Registration number: NAIH-6334-4/2022.

Object:

decision repeated

data protection authority

in procedure

H A T A R O Z A T

The National Data Protection and Freedom of Information Authority (hereinafter: Authority) […] ([…].a

hereinafter: Applicant) to the request submitted on March 11, 2021 by […] ([…], hereinafter:

NAIH-3414-12/2021 brought in proceedings initiated against the Respondent). having decision no

Part VIII. regarding point 2022 of the Metropolitan Court.

dated

105.K.700.232/2022/10. ordered by judgment no., repeated ex officio on July 7, 2022

makes the following decision in a data protection official procedure:

NAIH-3414-12/2021. Decision no. I. and II. due to the violation established in point a

Requested

on June 3

HUF 500,000, i.e. five hundred thousand forints

to a data protection fine

obliges him to pay within 30 days from the date this decision becomes final.

The fine is transferred to the Authority's centralized revenue collection purpose settlement account (10032000-

01040425-00000000 Centralized direct debit account IBAN: HU83 1003 2000 0104 0425 0000

0000) must be paid in favor of When transferring the amount, NAIH-6334/2022. FINE. must be counted

refer to.

If the Respondent does not fulfill his obligation to pay the fine within the deadline, a late fee will be charged

is obliged to pay. The amount of the late fee is the legal interest, which is the calendar interest affected by the delay

is the same as the central bank base rate valid on the first day of the semester.

In the event of non-payment of the fine and late fee, the Authority shall issue a decision

implementation.

There is no place for an administrative appeal against this decision, but it is subject to notification

Within 30 days, it can be challenged in a public administrative lawsuit with a claim addressed to the Capital Court.

The statement of claim must be submitted electronically to the Authority1, which will submit it together with the case

documents

forward to the court. 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.

1 The NAIH_K01 form is used to initiate the administrative lawsuit: NAIH_K01 form (16.09.2019) The form

it can be filled out using the general form filling program (ÁNYK program).

……

……

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I N D O C O L A S

I. Facts

I.1. NAIH-3414/2021. official procedure no

Starting from July 25, 2018, the Applicant is in the staff of the Applicant Hungary

He performed permanent foreign service at the embassy in […] as […]. The host state is only the Requested

could be abandoned with prior written permission.

The Respondent terminated the Applicant's government relationship with effect from March 24, 2020, which

against the decision, the Applicant initiated a legal dispute with the Public Service Decision Committee (a

hereinafter: KDB).

During the procedure of the KDB, the Applicant became aware of certain information that was under the control of the

Applicant

on relevant documents. on September 2 and September 11, 2020 regarding the documents

addressed to the Respondent with an access request. The Requester submitted the access request to the

to an ongoing legal dispute and CXXV of 2018 on government administration. law (Ex.) some

refused with reference to its provisions.

In the civil service lawsuit following the KDB procedure, based on the court's obligation, the Applicant has one of the

documents

became familiar with the contents of the

In the Applicant's application to the Authority dated March 11, 2021 (hereinafter: application)

requested the conduct of a data protection official procedure.

He complained, among other things, that the Respondent presented his own health data to the KDB

also used internal documents containing information about the existence of which was not provided by the Application

received, and the issuance of the document was also denied to him without adequate reason. By this means it was not

the opportunity to obtain adequate information about the reasons for the termination of the legal relationship, furthermore

nor about what kind of documents the Respondent handles about him, with which he was not involved

opportunity to exercise your rights as a stakeholder.

The Applicant requested the Authority's procedure in remedying the violation and asked the Authority to

bind the Applicant

a) In relation to the termination of permanent foreign service and government service

all personal and special data generated, including health data

for sending documents containing it to the party concerned and the relevant

related to data

by

to extend;

full data protection

in a verifiable manner

information sheet

b) In particular, but not exclusively, issue to him the letter received from [...] on March 24, 2020

document No. […] (Telegram), as well as the civil service relationship of [...],[…] and […]

your e-mails (E-mail) relating to the termination immediately preceding the one to which a

Referred to by the Human Resources Department in the document dated March 31, 2020.

c) In addition to the above, provide separate information that the above documents and other matters arising,

documents and data that have not been disclosed to him, what circle of recipients has seen, can see and

under what legal title, how and for how long does the Respondent manage them, taking into account the public service

to the laws in force at the time of the termination of the legal relationship.

