

Case number: NAIH / 2019/214/23.

Subject: Partial decision granting the application

Administrator: [...]

## DECISION

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

hereinafter referred to as the "Applicant") in person with [...] (hereinafter referred to as

Applicant 1) and [...] (hereinafter: Applicant 2) (hereinafter together:

Applicants) will take the following decisions:

I. The Authority's request to convict the Applicant 1 for unlawful data processing

approves and finds that the Applicant 1 in connection with the Applicant's personal data

infringed Article 6 (1) of the GDPR by allowing the [...] Court of Justice [...] to

('the judgment') for third parties.

II. The part of the application aimed at banning Applicant 1 is personal to Applicant

information and consent of your data and to third parties without cause or purpose

the Authority shall reject it.

III. The part of the application seeking an order that the Authority set aside the judgment is set aside.

and to provide credible evidence, the Authority shall reject it.

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.

For those who do not benefit from full personal exemption, the judicial review process

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

legal representation is mandatory in these proceedings.

## EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

I.1.1. The Applicant received data protection in its application received by the Authority on January 3, 2019 initiated the initiation of official proceedings.

In his application, the Applicant stated that Applicant 1 had forwarded the judgment to Applicant 2, or the personal data contained therein without informing the Applicant in 2018 in November. According to the applicant, the purpose of forwarding the judgment was not appropriate and legal basis.

The Applicant further submitted that on 14 November 2018 the 2 employees of the Applicant a Following an alert issued by the head of the bank branch at the requested number 1 [...], the also referred to the judgment ('here is the security paper') when it called on the Applicant to which the Applicant also recorded. The Applicant is present at 2 locations his employee verbally stated that he had received the 'security paper' in a circular Requested 2 employees.

Based on the above, the Applicant requested that the Authority condemn Applicant 1 a on the protection of individuals with regard to the processing of personal data and on the on the free movement of such data and repealing Directive 95/46 / EC 2016/679 (hereinafter: GDPR), prohibit Requested 1 from providing personal information for information and consent as well as reason and 2 forward or bind the Applicant 2 to third parties without any purpose and its credible justification.

At the request of the Applicant, on the right to self-determination of information and freedom of information 2011 CXII. Pursuant to Section 60 (1) of Act NAIH / 2019/214 (hereinafter: the Information Act).

The case was initiated on 4 January 2019.

I.1.2. In order to clarify the facts, the Authority has repeatedly called on the Applicants.

According to the statement of the applicant 1, he prepared a document for internal administrative purposes based on the

judgment,

received only by the head of the above bank together with the judgment. Internal administration

document is intended to help the situation between Applicant and Applicant 1

authorities responding to alerts issued by Applicant 1, in particular

for the police. Document for internal administrative purposes - to be sent to the Authority

contains the name of the Applicant and a brief summary of the judgment.

Applicant was published on 14 November 2018 under Applicant 1 [...]

for administration at a bank branch. Applicant 1 branch manager called the Applicant to the bank branch

who did not comply, so the branch manager issued a panic alarm. To panic alarm

Applicant 2

workers arrived at the scene.

The internal administrative document was received by the branch manager after the alert

from the center. In the cover letter, Applicant 1 drew the branch manager's attention to the internal administration

document is not public to the trustees, they are not allowed to get acquainted with it

the branch manager only orally informed the trustees that such a document existed.

Applicant 1 According to a statement dated March 11, 2019, the branch manager printed the internal

administrative document, he handed it over to the outgoing police officers in his office and then after

got it back, destroyed it.

In his statement of 9 April 2019, Applicant 1 clarified his previous allegations that a

the branch manager forwarded the verdict to his deputy, who recorded it on camera for the administration

according to - camera named [...], 11/14/2018 9:17 AM - also recognized by Applicant 1

printed out and handed over to the [...] - and not to the Applicant 2 -

the custodian employed by him, who looked at the printed judgment and then halved it and

handed it over to one of the acting police officers. The Deputy Account Manager is not aware or instructed by the Account

Manager

acted. The custodian said he had not read the document, not its contents

at the request of the deputy branch manager, he only handed it over to the acting police. after the the deputy branch manager received a hard copy of the judgment and destroyed it.

I.1.3. According to the Applicants' unanimous statement, neither the judgment nor the internal administration the document was not forwarded to the Applicant 2 or directly to his employees, which is also supported by camera shots taken at the bank branch.

According to the 2 statements of the Applicant, it can be heard on the sound recording made by the Applicant, the a statement from a treasurer employed by him that "but there is, we have also received, and in a circular does not refer to the judgment or the internal administrative document, but to the issued a circular to the employees.

Applicant 2 issued two procedural instructions in the autumn of 2018, one of which was issued on 30 October 2018. dated, the other after 14 November 2018. In this instruction he called his staff attention to the procedure to be followed if a bank employee or the Applicant 1 the alarm is coming from one of the bank branches.

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## II. Applicable legal provisions

Pursuant to Article 2 (1) of the GDPR, the GDPR applies to the processing of data in the present case.

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

GDPR Article 4 (1): "personal data" means an identified or identifiable natural person

(Relevant) any relevant information; the natural person who is direct can be identified

or indirectly, in particular by means of an identifier such as name, number, location data,

online identification or the physical, physiological, genetic, mental, economic,

one or more factors relating to its cultural or social identity.

GDPR Article 4 (2): "data processing" means automated processing of personal data or data files

or any operation or set of operations carried out in a non-automated manner, such as collection,

record, organize, segment, store, transform or change, query, view,

by use, communication, transmission, distribution or otherwise making available,

harmonization or interconnection, restriction, deletion or destruction.

