Case number: NAIH-1000-1/2023. Subject: decision and termination order

History: NAIH-347/2022.

hereinafter: Representative) represented by [...] (a

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

authorized (a

in the following:

Applicant 1) and […] (hereinafter: Applicant 2) (hereinafter together: Applicants)

based on his request, on January 19, 2022, […] (hereinafter: Applicant 1) and […] (the

hereinafter: Applicant 2) (hereinafter collectively: Applicants) by opening a credit account,

with an assignment related to a claim,

and related to claims management

makes the following decisions in the official data protection proceedings regarding its data management:

I.1. The Authority in its decision on the data processing of the Applicants' request by the Applicant 2

in the part aimed at establishing its illegality

gives place and

I.2. states that after May 25, 2018, Respondent 2 violated the

on the protection of natural persons with regard to the management of personal data and that

on the free flow of such data and the repeal of Directive 95/46/EC

Regulation 2016/679 (EU) (hereinafter: GDPR or General Data Protection Regulation)

- Paragraph 2 of Article 5,

- Paragraph 1 of Article 6.

I.3. The Authority ex officio obliges Respondent 2 to, from the time this decision becomes final,

delete the Applicants' phone number data from their records within 15 days of

you can store them on accounting documents and other data management in addition

you cannot finish on them).

I.4. In its decision, the Authority ex officio obliges Respondent 2 to do so until

sufficient for I.3. of the obligation contained in point, until then it is limited to the telephone number data of the Applicants

processing for claims management purposes.

II. The Authority in its decision of the Applicants' request

- their personal data managed by Applicant 1 and Applicant 2 - except for Applicant

Managed by 2

as written -

regarding the establishment of data processing without a legal basis, in this context the

to order its deletion,

phone number data is

I.3. in point

- for the Respondent 2 […] notary public, […] Executive Office and […] Executive Office

illegality

data transfer

validation

for the purpose of

happened

claim

to establish, furthermore

- to impose fines

directed parts

III. In its decision, the Authority found Respondent 2 because of the unlawful data processing it carried out

ex officio

e l u t a s í t j a.

HUF 1,000,000, i.e. one million forints

data protection fine

obliged to pay.

ARC. In its order, the Authority stated that the procedure for the personal data of the Applicants on May 25, 2018.

day before

relating to the establishment of illegal treatment

in part

graduated during the period

terminates.

During the official procedure, no procedural costs were incurred, therefore no costs are incurred

provided by the Authority.

The data protection fine is the governing action for the initiation of the administrative lawsuit

the 15th following the expiry of the deadline, or in the case of the initiation of a public administrative lawsuit, following the

court's decision

Within days, the forint account for the collection of centralized revenues of the Authority

(10032000-01040425-00000000 Centralized direct debit account IBAN: HU83 1003 2000 0104

0425 0000 0000) must be paid. When transferring the amount, NAIH-347/2022. FINE. for number

must be referred to.

If Respondent 2 does not comply with his obligation to pay the fine within the deadline, he is in default

must pay an allowance. The amount of the late fee is the legal interest, which is due to the delay

is the same as the central bank base rate valid on the first day of the relevant calendar semester. The fine and the

in case of non-payment of late payment, the Authority orders the execution of the decision.

I.3. the fulfillment of the obligation of the Respondent 2 from taking the measure

must be submitted in writing within 15 days of the

certify to the Authority. In case of non-fulfillment of the obligation, the Authority shall issue a decision

implementation.

The I., II., III. s. by resolution and IV. s. there is no administrative remedy against the order

place, but within 30 days from the date of notification with a letter of claim addressed to the Capital District Court

can be challenged in an administrative lawsuit. The claim must be submitted to the Authority,

electronically1, which forwards it to the court together with the case documents. Against the order

in a trial, the court in a simplified trial

completely personal

for those who do not receive a tax exemption, the fee for the administrative lawsuit is HUF 30,000, the lawsuit is substantive

is subject to the right of levy memo. Legal representation is mandatory in proceedings before the Metropolitan Court.

Until the expiry of the time limit for filing an appeal against the decision, or an administrative lawsuit

in case of initiation, until the final decision of the court, the data affected by the disputed data processing will not

they can be deleted or not destroyed.

out of court

is acting. THE

I. Procedure of the procedure

JUSTIFICATION

I.1. At the request of the Applicants, on the right to self-determination of information and freedom of information

CXII of 2011 Act (hereinafter: Infotv.) on the basis of Section 60 (1) January 2022

On the 19th, a data protection official procedure was initiated for the request submitted through the Authorized Representative

Based on.

1 The NAIH_KO1 form is used to initiate the administrative lawsuit: NAIH KO1 form (16.09.2019) The

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

2

I.2. The Authority accepted Request 1 under NAIH-347-4/2022. the procedure was notified in order no

and invited him to make a statement for the first time in order to clarify the facts,

with reference to the CL of 2016 on the general administrative order.

law (a

hereinafter: Ákr.) to § 63, to which Respondent 1's response was received on March 25, 2022

and to the Authority (document No. NAIH-347-6/2022).

I.3. The Authority referred to Applicant 2 in NAIH-347-5/2022. the procedure was notified in order no

and invited him to make a statement for the first time in order to clarify the facts,

with reference to Art. § 63, to which Respondent 2's response was received on April 5, 2022

and to the Authority (document No. NAIH-347-7/2022).

I.4. In his statement sent to the Authority on May 10, 2022 (NAIH-347-9/2022.

s. document). added to his previous statement.

I.5. Respondent 2 also received a statement from the Authority on June 8, 2022 (NAIH-347-

10/2022. s. statement) supplemented his previous statement.

I.6. The Authority is NAIH-347-12., 13., 14/2022. s. notified the Applicants and the

Respondents that the evidentiary procedure has been completed.

The Authorized Person made a comment in his submission to the Authority on July 26, 2022,

statements, but did not use his right to inspect documents.

The Applicants exercised their right to inspect documents, but made statements in this connection

they didn't.

