

Case number: NAIH / 2019/3417 /

Subject: Partially successful application

tax decision and terminator

order

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

([...]; Hereinafter: the Applicant) concerning the unlawful processing of his personal data a

[...] Against the Joint Municipal Office ([...]) hereinafter: the Applicant)

make the following decisions in the data protection authority proceedings.

I. The Authority shall decide on the application of the Applicant

partially corrects

and notes that the Applicant has provided the Applicant with personal data in accordance with Article 5 (1) of the GDPR

(b) in breach of the purpose limitation principle, where the data were

retrieved and viewed from the personal data and address register.

II. The Authority found of its own motion that the Applicant had infringed Article 24 (1) of the GDPR.

from the entry into force of the Regulation on the register of personal data and addresses

unauthorized data security measures in relation to queries.

III. The Authority shall of its own motion order the publication of this Decision on the Authority's website.

ARC. The Authority shall prohibit the unlawful processing of the personal data of the Applicant's request

terminate the data protection official proceedings initiated in the part of the

V. In view of the fact that the Authority exceeded the administrative deadline, HUF 10,000, ie HUF ten thousand

pay the Applicant, by choice, by bank transfer or postal order.

The Authority shall IV.-V. contrary to the order in point

There is no right of appeal by administrative means, but within 30 days of the notification the Capital City

It may be challenged in an administrative action before the General Court. The application is lodged with the

It shall be submitted to the Authority, by electronic means, which shall forward it together with the case file to the

court. The request for a hearing must be indicated in the application. The only procedure

in an action for annulment, the court will act in accordance with the rules of the simplified proceedings. 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

On April 5, 2019, the Applicant is subject to data protection regarding the processing of his / her personal data
submitted an application to the Authority for an administrative procedure, stating that the Applicant
Between October 30, 2018 and February 4, 2019, he requested your personal information 33 times
from the personal data and address register. He further stated that with the Applicant none
has no connection.

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In its order of 17 April 2019, the Authority called on the Applicant to rectify the deficiencies. THE
In its reply received on 6 May 2019, the applicant requested the Authority to establish a
Requested illegal data processing and prohibit illegal data processing.

The Authority has issued NAIH / 2019/3417/4. In his order no., he contacted the Applicant about the facts
and NAIH / 2019/3417/5. for domestic legal aid
the Deputy Head of the Ministry of the Interior kept records

To the Operational Services Division of the State Registry, Personnel and Administration Division.

In its reply received on 5 June 2019, the Applicant informed the Authority that a
in the framework of the investigation on 30.10.2018, 31.10.2018, 05.11.2018, 07.11.2018, 12.11.2018,

On 14.11.2018, 19.11.2018, 21.11.2018, 04.12.2018, 10.12.2018, 13.12.2018,

On 14.12.2018, 17.12.2018, 18.12.2018, 20.12.2018, 21.12.2018, 02.01.2019,

January 3, 2019, January 4, 2019, January 7, 2019, January 8, 2019, January 10, 2019

January 14, 2019, January 15, 2019, January 18, 2019, January 22, 2019, January 23, 2019, January 24, 2019

On 25 January 2019, 28 January 2019, 30 January 2019 and 04/02/2019 for statistical purposes, exclusively for [...] title for stories in queries. According to the Applicant, the notification is in the public interest carried out an investigation in the village of [...] in December 2018 in the case of housing establishments, which are expected to make the fall 2019 mayoral election intended to influence the outcome. As part of the investigation, the above-mentioned property was interviewed data from the personal data and address register.

The Authority in the [...] Municipal Electronic Master Repository (hereinafter referred to as the Master Repository; [...]), Based on a survey conducted on July 2, 2019, and dated December 11, 2014, the [...] Agreement on the Establishment of a Joint Municipal Office ([...]) and the Agreement of 25 January 2013 on the basis of the Memorandum of Association of the Joint Municipal Office dated [...], dated [...] the municipality does not fall within the competence of the Applicant, but is a member of the [...] KÖH ([...]). THE The Authority therefore asked the Applicant for further clarification of the legal basis and acted on the basis of a legal authorization and handled the data of the Applicant.

Attached to the letter received by the Ministry of the Interior on June 3, 2019, attached October 30, 2018 and Log excerpts from queries made between February 4, 2019, and the query user profile. From the information, it can be stated that the queries were performed 33 times a Executed by one of the Applicant's employees, who provided the Applicant's personal data 16 times - 2 times on 30.10.2018, 05.11.2018, 12.11.2018, 14.11.2018, 19.11.2018,

On 21 November 2018, 10 January 2019, 2 times on 1 January 2019, 15 January 2019, on 18 January 2019, January 22, 2019, January 24, 2019, January 25, 2019, and January 28, 2019 — viewed in detail.

