2.

Purpose and legal basis of data processing

From the sound recordings attached by the Applicant, it can be stated that the Applicant on 18 July 2018, his employee provided information not only on the personal data of the debtor the Applicant was also notified of the overdue debt claimed, ie the amount of non-payment registered as a pledgee according to its database, but not in the Mortgage Loan Agreement third party. The Applicant's employee was in error in providing the information, it therefore provided the third party with information on which it had no legal basis.

The Applicant erred in informing the third party about the Applicant's debt and that that the third party's property is also affected by the third party's property as collateral in connection with the Debt of the Applicant. The Applicant caused a violation of interests a Applicant because the erroneous third party contacted the Applicant a at the place of residence. During the proceedings, the fact of the communication by telephone was not disputed by the Applicant either.

In view of the above, the Authority concludes that the Applicant a

communicated personal data to a third party not involved in the legal transaction which the third party was not entitled to have access to it, and therefore by unjustified disclosure infringed Article 6 (1) of the General Data Protection Regulation.

Based on the statements of the Applicant, the Authority has established that the data management process the problem was caused by incorrect data recording. The Applicant himself acknowledged that the The applicant's transaction data was inaccurate in his system.

The violation of the General Data Protection Regulation was committed by the Applicant before 25 May 2018 was due to his negligence, as the personal data of the Applicant was July 2018

His communication with a third party by telephone on 18 January 2006 was concluded on 27 January 2006 mortgage contract

included

prescription

by mistake

can be driven

back,

which

as a result, the details of the third party were recorded on May 24, 2018 in the transaction

actors. The erroneously recorded data were obtained only after the unjustified communication for repair.

### II.3. Legal consequences

The Authority shall inform Infotv. With regard to Section 61 (1) (a), the General Data Protection Act may apply the consequences provided for in Article 58 (2) of this Regulation.

II.3.1. The Authority grants the request of the Applicant and Article 58 of the General Data Protection Regulation. condemns the controller under Article 2 (2) (b) for failing to comply with the processing rules violated the provisions of the General Data Protection Regulation.

II.3.2. The Authority examined of its own motion whether it was justified in respect of the applicant

imposition of a data protection fine. In this context, the Authority is Article 83 of the General Data Protection Regulation (2), it considered all the circumstances of the case as follows:

Among the measures taken to mitigate the requested damage, the Authority assessed that that the Claimant - according to his statement - after the discovery of the defect in the hedging property corrected data in your systems immediately.

In the context of its cooperation with the Authority, it assessed that the requested internal investigation whose findings were communicated to the Authority, thereby contributing to the subject matter of the proceedings to detect an infringement which constitutes

The Authority took note of the Applicant's conviction for general data protection has not yet taken place and is the subject of the present administrative proceedings infringement in the first few months of the entry into force of the General Data Protection Regulation

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which can be traced back to the erroneous recording of data more than ten years ago. The fine in view of the passage of time, it would not fulfill its purpose and the Authority would not impose it considers it appropriate.

Based on the above, the Authority has decided in accordance with the operative part.

### III. Rules of procedure

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

The Ákr. Pursuant to § 112 and § 116 (1) and § 114 (1) there is an administrative remedy against him.

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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), the Authority

The administrative lawsuit against the decision of the Criminal Court falls within the jurisdiction of the court. § 13 (11), the Metropolitan Court has exclusive jurisdiction. The civilian

CXXX of 2016 on the organization of litigation. Act (hereinafter: Pp.) - the Kp. Section 26 (1)

applicable under Article 72 of the Code of Civil Procedure - in a lawsuit falling within the jurisdiction of the General Court pursuant to § 72

legal representation is mandatory. Kp. Pursuant to Section 39 (6) - unless otherwise provided by law

- the suspensory effect of the submission of the letter of formal notice pending the entry into force of the administrative act no.

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. law

(hereinafter: E-Administration Act) According to Section 9 (1) (b), the legal representative of the client

obliged to communicate electronically.

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

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

based on paragraph The rate of the fee for an administrative lawsuit is set out in the 1990 Fees Act

XCIII. Act (hereinafter: Itv.) 44 / A. § (1). The fee is preliminary

from the payment of the Itv. Section 59 (1) and Section 62 (1) (h) exempt

initiating proceedings.

Budapest, December 21, 2018

Dr. Attila Péterfalvi

President

c. professor