II. Clarification of facts

II.1. Related - NAIH-5700/2021, whose 2022 number is NAIH-4783/2022. s. –

precedent case and the decision closing it

[…], the applicant of the related history case (hereinafter: Related history case), a

the representative of this case submitted in his application submitted to the Authority on June 21, 2021,

that the Applicants in a manner contrary to the provisions of the general data protection regulation

Unauthorized data processing is/was carried out due to the following.

Loan agreement registered against the Applicant 1 [….] on credit account number […]

without the consent of […], he transferred his claim based on the forint conversion to a new one

to account number […] on 31.08.2015. The Personal Data of Applicant 1 […] is provided by the Authorized Representative

linked it to the new account without your consent.

The Applicant 1 08.03.2016. on the newly opened loan account was assigned by the Respondent

2, and by reference thereto

present case

The Applicant's personal data - [...] and without the Applicants' consent - is the Applicant

2, as well as […] notary public and BISZ Központi Hitelinformaciones Regtszen Zrt.

The Applicants obtained their personal data from the Applicant 2 […] - on the basis of concession

along with his personal data, he forwarded it to the Land Registry Department of […], […] notary public, [...]

To the Executive Office, [...] to the Executive Office, as well as the BISZ Central Credit Information Office

to System Zrt.

[…], as an applicant in his case NAIH-4783-1/2022. a decision was made (hereinafter:

Previous decision). In the Precedent decision, the Authority partially approved […] the applicant,

and established that Respondent 1 violated Article 5 (1) point a) of the GDPR, 6.

(1) and Article 12 (1), as well as Respondent 2 violated the

Article 5 (2) GDPR.

[…] and the pledgees, i.e. a

forwarded

II.2. Proceedings were initiated based on the applicants' request and their request

On December 13, 2021, the Authorized Person made a statement regarding the Related history,

in which he submitted a new application. In this request, the Authorized Person requested that a

Authorities

- also order the deletion of the personal data of the pledgees, i.e. the Applicants

General data protection of applicants

unauthorized data processing

with reference to the handling of credit account No. […] of all kinds.

The application submitted by the Authorized Representative on December 13, 2021 on behalf of the Applicants is not

contained the authorization on the basis of which the Applicants filed the official data protection procedure

can initiate on their behalf and make legal declarations on their behalf, hence the power of attorney

was invited to replace it by the Authority, which the Authorized Representative to the Authority on January 19, 2022

he complied in the letter he received.

II.3. Respondent 1 - in his statement received by the Authority on March 25, 2022 -

stated the following:

Respondent 1 sent a table in which he listed the personal data of the Applicants,

which are managed in connection with credit account number […] as follows:

contrary to regulation

Source of data: data and statements provided by the Applicants during the application, as well as

the data in the personal identification document presented

Purposes of data management:

- credit evaluation, credit granting, lending

activity

order, lending business

-

process, registration, disbursement conditions

data registration/account management resulting from a contractual legal relationship, and contact

during the term of the loan in order to repay

- site inspection

possibly collected during (credit security value review).

handling of personal data

Legal basis for data management:

-

-

-

-

I.: LIII of 2017. Act (hereinafter: Pmt.) Section 7. Paragraphs (1) - (2) (the necessary

customer identification);

II.: Article 6 (1) point a) of the General Data Protection Regulation (data subject consent)

III.: Article 6 (1) point b) of the General Data Protection Regulation (contract performance)

IV.: Section 169 (2) of the Accounting Act

The legal basis for the data retention period:

-

-

-

I.: Pmt. Section 56 (2), Section 57 (1).

II.: Section 169 (2) of the Accounting Act (supporting the accounting

receipts)

III.: Ptk. 6:22 a.m. (1) of §

Legal relationship start date: 31.08.2005.

Date of termination of legal relationship: 08.03.2016.

Regarding Applicant 2:

Legal relationship start date: 31.08.2005.

Date of termination of legal relationship: 08.03.2016.

4

Respondent 1 made the above statement in his submission received on May 10, 2022

added as follows:

Confirming the previous statement, Respondent 1 informed the Authority that a

The personal data of applicants as pledgees is regulated by GDPR Article 6 (1) point c)

on the legal basis according to, for the purpose of fulfilling a legal obligation, § 169 (2) of the Accounting Act

paragraph, Pmt. with reference to Section 56 (2) and Section 57 (2).

II.4. The Respondent 2 - in his statement received by the Authority on April 5, 2022 -

stated the following and attached the following:

Respondent 2 sent tables regarding the personal data of the Applicants and about

stated that the attached tables record the currently applied legal bases, because in 2021.

prior to April 1, it is not Article 6 of the GDPR with regard to data processing for the purpose of claims management

(1), point f), but Article 6, paragraph (1) point b) of the GDPR.

II.4.1. 2 tables related to claims registration:

Data source: public register, third party

Purpose of data management: Validation of the claim (including execution)

- Legal basis for data management: GDPR Article 6 (1) point f) (legitimate interest)

- Legal basis for data retention: II. Section 169 (2) of the Accounting Act (data retention period:

8 years)

Start of validity: 03.08.2016.

Scope of personal data affected by data management in relation to Applicant 1:

place and time of birth,

ID card number,

- name,

-

- His mother's name,

-

- mobile phone number,

-

- permanent address and mailing address,

- citizenship,

- Bank account number.

landline phone number,

Scope of personal data affected by data management in relation to Applicant 2:

ID card number,

place and time of birth,

- name,

-

- His mother's name,

-

- mobile phone number,

- permanent address,

-

mailing address,

- citizenship,

- Bank account number.

II.4.2. 1 table relating to the conclusion of an agreement is the personal data of Applicant 2

regarding

5

Source of data: public register, data subject, third party, data management system

Purpose of data management: the data controller strives during claims management activities to

enter into an agreement with the person concerned. The purpose of the procedure is debt settlement issues

arrangement in a contract, so especially installment payment agreement, lump sum

preparation and conclusion of a debt settlement agreement. Making an agreement

starts at the request of the person concerned, and for contact, financial calculation and the preparation of the draft

the management of personal data is essential.

Start of validity: 08.06.2020.