In its reply received on 23 July 2019, the Applicant informed the Authority that an internal investigation revealed that the Applicant was a Settlement Service Provider

An employee accessing the system (hereinafter: TSZR) was interviewed by the Applicant in person data from the personal data and address register during the period in question. The Requested has taken the necessary action against his staff member. The Applicant further traceability of queries from databases has been introduced

in order to. That is, the TSZR, the Address and Environmental Register, the e-Registry and the Visual Register

When retrieving records from the records, the purpose of the data processing shall be recorded in a logbook and legal basis.

The Applicant also informed the Authority that the [...] Police Headquarters in the case

Misuse of personal data pursuant to Section 219 of Act C of 2012 on the Code

prosecute an unknown perpetrator for suspected misconduct.

The Applicant attached to his reply a report containing the statement of his employee,

that the administrator acknowledges that he drove without a legal basis and without authorization during the period in question

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perform queries in the TSZR for the above-mentioned address. The administrator also stated that

that he searched several times because after a while the names of several people appeared.

In December 2018, he learned that the mayor of [...] was announcing voters for the

to his uncle because of the election, in order to get more votes, and in December 2018

in the attendance sheet of the public hearing, he saw that [...] the mayor of [...] and the [

number. According to the statement of the Applicant's administrator, not with the requested personal data

abused the correspondence with the [...] Municipal Office and the National Electoral Office

wanted to verify with a copy. In his view, fictitious address declarations are illegal

may affect the outcome of the autumn elections, especially in a small town where the election

the number of eligible persons is 50.

II. Applicable law

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

Pursuant to Article 2 (1) of Regulation (EU) No 2016/679 (hereinafter referred to as the GDPR), the Regulation should apply

apply to the processing of personal data in a partially or fully automated manner,

and the non-automated handling of data that is part of a registry

which are part of a registration system or which are intended to be part of a registration system.

Article 4 (7) of the GDPR states that "controller" means any natural or legal person who:

public authority, agency or any other body responsible for processing personal data

defines its goals and means independently or together with others; if the purposes of the data processing and

determined by Union or Member State law, the controller or the controller

EU or Member State law may also lay down specific criteria for the designation of

Under Article 5 (1) (b) of the GDPR: 'Personal data shall:

(b) collected for specified, explicit and legitimate purposes and not processed

in a way incompatible with those objectives; not in accordance with Article 89 (1)

considered incompatible with the original purpose for the purpose of archiving in the public interest, scientific

and further processing for historical research or statistical purposes ("purpose limitation"). "

According to Article 6 (1) of the GDPR, the processing of personal data shall only take place if and to the extent that

lawful if at least one of the following is met:

(e) the processing is in the public interest or a public authority vested in the controller

necessary for the performance of the task

3. The legal basis for the processing referred to in points (c) and (e) of paragraph 1 shall be the following

state:

(a) Union law, or

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

Acting under the corrective powers of the supervisory authority pursuant to Article 58 (2) of the GDPR:

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

has infringed the provisions of this Regulation;

(g) order personal data in accordance with Articles 16, 17 and 18 respectively

rectification or erasure of data and restrictions on data processing, as well as Article 17 (2)

shall notify the addressees with whom it is addressed in accordance with paragraph 1 and Article 19

or with whom personal data have been communicated;

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

in addition to or instead of the measures referred to in this paragraph.

Infotv. Pursuant to Section 61 (2) (b), the Authority may order its decision - the
by publishing the identification data of the data controller or the data processor
in the context of the activities of a public body.

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The Ákr. Pursuant to Section 47 (1), the authority shall terminate the proceedings if

(c) the proceedings have become devoid of purpose,

CLXXXIX of 2011 on the local governments of Hungary. Act (hereinafter: the Act)

Section 81 (1) states that the clerk heads the mayor's office or the joint

municipal office.

The Mötv. Section 83 provides that the provisions relating to the clerk are the joint municipal office
shall also apply to the Registrar, with the following exceptions:

(a) perform the duties of notary in each of the municipalities concerned;

The Mötv. Pursuant to Section 84 (1), the representative body of the local government is the local government
matters falling within the duties and powers of the mayor or the clerk
mayor to perform tasks related to the preparation and implementation of the decision
office or a joint municipal office.

Act LXVI of 1992 on the registration of personal data and addresses of citizens. Act (a

hereinafter: Nytv.) pursuant to Section 21: pursuant to the authorization of this Act pursuant to Section 17 (2) (b)
are entitled to request data in accordance with

a) the bodies of local governments are defined by law or a municipal decree
to perform their duties;

Az Nytv. Pursuant to Section 17 (2): data from the register according to the following grouping
can be provided:

(b) natural identity and address details, address for service, nationality,

marital status, place of marriage or registered partnership, sex, a

the reason, place and time of deregistration;

Az Nytv. 146/1993 on the implementation of (X. 26.) Government Decree (hereinafter: Vhr.) Section 22 (1)

the citizen concerned is identifiable when requesting the data

natural identification data or address, in case of requesting group data provision

group criteria, and when requesting identity card data, the

the document ID of the card must be provided. If the group measure to draw conclusions

on the basis of which the racial origin, national,

nationality, religion or belief, the request for information is not

unless the law authorizes the applicant to process such data.