Regarding the processing of personal data of natural persons following the request

on the protection and free flow of such data, and outside the scope of Directive 95/46/EC

Regulation 2016/679 (EU) on the placement of

GDPR) Article 57 (1) point f) and on the right to informational self-determination and

CXII of 2011 on freedom of information. Act (hereinafter: Infotv.) Section 60 (1)

official data protection procedure was carried out based on

The Authority NAIH-3414-12/2021. stated in its decision no. that the Applicant

by treating his confusion and mental state with descriptions (hereinafter: Descriptions) a

The Respondent managed the health data concerning the Applicant, for which the Applicant is governmental

based a decision in connection with the termination of his legal relationship.

The Authority NAIH-3414-12/2021. partially granted the Applicant's request in its decision no

and found that the Respondent denied the Applicant access without a legitimate reason

fulfillment of his request, thus the Respondent violated Article 12 of the General Data Protection Regulation

(4) and Article 15 (3) (point I of decision No. NAIH-3414-12/2021), respectively

established that the Respondent did not give the Applicant

with the termination of his legal relationship

complete information on the data handled in connection with it, thereby violating the general

Article 14 of the data protection decree (point II of decision No. NAIH-3414-12/2021).

The Authority further ordered the Respondent to provide the Applicant with the legal relationship

complete information on the data processed in connection with the termination of the data

what circle of recipients knew it, can know it and under what legal title, how and by the Respondent

how long it manages, taking into account the laws in force at the time of termination of the civil service relationship

(Decision No. NAIH-3414-12/2021, point III), as well as to fulfill the Applicant access

request in the form of a copy of the Requester's order request and the response thereto

(Resolution No. NAIH-3414-12/2021, point IV).

He rejected the Applicant's further requests.

Due to the established violation, the Authority fined the Requester HUF 600,000, i.e. HUF six hundred thousand

obliged to pay a data protection fine.

During the imposition of fines, the Authority assessed the following circumstances as circumstances that increase the fine:

- the

the violation is considered serious because the data processing affected the Applicant

to the termination of his legal relationship, and the Applicant was not aware of the data relating to him

on treatment [GDPR Article 83 (2) point a)];

- the data controller used the data management against the data subject in the legal dispute procedure [GDPR

Article 83(2)(c)];

- the established data protection violation affects special categories of personal data [GDPR

Article 83(2)(g)];

When imposing fines, the Authority considers the following circumstances as mitigating circumstances

rated by:

• negligence is indicated by the fact that the Respondent judged it incorrectly with a wrong interpretation of the law,

what are the grounds for restricting the right of access [GDPR Article 83 (2) b)

point];

- the Respondent violated it for the first time, as established in a data protection official procedure

provisions of the GDPR, has not previously committed a relevant violation [GDPR Article 83 (2)

paragraph point e)]. 5808/2020/V. the violation of the case was investigated

to establish, therefore this was not relevant in the present case.

The Authority also took into account that

• the breach affected a single person [GDPR Article 83 (2) point a)]

• the Respondent fulfilled its obligation to cooperate with the Authority [GDPR

Article 83(2)(f)]

The amount of the fine was determined by the Authority acting within its statutory discretion. THE

Infotv is fined. The maximum that can be imposed on the budget body based on § 61, paragraph (4) point b).

was 3% of the fine amount.

The Authority notes here that the referenced legal place is correctly Infotv. Section 61, subsection (4) b)

point, which is NAIH-3414-12/2021. on page 28 of decision no. wrongly Infotv. Section 60, paragraph (4).

was listed as point b). However, contrary to what was presented in the Respondent's claim, this did not cause it

that the Authority based the amount of the fine on a wrong, non-existent legal basis, because a

Metropolitan Court 105.K.700.232/2022/10. Paragraph [28] of judgment no. also records that a

referring to a non-existent legal position was an obvious typo, which is relevant to the merits of the case

there could be no related violation of the law, and Infotv cited on page 17 of the decision. Section 61

Point b) of paragraph (4) was also adequate.