Data retention period: 8 years

Legal basis for data management: GDPR Article 6 (1) point b).

Data retention period: Section 169 (2) of the Accounting Act

Scope of personal data affected by data management: name, birth name, place and time of birth, mother

name, mobile phone number, permanent address, mailing address, net income, net expenditure, for repayment transferable amount, topographical number of collateral property, address of collateral property, collateral property value and registered burdens.

Respondent 2 stated that he had not received a stakeholder request from the Applicants.

II.4.3. 1 table related to agreement monitoring personal data of Applicant 2

regarding

Source of data: public register, data subject, third party, data management system

Purpose of data management: facilitating the fulfillment of the provisions of the agreement concluded with the data subject a in an agreement

to fulfill,

behavior included in the contract on the basis of a call for enforcement.

Start of validity: 08.06.2020.

Data retention period: 8 years

Legal basis for data management: GDPR Article 6 (1) point b).

Data retention period: Section 169 (2) of the Accounting Act

Scope of personal data affected by data management: name, birth name, place and time of birth, mother name, mobile phone number, permanent address, mailing address, bank account number

II.4.4. With regard to data transfers, Respondent 2 submitted the following:

Applicant 1 forwarded his personal data to the following organizations:

- [...] notary public,
- [...] notary public,
- […] Executive Office,
- Authority,
- […],
- […],
- […] Land Office Land Office Department.

Applicant 2 forwarded his personal data to the following organizations:

- [...] notary public,

verification of its performance, if necessary a

they are busy

6

- [...] notary public,

- […] Executive Office,

- Authority,

- […],

- […].,

- […] Land Registry Department,

- […] Tribunal,

- […] Tribunal.

II.4.5. Considerations of interest attached by Respondent 2:

The Respondent 2 attached the information related to its data processing with reference to the legitimate interest –

dated March 30, 2021 - his considerations of interest, which are relevant in this case:

- Agreement monitoring (hereinafter: interest assessment no. 1),

- Recovery after concession, contacting, contacting and maintaining contact

in the case of covert cases (hereinafter: consideration of interests no. 2),

- Data management during enforcement proceedings (hereinafter: No. 3

consideration of interests),

- Telephone number management, telephone inquiries and

call receptions (hereinafter: consideration of interests no. 4).

in connection with the above considerations, the pledgees,

II.5. Details of considerations of interests

THE

so the Applicants

refers to the processing of the following personal data, which the Applicants

Respondent 2 also handles:

- name,

- birth name,

- mother's birth name,

- place and date of birth,

- data on the personal identification document,

- phone number,

- permanent address,

- mailing address,

- credit account number,

- in relation to collateral real estate, the hours, value, entries,

- debt data.

II.5.1. No. 1 consideration of interests:

Data controller interests:

- Primarily the enforcement of outstanding claims and their successful collection, and a

CCXXXVII of 2013 on credit institutions and financial enterprises.

(the

hereinafter: Hpt.) § 6, paragraph (1), point 40, according to which for the provision of credit and money loans

service activities aimed at include, among others, those related to collection

measures as well.

- Applicant 2 referred to the previous decision of the Authority (2019/1837), which Applicant 2

according to his consideration of interests, he recorded that "Ptk. 6:196. § of the documents does not provide an option

- and the personal data included in it - but this appears as an obligation,

therefore, in addition to declaring the legitimate interest, the legislator also declares the necessity of data and document

transfer

admitted." Respondent 2 concluded from this that Respondent 2 is the claimant

manages it for the purpose of asserting its legitimate interests related to its own part

law

7

on these documents and the enforcement of the claim, as well as the agreement

following, the personal data required for follow-up.

- Respondent 2 has a legitimate interest in successfully collecting the claims, in this context

enter into permanent restructuring agreements with clients, their fulfillment is different

facilitate and force it with means.

- Respondent 2 has a legitimate interest in continuing the agreements

monitor, monitor. In all cases, this is a stakeholder who is considered to be an obligee

based on an agreement accepted on the basis of a debt settlement offer made by

- The Applicant 2 to the recommendation setting out the requirements imposed on him by the Hungarian National Bank

also refers, based on which the Magyar Nemzeti Bank 1/2016. (III.11.) number, the salary

on the restoration of delinquent residential mortgage loans, and 2/2019 (II.13.)

no

imposes a requirement on the creditor, such as Respondent 2, to be proactive and long-lasting

look for a restructuring opportunity.

- Respondent 2 claims that the identification data is the proper identification of the data subject

are served, the contact details (address, phone number) for contacting the data subject,

necessary for contact in connection with agreement monitoring.

Affected interests:

- The person concerned is at a greater disadvantage if the debt does not cooperate

in repayment with the data controller.

- Data management is also in the interest of the data subject in that it also serves his interests

timely and accurate repayment of a specified amount.

II.5.2. No. 2 consideration of interests:

The fact that the phone number data is handled is contained in the appendix, which lists the data range handled,

does not explain in detail why it is necessary to manage this data, only the following

details:

- During the drive-in, "challenges" are also initiated. The general purpose of phone calls is to

to call on the obligee to pay his debt, and to promote the willingness to pay

by offering a payment option and concluding an agreement.

In connection with the management of personal data, it argues in general as follows:

- In the absence of personal data, Respondent 2 would not know about its claim management activities

continue.

- The purpose of data management is to promote successful contact with the data subject

after that, an agreement accepted by both parties should be concluded with the data subject,

in the end, therefore, facilitating and validating the fulfillment of the claim.

II.5.3. No. 3 consideration of interests:

The fact of handling the phone number data is only in the appendix related to the weighing of interests

contains, which lists the managed data, does not detail anything about its management.

II.5.4. No. 4 consideration of interests:

Data controller interests:

- At the very beginning of the interest assessment test, Respondent 2 mentions that the phone number

lack of contact and lack of information for consumer complaints

can drive, the Requested 2-digit telephone number would be blocked in the absence of data

in asserting its rights and

the

claims management process could be disproportionately long and expensive

legal obligations

in fulfillment

too, and

- Your phone number

and

in the end, the collection of the claim would not achieve its goal, and also the person concerned

Respondent 2 would not be able to avoid his possible bad faith procedure.

process would stop,

claims management

in its absence

the

- Contacting by phone is the fastest way to reach the person concerned.