A Vhr. Pursuant to Section 27 (1), the notary is a separate application from the register kept by him

may use or provide data for the performance of the duties of the representative body, mayor of the same local government or

the administrator of the mayor's office without

provided that this is permitted by law or a municipal decree authorized by law

do. The provision of information under these provisions shall also be indicated in the information provision

in the register.

CL of 2016 on General Administrative Procedure. Act (hereinafter: Act)

51. b), "if the authority exceeds the administrative deadline - and a decision with pending effect

there was no place to make the claim - it pays ten thousand forints to the applicant client, who is exempted from

from the payment of procedural costs. "

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III. Decision

III. 1.

Activities of the Applicant

The activity infringed by the Applicant is the processing of personal data and

he was queried 33 times from the address register. According to Article 4 (2) of the GDPR

data processing is considered to be publicly processed electronically registered personal data

access to the official register, query from the register.

On the basis of the information available, it has been established that the queries from the address register between 30 October 2018 and 4 April 2019 were not directly addressed to the Applicant's data.

The Administrator of the Applicant shall enter the data of the Applicant in the personal data and address register. viewed because the Vhr specified in his queries. Search pursuant to Section 22 (1) the Applicant also met the address data, therefore in the result list the Applicant your personal information has also been displayed.

III. 2.

Purpose and legal basis of the request for personal data of the Applicant

2.1.

Under the GDPR, it is important that the purpose of the data processing is lawful, whether you are exercising a right to fulfill an obligation. Data management is all about the data management process and for all data processing operations.

The Applicant made a first statement during the proceedings based on a public interest announcement investigation because in order to influence the mayoral election in the autumn of 2019, several people established in the village. Therefore, between October 30, 2018 and February 4, 2019, 33 times inquired about the named [...] property and also the personal data of the Applicant in the personal data and from the address register.

The Complaint Pursuant to Section 4, anyone may file a public interest report with a public interest report to a body competent to act in a related matter. The Authority performed in the Master Repository

On the basis of the survey and the founding document of the [...] Joint Municipal Office, it was established that [...] Municipality is not under the jurisdiction of the Applicant but [...] Joint Municipal Office is therefore not competent to deal with public interest notices concerning [...] real estate.

As the Authority has found that the Applicant's administrator is outside his jurisdiction

In the case of a settlement, he asked for personal data from the official register, therefore the facts

invited the Applicant to make a further statement in order to clarify The Authority is second

In response to his request, the Applicant has already given the reply that "in his request

an administrator with access rights to the Settlement Service System

has performed a search for the address'. The facts established during the internal investigation a

contained in the minutes annexed to the reply, according to which the administrator stated that

- in the "TSZR system I performed a search for an address, not a personal search.

There was no ex officio case and no legal basis ". The query is actually spreading in [...]

the purpose of checking the reality of that rumor last year was to be mayor, if necessary

announces many people to his uncle in order for him to win the 2019 municipal

mayoral election.

Pursuant to Article 6 (1) of the GDPR, the processing of personal data only if and to the extent that

lawful if one of the grounds listed therein exists.

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Article 6 (3) of the GDPR provides that the processing of data pursuant to paragraph 1 (c) and (e)

(collectively referred to as "mandatory data processing") should be the law of a Member State or of the Union

to establish. This provision is supplemented by Infotv. Section 5 (3) by stating that data management

the law of the Member State establishing the legal basis of the

should be a municipal decree, subject to Article I (3) of the Basic Law

also included.

The Authority found that the Applicant had infringed Article 5 (1) (b) of the GDPR,

because the Applicant processed his personal data without a legitimate purpose. Namely, the Administrator of the Applicant

the Nytv. Pursuant to Section 21 (a), it could have done so only in the case of "TSZR system

search for an address "if it is necessary for the performance of his / her duties specified in the Requested Act

required. However, the Requested Administrator did not query the municipal duties

in connection with the provision of care, but for the purpose of making the choice of residence

supports information that may call into question the purity of the administration

the possible existence of criminal offenses against the

2.2.

The Applicant by an unauthorized and unauthorized act of one of its administrators justified queries made between October 30, 2018 and April 4, 2019. The Authority is of the opinion that this argument does not relieve the Applicant of the responsibility of the controller, Considering that the Applicant qualifies as a controller under Article 4 (7) of the GDPR and not your employees. The Applicant is the one who organizes and sets up the data management process its circumstances, not the clerks.