Article 6 (1) GDPR: The processing of personal data is lawful only if and to the extent that

if at least one of the following is met:

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

treatment;

(b) processing is necessary for the performance of a contract to which one of the parties is a party;

or to take action at the request of the data subject prior to the conclusion of the contract

required;

(c) processing is necessary for compliance with a legal obligation to which the controller is subject; d) the

data protection is the protection of the vital interests of the data subject or of another natural person

necessary;

(e) the exercise of a public interest or the exercise of official authority vested in the controller

necessary for the performance of its task;

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

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

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

especially if the child concerned.

Point (f) of the first subparagraph shall not apply to the performance of their duties by public authorities

data management.

Article 58 (2) (b) GDPR: Acting in the corrective power of the supervisory authority:

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

has infringed the provisions of this Regulation;

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

shall apply with the additions provided for in

Infotv. 75 / A. §: The Authority is set out in Article 83 (2) to (6) of the General Data Protection Regulation

exercise its powers in accordance with the principle of proportionality, in particular by:

legislation on the processing of personal data or binding European Union law

for the first time in the event of a breach of the rules laid down in

in accordance with Article 58 of the General Data Protection Regulation

by alerting the controller or processor.

The data protection authority procedure is governed by the CL of 2016 on General Administrative Procedure.

(hereinafter: Ákr.) shall be applied in accordance with the provisions of the Infotv

additions and derogations under the General Data Protection Regulation.

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### III. Decision

#### III.1. Making personal information available to third parties

The judgment contains personal data - the name and address of the Applicant - and all of it is complete

the content of which is considered to be the personal data of the Applicant, as in the lawsuit in which the judgment was given,

participated as a defendant, so the contents of the judgment - the facts, the findings of the court - all with him

contactable data.

The Applicant 1 carried out the operation to obtain a judgment qualifying as personal data

handed it over to the treasurer employed by [...], made it known to him, to the end

considered as data processing under the GDPR. Applicant 1, however, did not

provided an appropriate legal basis for making the judgment available to a third party

for a person who is not entitled to know its contents.

The judgment is addressed to a third party, ie the [...] custodian

however, making it available did not result in personal data being processed by a third party

unauthorized access to it, as the trustee stated in the printed judgment that it did not

he read into it. His statement is also supported by the camera shots taken at the bank branch, as the

the treasurer just glanced at the document in his hand, which he could not recognize in a short time

the contents of the document. The judgment is therefore unlawful for the trustee

its disclosure did not cause significant harm to the Applicant.

In view of the above, the Authority finds that Applicant 1 has infringed Article 6 (1) of the GDPR.

unlawfully made available to a third party in the absence of a legal basis

the judgment and the name and address of the Applicant.

### III.2. Data management of 2 examined applicants

Applicant Based on a conversation with the custodian employed by Applicant 2

assumed that the judgment had been served on Applicant 2 and was handling it.

Applicants unanimously stated that Applicant 2 did not deal with the judgment.

Applicant 1 branch manager said orally informed the trustees of the property protection

lawsuit, so the trustee presumably linked this information in the procedural instruction

as it contained explicit instructions in the event that the alarm a

Applicant 1 comes from a bank branch.

The camera recordings support the Applicants' statement that they are at the bank branch

Applicant 1 did not provide the custodian employed by Applicant 2 with the

judgment, as no documents were handed over to him during his stay in the account.

According to the evidence obtained by the Authority during the proceedings, Requested 1 no

forwarded the judgment to the Applicant 2 or directly to the Applicant 2's employees or a

internal administrative document. Accordingly, the Authority finds that Requested 2 az

does not process data in connection with the judgment.

### III. 3. Legal Consequences

#### III.3.1. The Authority grants the Applicant's request and Article 58 (2) (b) GDPR

condemns Applicant 1 for violating Article 6 § 1 of the GDPR by

granted unauthorized access to the judgment to a third party.

#### III.3.2. The Authority rejects the Applicant's request to ban Applicant 1 a

information and consent of your personal data and third parties without purpose or legal basis

from the transfer of personal data to persons, as the Authority in the data protection authority proceedings a

It may apply the legal consequences set out in Article 58 (2) GDPR. The GDPR

Article 58 (2) does not empower supervisory authorities to:

prohibit data controllers from processing the personal data of a specific data subject.

III.3.3. The Authority rejects the Applicant's request to bind Applicant 2 to the judgment

and credible proof that the cancellation has taken place, as Applicant 2 does not

has a judgment and therefore does not process data in relation to it.

III.3.4. As to whether the imposition of a data protection fine is justified, the Authority is

Article 83 (2) of the General Data Protection Regulation and Infotv.75 / A. § ex officio

it considered all the circumstances of the case and found that it had been discovered in the present proceedings

in the case of an infringement, the conviction is a proportionate and dissuasive sanction and therefore a fine

not necessary.

The Authority draws the attention of Applicant 1 to the fact that GDPR 75 / A. § warning only a

It can be used in the event of a first-time violation of the GDPR, so one is possible

in the event of a future infringement, the Authority may impose a fine if all of them apply

considers it justified in the circumstances.

III.3.5. Based on the above, the Authority has decided in accordance with the operative part.

ARC. 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. § 112 and § 116 (1),

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

redress.

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The rules of administrative litigation are laid down in Act I of 2017 on the Procedure of Administrative Litigation (a



hereinafter: Kp.). A Kp. Pursuant to Section 12 (2) (a), 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.

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

Ákr. Section 133 of the Enforcement - unless otherwise provided by law or government decree

ordered by the decision-making authority. The Ákr. Under section 134 of the enforcement - if

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

unless otherwise provided - by the state tax authority. Infotv. Section 60 (7)

to carry out a specific act contained in a decision of the Authority

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

shall be carried out by the Authority.

Budapest, April 30, 2019

Dr. Attila Péterfalvi

President

c. professor