- Layman, especially with regard to those affected who cannot read or write, immediately customized,

Respondent 2 can provide comprehensible information and guidelines.

- Refers to the law on the restoration of defaulted residential mortgage loans

1/2016. (III.11.) to the MNB's recommendation, according to which it is expected from the Magyar Nemzeti Bank, if

the letter sent to the customer was "not searched", "moved", "refused to receive",

"addressee

(telephone,

personal inquiry). In this context, the Respondent refers

2 to the fact that the Magyar Nemzeti Bank is the supervisory body of the Applicant 2, so it

expects him to comply with the provisions of his recommendation, fines in case of inadequate compliance

may be imposed, which entails financial damage and also represents a reputational risk.

"delivery obstructed", then another device

unknown",

- Reference is made to Regulation 10/2016 on the application of consumer protection principles. s. MNB recommendation,

as well as to the repealing MNB recommendation 9/2020, according to which the financial

services provided by organizations

information

requirement. According to the argument of Respondent 2, the management of the telephone number facilitates the

efficient and quick information of stakeholders, as well as direct communication with the stakeholders

communication.

Users are correct

- Other claim management companies also carry out phone number management if Respondent 2 does not

if it did so, it would be at a competitive disadvantage.

- The Applicant is Hpt. and the Civil Code refers to the fact that a

legality and enforceability of claims

activity

claims management

national economic interest.

Affected interests:

- The most important relevant information can be avoided as soon as it comes into the possession of the person concerned

long correspondence and e-mailing.

- The purpose of data management is to conclude an agreement as soon as possible, as it is executive

proceedings may be initiated and may lead to a possible auction of the property.

- On the one hand, Respondent 2 obtains the telephone number data from the assignor, furthermore

from public records, data subjects or third parties.

II.6. Infotv. Based on § 71, paragraph (2), the Authority during the related history case

acquired data, facts brought to his attention during this official data protection procedure

used by NAIH-347-11/2022. as recorded in memo no., so the data protection

the following documents of an investigation procedure that is a case of antecedents of an official procedure:

- NAIH-5700-4/2021. s. document,

- NAIH-5700-8/2021. s. document,

- Decision (document No. NAIH-4783-1/2022)

- NAIH-347-9/2022. s. document,

- NAIH-347-10/2022. s. document and its attachments.

II.7. The Applicants stated the following regarding the completion of the Authority's evidence procedure

in response to his information on July 27, 2022, in which at the same time the initiator of the procedure

they also supplemented their application.

II.7.1. Regarding the change of legal basis:

They referred to what was written in the previous decision regarding the change of legal basis of Respondent 2,

in which the Authority established that with regard to data management prior to April 1, 2021, a

Respondent 2 referred to an inappropriate legal basis, as it is not GDPR Article 6 (1) f)

point, thereby violating Article 5 (2) of the GDPR.

Due to the above, the Applicants requested the Authority to oblige Respondent 2

to delete "all" personal data retroactive to May 25, 2018, April 2021

valid until the 1st day.

II.7.2. Regarding data transfers:

The Applicants have attached 3 enforcement documents to support the fact that the Applicant 2

made an untruthful statement in connection with 3 data transmissions, because

- the personal data of the Applicants to the notary […] on July 13, 2018

forwarded

- The personal data of applicant 2 […] to the Executive Office September 7, 2018

forwarded it on the day of and

- Applicant 1's personal data […] to the Executive Office September 11, 2018.

sent it on the day

for deletion

In the opinion of the Applicants, since these personal data on April 1, 2021

were forwarded before, and since for this period the Respondent 2 GDPR Article 6 (1)

indicated paragraph b) as the legal basis for its data processing, therefore these data transfers

violators, so the Authority should oblige Respondent 2 to

delete data. With this, the Applicants supplemented their application.

The Applicants also asked to determine the data transfers that took place during this period

legal consequences contained in the GDPR, "because in the absence of this, the provisions of the GDPR

would be emptied, specifically for the data of the affected person

right to your data

the right to prohibit its transmission".

The Applicants also explained that if the data transfer is compliant with the same GDPR

legal basis would not be necessary, as for data management, then the data controllers could circumvent this,

and in the case of any data processing without a legal basis, the data of the affected parties could be forwarded with this

could cause them an illegal disadvantage.

II.7.3. The Applicants that

also referred to the fact that they did not receive the Applicant 2

consideration of interests, to which Respondent 2 referred in his statement sent to the Authority.

If Respondent 2 really did not send this to the Authority, then the Authority

find that Respondent 2 is a reference to GDPR Article 6(1)(f)

did not fulfill its condition and therefore violated Article 5 (2) of the GDPR, and for this

in connection, oblige the Applicant 2 to delete the personal data of the Applicants in 2021.

following April 1

also with this

the Authority should also impose a fine in this context.

II.8. The previous decision of the Authority regarding the change of legal basis referred to by the Applicants is

it contained the following findings:

"From the date of assignment (March 8, 2016) to March 31, 2021, the GDPR

He continued with reference to Article 6 (1) point (b) of the assignment

data processing

regarding

period

10

data processing for the purpose of claims management in connection with your claims. However, this legal basis

in the case of data processing for this purpose, it is not acceptable due to the following:

According to the Authority's findings, the legal basis according to Article 6 (1) point b) of the GDPR - a

with the exception of certain steps prior to concluding a contract - it can only be used if a

is necessary for the performance of the contract, so this legal basis cannot be extended as such

for data management, for which the situation caused by the non-fulfillment of the contract by the data subject

in order to remedy it, the contracting parties take steps arising from the normal obligation of cooperation

it is necessary to perform overreaching actions. […]

Respondent 1's claim against Applicant was assigned to Respondent 2

for.