The most important feature of a data controller is that it has substantive decision - making powers, and is responsible for fulfilling all data obligations set out in the GDPR.

The Working Party on Data Protection set up under Article 29 of the Data Protection Directive (hereinafter Working Party on Data Protection) 1/2010 on the concept of "controller" and "processor". number in its opinion, it also stated that "Ultimately, the company or body should be held liable for data processing and obligations under data protection law, unless clear elements suggest that a natural person is responsible. [...] However, such even in cases where a specific natural person is appointed to ensure data protection principles or to process personal data, this person will not be a data controller, but acts on behalf of the legal person (company or public body) which as data controller in the event of a breach of the principles. "

The fact of an unauthorized interrogation and insight by an administrator is therefore not considered in this case too, the controller shall be liable. Based on all this, e

The Applicant, as data controller, is responsible for the violation according to the decision.

Article 24 (1) of the GDPR states that the controller must take appropriate measures in order to ensure the protection of personal data with the GDPR in accordance with Az Nytv. Section 30 (1) establishes the same obligation in the case of the Registrar as Registrar.

According to the Applicant's statement, after becoming aware of unauthorized queries, such the purpose and legal basis of all retrievals from the registers requires logging. The Authority therefore concluded that the Applicant had brought the present case prior to taking appropriate action to ensure that its employees with access rights solely in accordance with their duties, for the purpose and on the legal basis specified by law, a to carry out the procedures in accordance with their powers and competences databases. That is, the Applicant fails to take sufficient action preceded it, but left room for its administrators, even for their own purposes, to use for their own without proper legal basis.

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In view of the above, the Authority found of its own motion that the Applicant had infringed the GDPR Article 24 (1) because he had not taken appropriate action prior to the present case, no has taken measures to ensure lawful data processing.

4. Prohibition of unlawful data processing

Based on the reply letters, it was established that from the personal data and address register in 2018. inquiries made between 30 October and 4 April 2019 were not for the Applicant's data were directed. The Applicant does not currently store or use the Applicant has viewed your personal data and has not passed it on to third parties.

Consequently, the infringement proceedings under Article 58 (2) (f) of the GDPR

The part of the Act aimed at prohibiting data processing has become obsolete, therefore the Authority Section 47 (1) (c) terminated that part of the procedure.

5. Legal Consequences

The Authority grants the Applicant's request in part and Article 58 (2) (b) GDPR condemns the Applicant for violating Article 5 (1) (b) of the GDPR, at the same time, the Authority infringed Article 24 (1) of the GDPR convicted the Applicant ex officio.

The Authority ordered the publication of the decision.

6. Deadline exceeded

During the procedure, the authority exceeded the Infotv. One hundred and twenty days in accordance with Section 60 / A (1) administrative deadline, therefore Ákr. Pursuant to Section 51 b), it pays ten thousand forints to the Applicant

ARC. Other issues

The powers of the Authority shall be exercised in accordance with Infotv. Section 38 (2) and (2a) determine the jurisdiction of the country

covers the whole territory.

The Ákr. § 112 and § 116 (1) and § 114 (1), respectively

there is an administrative remedy against him.

According to the documents attached by the Applicant, the notary of the [...] Municipality is a public interest announcement

found that in December 2018 several persons had established a residence [...] and a

advised the applicant to make a report to the police. However, there is no information

that, as opposed to the notary, the Ákr. Pursuant to Section 23 (4), address declarations are fictitious

there was a ground for refusal in the proceedings to investigate the

whether the reason for the exclusion was indicated, whether the notary initiated the appointment of another body. Described

and that

Nyvtv. § 26 (5a) and Vhr. Subject to the provisions of Section 34 (3), Title [...]

The Authority shall investigate the validity or invalidity of address declarations under

shall make a signal to the Government Office exercising legal supervision over the proceedings of the notary.

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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) by decision of the Authority

The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (11)

the Metropolitan Court has exclusive jurisdiction.

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

applicable pursuant to § 72 of the General Court in a lawsuit falling within the jurisdiction of the General Court

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

the filing of an application does not have 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 trial

Information on the possibility of requesting the maintenance of the It is based on § 77 (1) - (2). THE

the amount of the fee for an administrative lawsuit in accordance with Act XCIII of 1990 on Fees. Act (hereinafter:

Itv.) 44 / A. § (1). From the advance payment of the fee, the Itv. Section 59 (1)

and Section 62 (1) (h) shall release the party initiating the proceedings.

The decision of the administrative body finding an infringement is data in the public interest, and in this case

the decision will be made public with the identification data of the Applicant. The Authority shall:

the publication of its decision on its own website by Infotv. Section 61 (2) b)

ordered on the basis of point.

Budapest, September 25, 2019

Dr. Attila Péterfalvi

President

c. professor