I.2. Claim of the Respondent

By changing the Authority's decision in the Respondent's claim, the application is complete

rejection, secondarily the reduction of the amount of the fine by changing it, thirdly the

He requested the cancellation of the Authority's decision and the obligation of the Authority to proceed with a new procedure.

He submitted that he did not manage health data, and that he had an obligation to inform the Applicant

according to Article 14 (5) of the General Data Protection Regulation, it was not, because the Applicant

he obviously had the document edited by himself, and the Order document

at the latest in the public service trial, he emphasized regarding the refusal of access,

that he was not obliged to go through the evidentiary procedure of public service legal disputes, which was disadvantageous to

him

to create an emptying situation by providing the Applicant with confidential internal information

background material that the Applicant may use in an unverifiable manner. The imposition of a fine -

in addition to the argument disputing its legal basis, he also considered it illegal in its summation, because a

In the termination of the applicant's legal relationship, not necessarily the background material, but the service

the premature abandonment of the place had significance, it was legally used in the legal dispute procedure and

forwarded data to the Applicant, the purpose of which is to protect its own interests and that

he had the right to a substantive defense.

I.3. Judgment of the court

The Capital Court 105.K.700.232/2022/10. with its judgment No. NAIH-3414-12/2021 of the Authority.

of decision no., the Applicant is obliged to pay a data protection fine of six hundred thousand forints

VIII. annulled his point and obliged the Authority to a new procedure in this part. Beyond this, the

rejected the claim.

The court deemed the Authority's interpretation of the classification of health data to be legal.

The court found that the priority definition of the general data protection regulation

its grammatical interpretation cannot lead to the conclusion that it is health data

only data generated within the health care system is considered. In the Authority's decision

explained approach (which relates the purpose of data management to the conclusion regarding the state of health

order) does not result in an unlimited expansion of the range of health data. The Description

therefore, both the Telegram and the Order document clearly refer to the Applicant's state of health
contained a relevant opinion, the purpose of which is – on the content of the documents in question and
with regard to the circumstances of its origin - concerning the health (mental) state of the Applicant
was a conclusion, regardless of the fact that it is not within the framework of the health care system
internally and not by a doctor, as well as regardless of the applicant's legal relationship
5
To what extent did the Respondent identify the reason for its termination with another fact (station permit
leaving without). The court noted that according to the testimony of the Order Document a
There is a direct relationship between the applicant's mental state and leaving the station without permission
there was a connection.
The judgment stated that the Authority established it by correctly assessing the facts that were not disputed in the lawsuit
the Respondent's obligation to provide information and its violation. The judgment went on to explain,
according to which the Respondent did not dispute that it was personal from a different source than the person concerned
in the case of data management, Article 14 of the General Data Protection Regulation shall be applied. If it is
the data subject does not even know that the data controller is handling his personal data, it is conceptually excluded that it is
concerned in connection with this data management, any of the provisions contained in paragraphs (1)-(2) of Article 14
have information. The Respondent regarding the violation of the obligation to provide information
he unnecessarily referred to the fact that the Applicant edited the document himself (temporary
order request), as the Authority was not aware of the violation of the obligation to provide information
he stated with reference to the document, but to the Order document, the Telegram and the E-mail
(Decision No. NAIH-3414-12/2021, page 23, paragraph 2). There is no doubt that the Applicant is a
He learned about the order document in the civil service lawsuit, but for this circumstance, the
The respondent did not refer to it in the preliminary proceedings, but if it (could) have referred to it, all of this - that's it
taking into account the time elapsed from the start of data processing to the time it was learned by the Applicant - a
could not exclude the finding of a violation of law.
arose due to the termination of a legal relationship