Since the Respondent 2 acquired it by way of assignment against the Applicant

claims, as well as the personal data of the Applicant as an inherent part of it, and thus the

became entitled to claims, the legal basis for data processing cannot be GDPR Article 6 (1) paragraph b)

contractual legal basis according to point

In this round, the Authority notes that the Capital Court of First Instance […], the present one

similar to an official procedure, a claim acquired through an assignment for the purpose of claims management

in connection with its legal basis - upheld by the Court's ruling on September 14, 2020 -

in its final judgment, the Authority shared above regarding the applicability of the contractual legal basis

expressed his position. […]

Based on the above, the Applicant treated Respondent 2 with reference to an inappropriate legal basis

your personal data, with which you violated Article 5 (2) of the GDPR. However, this is not necessarily the case
means that there is no legal basis for the processing of the Applicant's personal data, since a
it came within the scope of its legally performed receivables purchase activity enabled by law
to the Applicant's personal data - natural personal identification data, as well as a
claim data - and to enforce legally acquired claims,
as well as his legitimate interest in the processing of the above data necessary for this
can be determined in principle due to regulation.
Therefore, the fact that the Respondent 2 previously wrongly referred to GDPR Article 6 (1) b)
point, does not establish its obligation to delete, as it is in accordance with Article 6 (1) of the GDPR
if a legal basis exists, the data processing is legal, even if it was previously done incorrectly
was not properly identified by the data controller.
Due to the above, Respondent 2 decided to change the legal basis, which does not conflict with the GDPR
in its provisions, considering that a previously incorrectly applied legal basis was transferred to one
on a legal basis which, in the case of appropriate consideration of interests, is in accordance with the provisions of the GDPR."

II.8. The Authority provides the following in relation to the opening of the credit account in the Antecedent decision
established, which also governs the present procedure:

"[…]
Respondent 2 owes against the Applicant based on the assignment agreement
has become the rightful owner of a claim, to validate the claim, as well as the necessary for this
had a legitimate interest in the processing of personal data due to legal regulations
can be determined in principle. Therefore, this data management purpose is considered legal and with the Applicant
personal data required to assert a claim against, such as - among others - a
The applicant provides his/her name, address, natural personal identification data, supporting the claim
documents (including the contract, current account statements) GDPR Article 6 (1) Paragraph f)
on the basis of his legitimate interest according to point 2.

The Applicant also referred to the fact that Respondent 2 forwarded the

your personal data. According to the statement of Respondent 2, this was done for the purpose of claims management, for which

the legal basis according to Article 6 (1) point f) of the GDPR can be applied, so as long as it is judicial

no decision is made that the assignment was not legal, and therefore the Respondent 2-

has no claim against the Applicant, the illegal data processing is the responsibility of the Applicant 2

cannot be determined in terms of data management. Article 6 (1) point f) of the GDPR

its application is also conditioned by the priority of its legitimate interest by the Respondent 2

it is justified by a consideration of interests."

II.9. The Applicants also submitted statements on November 18, 2022:

In essence, they repeated their statements submitted on July 27, 2022 and again

they claimed that Respondent 2 had made an untruthful statement with the 3 data transmissions

context, and since these data transmissions are illegal, the Authority must oblige the

Requested 2 to delete the personal data transmitted without a legal basis, and a

Authority to delete them for third parties as well.

The repeatedly objected data transmissions by Respondent 2 are as follows:

-

-

-

[…] to a notary public,

[...] for the Executive Office, and

[…] for the Executive Office.

III. Applicable legal provisions

The GDPR must be applied when personal data is partially or fully automated

processing, as well as the processing of those personal data in a non-automated manner

for handling, which are part of a registration system, or which are a

they want to make it part of the registration system. It is for data management under the scope of the GDPR

Infotv. According to § 2, paragraph (2), the GDPR must be applied with the additions indicated there.

Based on recital (47) of the GDPR, if the legal basis for data management is the legitimate interest, then

a preliminary assessment of interests must be carried out, in the framework of which, among other things, it must be

determined

the legitimate interest, the impact on the data subject, and the fact that data processing is necessary,

and whether it is proportionate, as well as whether the legitimate interest or the right of the affected party must be considered

superior.

According to GDPR Article 4, point 1, "personal data": identified or identifiable natural

any information relating to a person ("data subject"); the natural person who

directly or indirectly, in particular an identifier such as name, number,

location data, online identifier or physical, physiological, genetic,

one or more factors related to your intellectual, economic, cultural or social identity

can be identified based on

Based on GDPR Article 4, point 2, "data management": on personal data or data files

any action or actions performed by automated or non-automated means

total,

storage, transformation or

change, query, insight, use, communication, transmission, distribution or otherwise

by way of making available, coordination or connection, limitation,

deletion or destruction.

According to GDPR Article 4, point 7, "data controller": the natural or legal person, public authority

body, agency or any other body that determines the purposes of personal data management and

determines its assets independently or together with others; if the purposes and means of data management

determined by EU or Member State law, to designate the data controller or the data controller

relevant special aspects may also be determined by EU or member state law;

so the collection,

organization,

recording,

segmentation,

12

Based on Article 5 (2) of the GDPR, the data controller is responsible for paragraph (1).

for compliance and must be able to demonstrate this compliance ("accountability").

On the basis of Article 6 (1) of the GDPR, personal data is processed only when and to the extent that it is

legal if at least one of the following is met:

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

for its treatment;

b) data management is necessary for the performance of a contract in which the data subject is one of the parties,

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

required;

c) data management is necessary to fulfill the legal obligation of the data controller;

[…]

f) data management to enforce the legitimate interests of the data controller or a third party

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

or fundamental rights and freedoms that require the protection of personal data,

especially if a child is involved.

Other administrative or judicial remedies based on Article 77 (1) of the GDPR

without prejudice, all data subjects are entitled to lodge a complaint with a supervisory authority -

in particular your usual place of residence, place of work or the place of the alleged offence

in the Member State of origin - if, according to the judgment of the data subject, the personal data relating to him

handling violates this regulation.

Pursuant to Article 58 (2) point b) of the GDPR, within the corrective powers of the supervisory authority

acting as:

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

violated the provisions of this regulation;

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

also;

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;

The Akr. On the basis of § 17, the authority has its authority and competence in all stages of the procedure

investigates ex officio. If you notice the absence of one of them, and it can be established beyond doubt in the case

competent authority, the case will be transferred, failing which the application will be rejected

or terminate the procedure.

Based on Section 46 (1) of the Ákr, the authority rejects the application if

a) the conditions for the initiation of the procedure defined in the law are missing, and this law does not apply to that

it does not have any other legal consequences.

Based on Section 47 (1) of the Ákr, the authority terminates the procedure if

a) the request should have been rejected, but the reason for that was the initiation of the procedure

came to the attention of the authorities.

Infotv. On the basis of § 38, paragraph (2b), the Authority is provided with personal data in paragraph (2).

with respect to the defined scope of the litigation aimed at making a court decision and

performed by the court in non-litigation proceedings, based on the relevant regulations

in relation to data management operations, it does not cover the provisions specified in paragraph (3).

to exercise powers.

13

Infotv. Enforcement of the right to the protection of personal data based on Section 60 (1).

in order to do so, the Authority initiates an official data protection procedure at the request of the data subject and

may initiate official data protection proceedings ex officio.

Infotv. Based on § 61, subsection (1), in the decision made in the official data protection procedure a

Authorities

a) in connection with the data management operations defined in paragraphs (2) and (4) of § 2 a

You can apply the legal consequences defined in GDPR,

b) in connection with the data management operations defined in § 2, paragraph (3).

ba) can establish the fact of unlawful processing of personal data,

bb) can order the correction of personal data that does not correspond to reality,

bc) can order a

blocking of illegally processed personal data,

or deletion

destruction,

bd) may prohibit the unlawful handling of personal data,

[…]

bg) can impose fines,

included powers of the principle of proportionality

and the treatment of which the procedure is successful

Infotv. On the basis of § 71, paragraph (1) during the Authority's procedure - for its conduct

to the extent and duration necessary - you can manage all personal data, as well as by law

data classified as protected secrets and secrets bound to the exercise of a profession, which with the procedure

are related

in order to conduct

required.

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

paragraph

practice taking into account

especially with the fact that you are in the law regarding the handling of personal data

The regulations defined in the mandatory legal act of the European Union are being implemented for the first time
in case of violation, to remedy the violation - with Article 58 of the General Data Protection Regulation
in accordance with - takes action primarily with the warning of the data manager or data processor.
Infotv. Based on § 61, subsection (5), the Authority, in deciding whether (1) is justified
imposition of a fine according to paragraph b) sub-point bg),
and the amount of the fine
during its determination, it takes into account all the circumstances of the case, so in particular the infringement
the size of the circle of stakeholders, the gravity of the violation, the reprehensibility of the conduct, and the fact that
whether the violator was previously found to be related to the handling of personal data
infringement.
Infotv. Based on paragraph (6), the deadline for filing an action to challenge the decision
until its expiration, or in the event of an administrative lawsuit, until the final decision of the court in dispute
data affected by data management cannot be deleted or destroyed.
Act C of 2000 on accounting (hereinafter: Accounting Act) § 169 (1)–(2)
based on paragraph:
(1) The entrepreneur prepared an account of the business year, the business report, as well as those
supporting inventory, evaluation, ledger extract, as well as the log book, or other, as required by law
can read a register that meets its requirements
mandatory for at least 8 years
keep.
(2) Accounting documents directly and indirectly supporting the accounting
(including ledger accounts, analytical and detailed records), at least 8
must be in legible form for years, it can be retrieved by referring to the accounting records
way to preserve.
Pursuant to § 166, paragraph (1) of the Accounting Act, any accounting document that the entrepreneur
issued or made by, or a natural person with a business or other relationship with the farmer

a document issued or prepared by a person or another entrepreneur

(invoice, contract,

agreement, statement, credit institution receipt, bank statement, legal provision, other

a document that can be classified as such) - regardless of its printing or other production method - which a

in form

supports the accounting accounting (registry) of an economic event.

On the prevention and suppression of money laundering and terrorist financing

XV of 2003 Act (hereinafter: old Pmt.) Section 3 (1), Section 5 (1) and Section 10

Based on paragraph (1):

§ 3 (1) When establishing a business relationship with a customer, the service provider is obliged to:

his authorized representative, the person authorized to provide, and to identify the representative.

§ 5 (1) The service provider must record the following data during identification:

a) natural person

1. your family and first name (birth name), if any, married name,

2. your address,

3. place and time of birth,

4. your nationality,

5. mother's birth name,

6. the type and number of the identification document,

7. in the case of a foreign natural person, 1-6. of the data specified in point

data that can be determined based on an identification document, as well as residence in Hungary

place;

§ 10 (1) In § 3, § 5, paragraph (7), and § 6, paragraph (2), the service provider

and is obliged to keep it for ten years from the date of notification, based on paragraph (1) of § 3

the retention period for received data, documents and their copies is the business relationship

begins upon termination.

6:22 of Act V of 2013 on the Civil Code (hereinafter: Civil Code). § [Prescription]

(1) If this law does not provide otherwise, claims become time-barred within five years.

(2) The statute of limitations begins when the claim becomes due.

(3) The agreement to change the limitation period must be in writing.

(4) An agreement excluding the limitation period is void.

ARC. Decision:

IV.1. Preliminary questions affecting the legality of data management, as well as the Applicants 2018.

data management prior to May 25

IV.1.1. The Authority's competence is limited to the GDPR rules and Infotv. concerning

covers compliance with its provisions, regarding settlement, forint conversion, and account opening

the investigation of violations of sectoral legislation falls within the competence of the Hungarian National Bank

question, for this reason the Authority does not comply with these rules during its procedure due to lack of authority

investigated.

IV.1.2. The Respondent 1 31.08.2005. opened the credit account objected to by the Applicants and

08.03.2016 assigned the claim to Respondent 2.

The request for examination of the period before May 25, 2018 is not eligible

Infotv. to the conditions contained in § 60, paragraph (2), since the requested data management period

in this part, the GDPR was not yet applicable to the Authority's investigation of this period

you may not conduct a data protection official procedure initiated upon request.