According to the court, the Authority also correctly recorded that the fulfillment of the access request
is independent of the obligation to provide information according to Article 14 of the General Data Protection Regulation, and this
exemption from the latter - which, according to the above, is not relevant in the present legal dispute. The access request
the reason for rejection by the Applicant a
legal dispute
marked it in the interests of its effectiveness. For such a reason, however, the general data protection
Article 15 (3) of the Regulation can only be limited if this is provided for by Member State law in Article 23, the plaintiff
[note: the judgment contains a reference to Article 23(j), the reference
is correctly prescribed through Article 23(1)(j)]. Given that it is
The recipient of the latter provision of the General Data Protection Regulation is the legislator, civil service disputes
and the legislation describing its procedural rules, the restrictive provisions that can be applied to litigation
do not contain (regardless of whether the data management is done with internal documents), a
The Respondent unlawfully denied the Applicant's access request. The court ruled that
the Respondent is undoubtedly not obliged to perform procedural acts that are disadvantageous to him
to do in the civil service legal dispute, however, with reference to this, it must be fulfilled as a data controller to the data subject
nor can he ignore his obligations prescribed by law.
The judgment stated that Act I of 2017 on the Administrative Procedure Code (the
hereinafter: Kp.) according to § 85, paragraph (5) of discretionary public administration
within the scope of the legality of the act, the court also examines the authority of the public administrative body
whether he exercised it within the framework of his authority to consider, the aspects of the consideration and those
whether its reasonableness can be established from the document containing the administrative act. The court
found that the Authority has the effect of data processing on the termination of the applicant's legal relationship
logically evaluated it as a fine-increasing factor, since it is another reason emphasized by the Respondent
(leaving station) was also directly related to the applicant's health data
treatment.

According to the judgment, the claim was based on the fact that the Authority had unjustifiably increased the fine

as a point of view, that the Respondent is the data controller in the legal dispute procedure against the Applicant

used, because this fact is due to the nature of the legal dispute procedure and the principle of free evidence

necessarily follows, point c) of Article 83 (2) of the General Data Protection Regulation

and as a relevant aggravating aspect (failure to mitigate damages) absolutely not

can be assessed. This circumstance could not reasonably be considered as an aspect of increasing fines, because it is data

management

the examination of its legal basis was not the subject of the preventive procedure (decision No. NAIH-3414-12/2021

page 21, paragraph 2).

As a summary of the judgment, the court recorded that the Authority's decision was legal a

With respect to the violations established against the applicant, the legal basis for the imposition of a fine exists. THE

at the same time, the Authority partially, but not the Kp. Section 85

exercised in accordance with paragraph (5).

The court also recorded that it is not entitled to change the Authority's decision, therefore

its provision containing the amount of the data protection fine and the obligation to pay it in Kp.

annulled it on the basis of point b) of paragraph (1) of § 89, and in this context obliged the Authority to proceed with a new

procedure,

in excess of this, the groundless claim is referred to the Kp. He rejected it according to § 88, subsection (1), point a).

According to the judgment, in the repeated procedure, the Authority has all the cases regarding the imposition of fines

you must decide again after considering your circumstances reasonably, with the fact that the data management is subject to a

legal dispute

its use cannot be taken into account as an aggravating (increasing fine) factor for the plaintiff. THE

the amount of the data protection fine applicable in a repeated procedure cannot reach HUF 600,000.

I.4. The repeated procedure

On August 16, 2022, the Authority invited the Applicant to make a statement on all facts and

regarding the circumstance that you want the Authority to take into account in its repeated procedure

take it. In his statement made on August 25, 2022, the Applicant stated that the NAIH

3414/2021. maintains all the statements made in procedure no. unchanged, and requested a

Authority to take them into account in the present procedure.

He cited Article 23(1) of the General Data Protection Regulation and explained that he did not agree with

Authority NAIH-3414-12/2021. with his reasoning expressed in his decision no. that the access

when refusing, the Respondent may not invoke its own interest. The General Data Protection Regulation

Referring to paragraphs (1) and (3) of Article 15, he submitted that the Respondent is detrimental to himself

would be obliged to create a situation, and the evidentiary procedure for civil service legal disputes would also become empty,

since confidential, internal background materials should have been made available to the Applicant,

which the Applicant could have used in an uncontrollable way.