In accordance with the above, in this procedure, the Authority handles the data of the Applicants

only in connection with data management after May 25, 2018

findings, the data management of the previous period was used to clarify the facts

into account.

IV.2. Data controller and data management

IV.2.1. Respondent 2 as data controller

According to the company register, the main activity of Respondent 2 is claims management.

The Authority established, based on the statements of Respondent 2, that with the examined data management in the case concerned, in connection with the above-mentioned activity, the purpose of its data management and its means are determined independently by the Respondent 2, therefore based on Article 4, Clause 7 of the GDPR data controller in connection with the management of the Applicant's personal data.

IV.2.2. Respondent 1 as data controller

According to the statement of the Respondent 1, the loan related to the objectionable data management with […] provided together, based on a cooperation framework agreement. Related to the framework contract regarding their activities, Respondent 1 and

too

agreed. The agreement to this effect was forwarded by Respondent 1 to the Authority

Related history in the case.

IV.2.3. Personal data and data management

Data related to the claim owed to the Applicants and stored in connection therewith, a

the data in the documents supporting the claim are considered personal data a

Based on Article 4, Point 1 of the GDPR, as well as the storage and use of this personal data,

transmission of data management based on Article 4, point 2 of the GDPR.

IV.3. Data processing of requested 1

The Accounting Act and the old Pmt.

imposes obligations on Respondent 1 (personal data

containing

document retention obligation).

Based on these, Respondent 1, § 169, paragraph (2) of the Accounting Act, as well as -

It was in force at the beginning of the business relationship between Respondent 1 and the Applicant - old Pmt. § 3 (1), § 5 (1) and § 10 (1) based on legislation

has a retention obligation, so the Respondent 1 is GDPR Article 6 (1) point c),

therefore, with reference to the fulfillment of a legal obligation, the following personal data is managed (stored) by the

Applicants

your data in connection with credit account number […]:

[…] about joint data management

too

birth name,

place and date of birth,

- name,

-

- mother's birth name,

-

- citizenship,

-

-

- permanent address,

-

mailing address,

- mobile phone, account number.

personal identification document data,

the number of the official ID card confirming the residential address,

IV.3.1. Retention obligation in relation to the Accounting Act

The Respondent 1, as an entrepreneur according to the Accounting Act, prepared for the business year

report, the business report, as well as the supporting inventory, evaluation, ledger

extract, as well as the logbook, or other requirements of the law

register must be kept in legible form for at least 8 years. Based on this, the Applicant 1

Act § 169

in connection with the assignment, the documents supporting the claim must be kept by the

Based on the provisions of the Accounting Act, for 8 years from March 8, 2016.

According to the Authority's position, accounting is based on Section 166 (1) of the Accounting Act

from documents considered as receipts, pursuant to Section 169 (6) of the Accounting Act, no

data that can be deleted, so all data on these documents can be preserved.

Based on the above, the data retention after assignment (including personal data

regarding document retention) obligation, the Accounting

contain

provisions according to which Respondent 1, as an entrepreneur according to the Accounting Act, is

a report prepared for the business year, the business report, as well as the inventory supporting them,

assessment, ledger extract, and the log book, or other requirements of the law

must keep appropriate records in legible form for at least 8 years. Based on this, the

Respondent 1 is obliged to provide documents supporting the claim in connection with the assignment

keep for 8 years from March 8, 2016, based on the provisions of the Accounting Act.

IV.3.2. Data retention obligation related to customer due diligence

Contrary to the statement sent to the Authority by Respondent 1, not the Pmt., but the old one

Reference must be made to Pmt. regarding the retention obligation related to customer due diligence

in connection with data management, considering that the loan agreement was signed on 31.08.2005. on the day of

tied and the old Pmt. Section 5 (1) and Section 10 (1) in force on August 31, 2005

based on paragraph 1, customer due diligence had to be carried out in the cases specified there. So it is

the processing of data for this purpose began at that time. In contrast, Pmt. requiring customer due diligence

rules entered into force on June 26, 2017, i.e. after Respondent 1

Claim against the applicant on 08.03.2016. ceded by Applicant 2-

re.

The old Pmt. Section 5 (1) point a) and Section 10 (1) for Respondent 1

The applicant requires the retention of the following personal data for a period of 10 years:

your family and first name (birth name),

your address,

-

-

- your nationality,

- the type and number of your identification document.

On this basis, even after the concession, the Respondent 1, based on the provisions of the old Pmt, March 2016

The fulfillment of the obligation included in the old Pmt. must be preserved for 10 years from the 8th day

data, documents and their copies that came into his possession during the performance of his obligations

supporting documents or their copies.

IV.3.3. Request for data deletion

The Authority, in view of the above - point b) of Article 17 (3) of the GDPR

taking into account - rejected the Applicants' request that the Authority

order the deletion of their personal data managed by Respondent 1, as their management is not

conflicts with the provisions of the GDPR.

IV.4. Data management for the purpose of claims management by the Applicant 2 and by the Applicant 2

executed change of legal basis

In the previous decision - the present decision II.7. as referred to in point - established

in accordance with and reserving what was written there, the Authority finds that the Respondent has violated it

Article 5 of the GDPR

(2) of the Applicants' personal data

nor during its treatment for claims management purposes - as in the Antecedent decision

as established [...] during the processing of your personal data - on an appropriate legal basis

referred to before the change of legal basis took place, thus granting the Applicants' request that

establish a violation of the principle of accountability.

IV.5. To establish illegal data management, and with reference to this, the Applicants

Request to order the deletion of personal data managed by Respondent 2

The Authority also explained in the Antecedent decision that [...] with regard to personal data a

Respondent 2 referred to an inappropriate legal basis (GDPR Article 6(1)(b)), this

however, it does not establish its obligation to delete, as it has switched to a legal basis (GDPR

Article 6 (1) point (f)), which in the case of a suitable balance of interests with the provisions of the GDPR

is consistent. For this reason, in accordance with the legal interpretation of the Precedent decision, the Applicants

regarding the management of their personal data, the Authority rejects the request of the Applicants that

instruct Respondent 2 to delete their personal data, citing the wrong legal basis.