In the legal dispute procedure against the Applicant, the Respondent has the option provided by law

was to use data against the person concerned, the transmission of the Applicant's data to the KDB

was made in order to comply with the provisions of the law, the purpose of which was initiated by the Applicant

in the procedure, it was the protection and representation of the interests of the Respondent.

105.K.700.232/2022/10 of the Metropolitan Court dated June 22, 2022. of judgment no

submitted that, according to the judgment, the claim was based on the fact that the Authority

unjustifiably evaluated as a factor increasing the fine the fact that the Respondent's data management was a legal dispute

used against the Applicant in the proceedings, because this fact is of the nature of the legal dispute procedure and is free

necessarily follows from the principle of proof, Article 83 (2) of the General Data Protection Regulation

as an aggravating factor (failure to mitigate damages)

but it cannot be evaluated in any way. This circumstance is not a reason for increasing the fine

could be, because the examination of the legal basis of data management was not the subject of the preventive procedure

(NAIH-

3414-12/2021. p. 21 of decision no. para. 2). In the repeated procedure ordered by the Tribunal

The Authority must once again reasonably consider all the circumstances of the case regarding the imposition of a fine

to decide that the use of data management in a legal dispute is aggravating to the burden of the Respondent

cannot be taken into account as an (increasing fine) factor and will be applied in the repeated procedure

the amount of a data protection fine cannot reach HUF 600,000.

II. Applicable legal provisions

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For data management under the scope of the General Data Protection Regulation, Infotv. Paragraph (2) of § 2

according to the General Data Protection Regulation, the provisions indicated there must be amended

apply.

Infotv. According to § 2, paragraph (2), "Personal data shall be defined according to (EU) 2016/679 of the European

Parliament and

Council Regulation (hereinafter: general data protection regulation) for its treatment

general data protection decree III-V. and VI/A. In Chapter, 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, the

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

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

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

§ 61, paragraph (1), points a) and c), § 61, paragraphs (2) and (3), paragraph (4), point b)

and (6)-(10) in paragraphs 62-71. §, § 72, § 75 (1)-(5), § 75/A. §-in

and shall be applied with the additions specified in Annex 1."

In the absence of a different provision of the general data protection regulation, for the official data protection procedure

CL of 2016 on the general administrative procedure. Act (hereinafter: Act)

provisions shall be applied with the deviations specified in Infotv.

The Akr. On the basis of § 7 of the data protection authority procedure, the Ákr. provisions shall apply.

The Akr. On the basis of § 103, subsection (1), in the official procedure initiated ex officio, the Ákr.

the provisions relating to initiated procedures in the Acr. 103 and 104 shall be subject to deviations

apply.

The Akr. Pursuant to § 104, paragraph (1), point b), an authority in its area of competence ex officio

initiates the procedure if ordered to do so by a court.

Based on Article 58 of the General Data Protection Regulation: (2) The supervisory authority is corrective

acting within its competence:

a) warns the data manager or the data processor that some planned data processing

its activities are likely to violate the provisions of this regulation;

b) condemns the data manager or the data processor if its data management activities

violated the provisions of this regulation;

c) instructs the data manager or the data processor to comply with this regulation for the data subject

your request to exercise your rights under;

d) instructs the data manager or the data processor that its data management operations - where applicable

in a specified manner and within a specified time - bring it into line with the provisions of this regulation;

e) instructs the data controller to inform the data subject about the data protection incident;

f) temporarily or permanently restricts data management, including the prohibition of data management;

g) in accordance with the provisions of Articles 16, 17 and 18, orders personal data

correction or deletion, or limitation of data processing, as well as Article 17 (2)

and, in accordance with Article 19, orders the notification of those recipients with whom or with which

personal data has been disclosed;

h) revokes the certificate or instructs the certification body to comply with Articles 42 and 43

to withdraw a duly issued certificate or instruct the certification body not to issue it

issue the certificate if the conditions for the certification are not or are no longer met;

i) imposes an administrative fine in accordance with Article 83, depending on the circumstances of the given case

in addition to or instead of the measures mentioned in this paragraph; and

j) orders the flow of data to a recipient in a third country or an international organization

suspension.

According to Article 83 of the General Data Protection Regulation:

"(1) All supervisory authorities ensure that in paragraphs (4), (5), (6) of this decree

administrative fines imposed on the basis of this article in each case due to said violation

be effective, proportionate and dissuasive.

(2) Depending on the circumstances of the given case, the administrative fines of Article 58 (2)

It must be imposed in addition to or instead of the measures mentioned in points a)-h) and j). When deciding whether

whether it is necessary to impose an administrative fine, and the amount of the administrative fine

in each case, the following must be taken into account:

a) the nature, severity and duration of the infringement, taking into account the data management in question

nature, scope or purpose, as well as the number of persons affected by the infringement, as well as by them

extent of damage suffered;

b) the intentional or negligent nature of the infringement;

c) mitigating the damage suffered by the data controller or the data processor

any action taken in order to;

d) the degree of responsibility of the data manager or data processor, taking into account the 25.

and technical and organizational measures taken pursuant to Article 32;

e) relevant violations previously committed by the data controller or data processor;

f) with the supervisory authority to remedy the violation and the possible negative effects of the violation

extent of cooperation to mitigate;

g) categories of personal data affected by the infringement;

h) the manner in which the supervisory authority became aware of the violation, in particular the fact that

whether the data controller or the data processor reported the violation and, if so, in what detail;

i) if against the relevant data manager or data processor previously - in the same subject

- one of the measures referred to in Article 58 (2) was ordered, the one in question

compliance with measures;

j) whether the data controller or the data processor considered itself approved according to Article 40

to codes of conduct or approved certification mechanisms under Article 42; as well as

k) other aggravating or mitigating factors relevant to the circumstances of the case, for example a

financial benefit obtained or avoided as a direct or indirect consequence of infringement

loss.

(5) Violation of the following provisions - in accordance with paragraph (2) - at most 20,000,000

with an administrative fine of EUR, and in the case of businesses, the entire previous financial year

shall be subject to an amount of no more than 4% of its annual world market turnover, provided that of the two

the higher amount must be imposed:

a) the principles of data management - including the conditions of consent - in accordance with Articles 5, 6, 7 and 9;

b) the rights of the data subjects 12-22. in accordance with Article;

c) transfer of personal data to a recipient in a third country or an international organization

forwarding to 44-49. in accordance with Article;

d) IX. obligations according to the law of the Member States adopted on the basis of chapter;

e) the instruction of the supervisory authority according to Article 58 (2), and data management

temporary or permanent restriction or data flow

regarding suspension

failure to comply with its notice or access in violation of Article 58 (1).

failure to provide.

(7) Without prejudice to the corrective powers of the supervisory authorities according to Article 58 (2),

each member state can establish the rules regarding that of the given member state

can administrative penalties be imposed against a public authority or other body performing a public task

fine, and if so, how much."

Infotv. According to § 61, paragraph (1), point a), the authority in its decision on general data protection

may apply the legal consequences specified in the decree.

Infotv. 75/A. According to §, the Authority in paragraphs (2)-(6) of Article 83 of the General Data Protection Regulation

exercises its powers taking into account the principle of proportionality, in particular by a

relating to the processing of personal data - by law or by the European Union as a mandatory law

in the case of the first violation of the regulations specified in the act, the violation

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for its remedy - in accordance with Article 58 of the General Data Protection Regulation - primarily the

takes action with the warning of a data controller or data processor.

Infotv. Based on § 61, subsection (4), point b) the fine is from one hundred thousand to twenty million forints

may extend to the payment of a fine imposed in a decision made in a data protection official procedure

Requested budget body, fine imposed according to Article 83 of the General Data Protection Regulation

in case of.

Section 89 (1) of Act I of 2017 on Administrative Procedure (hereinafter: Act)

pursuant to: if the court establishes the violation - on the basis of the claim or ex officio -

b) if necessary, the annulment or annulment of the administrative act, or

in addition to excluding the application of the general provision in the case, the administrative

obligates the body to a new procedure.

§ 96. Jurisdiction of a judgment rendered on the subject of the examination of the legality of public administrative activity

excludes that the parties or that to examine the legality of the same administrative activity

interested parties can initiate a new claim or otherwise make it moot.

§ 97. (4) The operative part of the court's decision and its justification in the repeated procedure and a

during the execution of the act ordered by the court's decision, the acting public administration is bound

organs.

III. Decision on the imposition of a fine as defined in the judgment

105.K.700.232/2022/10 dated June 3, 2022. the Authority with its judgment no

NAIH-3414-12/2021. VIII of the operative part of decision no. destroyed his point and e

partially obliged the Authority to a new procedure. The Authority adopted the judgment of the Metropolitan Court on July 7,

2022.

received it on, the repeated data protection official procedure was started on this day.

The subject of this repeated official procedure is the decision on the imposition of fines contained in the judgment taking into account, according to which the use of data management in a legal dispute is the Respondent it cannot be taken into account as an aggravating factor (increasing the fine) in the repeated proceedings applicable data protection fine cannot reach HUF 600,000.

The Applicant's statement that he does not agree with the Authority NAIH-3414-12/2021. no with his reasoning expressed in his decision, according to which, when access is denied, the Respondent's own cannot refer to his interest, the Authority did not take it into account in this procedure, because it was repeated of this procedure, Kp. based on Section 96 and Section 97 (4), it was not and could not be the subject of this the judgment of the Metropolitan Court contains a clear statement. The judgment recorded that although the The respondent is not obliged to take procedural actions that are disadvantageous to him in a civil service legal dispute, however, with reference to this, it must be fulfilled as a data controller to the data subject obligation prescribed by law – in the absence of an express domestic restrictive legal provision - can't ignore it either, and stated that the Respondent's request for access by the Applicant unlawfully refused (judgment paragraph [25]).

In this procedure, the Authority examined whether NAIH-3414-12/2021. imposition of a data protection fine in the case of a violation established in decision no. THE When determining the sanction, the authority took into account the fact that the Capital District Court 105.K.700.232/2022/10. judgment no. is solely a consideration of a single fine imposition circumstance did not accept the Authority's decision, all findings of the authorizing part, maintained its measure in effect. With regard to the violations established against the Respondent a the legal basis for imposing a fine remains unchanged.

In view of all this, the Authority, Article 83 (2) of the General Data Protection Regulation and Infotv. 75/A. considered all the circumstances of the case based on §. Given the circumstances of the case, the Authority established that NAIH-3414-12/2021. in the case of a violation discovered during procedure no a warning is not a proportionate and dissuasive sanction, therefore a fine must be imposed.

Above all, the Authority took into account that the violation committed by the Respondent was general

according to Article 83 (5) point b) of the data protection decree, into the higher fine category

is considered a violation of the law, as it involved a violation of the right of the data subject.

In the present proceedings, the Authority also took into account, following the findings of the judgment, that a

Data processed about the applicant and to be released at the request of the applicant in legal dispute proceedings

its use on the part of the Respondent is a right which it can freely exercise as a litigant,

according to the judgment, it has no relevance when determining the data protection fine. That way

he omitted this point from the circumstances that increase fines in the imposition of fines.

During the imposition of fines, the Authority assessed the following circumstances as circumstances that increase the fine:

• the

the violation is considered serious because the data processing affected the Applicant

to the termination of his legal relationship, and the Applicant was not aware of the data relating to him

on treatment [GDPR Article 83 (2) point a)];

• the established data protection violation affects special categories of personal data [GDPR

Article 83(2)(g)].

When imposing fines, the Authority considers the following circumstances as mitigating circumstances

rated by:

• negligence is indicated by the fact that the Respondent judged it incorrectly with a wrong interpretation of the law,

what are the grounds for restricting the right of access [GDPR Article 83 (2) b)

point];

• the Respondent violated it for the first time, as established in a data protection official procedure

provisions of the GDPR, has not previously committed a relevant violation [GDPR Article 83 (2)

paragraph point e)]. 5808/2020/V. the violation of the case was investigated

to establish, therefore this was not relevant in the present case.

The Authority also took into account that

• the breach affected a single person [GDPR Article 83 (2) point a)];

• a measure that the data controller took himself in order to mitigate the damage, in the procedure

not proven. [Article 83(2)(c) GDPR];

• the Respondent fulfilled its obligation to cooperate with the Authority [GDPR

Article 83(2)(f)].

During the imposition of the fine, the Authority did not consider GDPR Article 83 (2) d), h), i),

circumstances according to points j), k), as they cannot be interpreted in relation to the specific case.

The Authority therefore, in accordance with the judgment of the Capital Tribunal, states that the Applicant

the data management was used against the Applicant in a legal dispute process, the Applicant did not evaluate it

as a circumstance that increases the fine. At the same time, Article 83 (2) of the General Data Protection Regulation

aspect to be evaluated within the scope of point c) of paragraph, according to whether he has taken and what measures he

has taken

data controller in mitigating the damage to the affected party, the Authority had to continue to take it into account.

Since such a measure was not proven in the proceedings, the fine is based on this fact by the Authority

was taken into account when determining its amount.

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The amount of the fine was determined by the Authority acting within its statutory discretion. THE

Infotv is fined. The maximum that can be imposed on the budget body based on § 61, paragraph (4), point b).

2.5% of the fine amount.

ARC. Other questions

Infotv. According to § 38, paragraph (2), the Authority is responsible for the protection of personal data, as well as

the enforcement of the right to access data of public interest and public interest

control and promotion, as well as the free flow of personal data within the European Union

facilitating. According to paragraph (2a) of the same § in the general data protection regulation, the supervisory

tasks and powers established for the authority under the jurisdiction of Hungary

with regard to legal entities, they are defined in the general data protection regulation and this law

according to the Authority.

The Authority's jurisdiction 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. Section 82

Based on paragraph (1), it becomes final upon its communication. The Akr. § 112, § 116, paragraph (1), respectively

on the basis of § 114, paragraph (1), the decision can be challenged through an administrative lawsuit

as a remedy.

* * *

The rules of the administrative trial are set out in Kp. Define. The Kp. Based on Section 12 (1), the Authority

the administrative lawsuit against his decision falls under the jurisdiction of the court, the lawsuit is referred to the Kp. Section

13 (3)

Based on subparagraph a) point aa), the Metropolitan Court is exclusively competent. The Kp. Section 27

Based on point b) of paragraph (1), legal representation is mandatory in a lawsuit within the jurisdiction of the court.

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

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

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. Act § 9 (1)

According to paragraph b), the client's legal representative is a Requester for electronic contact.

The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). The trial

information about the possibility of an application for holding the Kp. It is based on paragraphs (1)-(2) of § 77. THE

the amount of the fee for an administrative lawsuit is determined by Act XCIII of 1990 on fees. law (hereinafter:

Itv.) 45/A. Section (1) defines. Regarding the advance payment of the fee, the Itv. Section 59 (1)

paragraph and § 62 paragraph (1) point h) exempts the party initiating the procedure.

If the Requested customer does not adequately certify the fulfillment of the prescribed obligations, a

The authority considers that the obligations have not been fulfilled within the deadline. The Akr. according to § 132,

if the Respondent did not comply with the obligation contained in the final decision of the authority, that

can be executed. The Akr. Pursuant to § 133, enforcement - if it is a law or government decree

does not provide otherwise - it is ordered by the decision-making authority. The Akr. Pursuant to § 134 of

enforcement - if it is a law, government decree or local government in the case of municipal authority

its decree does not provide otherwise - it is carried out by the state tax authority. Infotv. Section 61 (7)

on the basis of paragraph

in relation to an obligation to conduct, tolerate or cease a

the implementation of the decision is undertaken by the Authority.

Dated: Budapest, according to the electronic signature

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Dr. Attila Péterfalvi

president

c. professor