IV.6. Considerations of interest forwarded by Respondent 2

IV.6.1. The Applicants' comments on the lack of consideration of interests

The existence of the legal basis of legitimate interest must be verified by weighing the interests of the general data protection

on the basis of recital (47) of the regulation.

The Respondent 2 forwarded it to the Authority in relation to the personal data it manages

considerations of interests, so the statement made by the Applicants by proxy is not

it is true that Respondent 2 did not fulfill this obligation.

IV.6.2. Interest considerations regarding data management for the purpose of claim enforcement

II.3.1., 2., 3. forwarded to the Requested 2 Authority. tables detailed in points a

In relation to applicants, they are related to data processing for the purpose of claim enforcement, since

are related to the registration, agreement and monitoring of the claim, which

also means claims management.

The Respondent 2 of the legal basis for data management GDPR Article 6 (1) point f) (legitimate interest)

indicated, while the legal basis for data retention is § 169 (2) of the Accounting Act

(data retention period: 8 years) referred to.

Nos. 1, 2, 3, 4 forwarded by Respondent 2. consideration of interests is acceptable in that

regarding the processing of the following personal data of the Applicants:

- name,

- birth name,

- mother's birth name,

- place and date of birth,

- data on the personal identification document,

- permanent address,

- mailing address,

- credit account number,

- in relation to collateral real estate, the hours, value, entries,

- debt data.

THE

the above personal data are really essential for identification,

for contact, conclusion of agreements, monitoring and possible enforcement

to initiate proceedings.

18

Therefore, based on the above, the Authority does not consider the management of telephone number data exclusively

acceptable to the Applicants

treatment, because the attached

interest considerations in this regard have identified inappropriate interests and are incorrect

conclusions were drawn due to the following:

personal data

a) The position of the Authority is that a

telephone number

necessity for legal enforcement

unjustified, because claims management is not a legal procedure, but one of enforcement

preventive "procedure", which requires the mutual cooperation and consensus of the parties

to promote. Management of the Applicants' phone number for claim collection and a

It is not absolutely necessary to maintain contact with the applicant, since a

Respondent 2, to maintain contact with the Applicants, the Applicant's residential address information

handles.

do so that you can choose it

b) In the absence of consent, the telephone number managed is not necessary for the Applicants

for contact. According to the Authority's point of view, Applicant 2 can also apply by post

the relationship with the debtor, and legal proceedings can also be prevented in this way, also considering

that the possible settlement will also be concluded on a paper basis. It is possible for the person concerned

must

even if you don't want to

receive phone calls and SMS messages. There is no such thing in the consideration of interests

interest of the data controller, which would take precedence over this right of the data subject, and

it is hard to imagine that such an interest existed. Neither does the consideration of the interests of Respondent 2

mentions a data controller's interest that could preempt the data subject's privacy

for protection

in several places

emphasizes that telephone number data is primarily handled in the interests of the data subject.

right, on the contrary, the consideration of interests

written communication

lacing

c) The argument that it is also unacceptable because of the information of the illiterate and lay people involved

it is necessary to manage the phone number, as the affected person is probably illiterate

it does not occur in large numbers, and if this situation exists, even in that case

the data subject can decide to give his consent to the data management, so it is not the case

obstacle - based on consent - to the processing of your telephone number data. Moreover, the

In the case of Applicants, Respondent 2 cannot argue this, because the Applicants do not

they are illiterate.

d) The interest of the data controller is fundamentally unacceptable because

also manages the

telephone number data to Respondent 2, because with a different claim management

dealing with

data controllers also follow this practice, and this may put you at a competitive disadvantage. All

the data controller is subject to the same legislation, so it is an appropriate consideration of interests

without it, other data controllers cannot legally process the phone number data of the data subjects.

e) Respondent 2 did not deal with the case that if the interested party objects

against the data management, in that case the various interests, i.e. the data controller, respectively

what result does the consideration of the interested party's interests lead to, so actually

the essential element of the interest considerations is not included in the attached interest considerations.

f) Interest considerations comprehensively apply to all contact information (address, telephone number, e-

email address) apply, so in many cases the reasoning is mixed. Also the position of the Authority

is that the processing of your address data is essential for claims management purposes, however a

phone number data management is not, and the consideration of interests is primarily about whether

contact information is definitely needed and it is not explained in detail and the rest

separately from contact information, that a

treatment why

absolutely necessary. The consideration of interests mentions that it is from contact

to those concerned

with an outstanding claim

in connection, you will be informed about what it is like

can,

you may also avoid costly legal proceedings, but this will be done by post

is also realized in contact. The debtor's right to be in writing cannot be disputed

choose contact, consider written communication appropriate and optional

tolerate the regular cashier

phone calls that are private

disturbance, where appropriate, psychological pressure, stress, especially weak

in case of health condition. According to the Authority's point of view, Respondent 2 did not substantiate it

under that his business interest would precede this interest of the Applicants.

you have options and to negotiate

benefits are also derived, since

your phone number

is informed by

in nature

19

technically there is no obstacle for a company,

g) Telephone number and address data from a public database, even from third parties

can be obtained by the Applicant 2. In the case of your residential address, the public database as the data

source is acceptable, as the postal address is definitely necessary for contact,

however, in the case of your phone number, this is a concern as it is not essential

it is necessary data and affects the privacy of the data subject more directly.

The public phone book includes people who have given their data

for displaying and making it public on the grounds that they are available in this way

to be Because of this

so one

a company dealing with claims management also uses data from the public telephone directory,

calls the phone numbers. However, public telephone numbers must be distinguished

request from the data management operations during which the data is recorded,

for registration,

beer. The public

the consent given for inclusion in the phone book does not cover this further

for data management, does not constitute authorization for use during other data management.

To record these phone numbers and other data is different

linked to data, etc., the relevant consent of the person concerned is required.

In particular, in that case, it cannot be accepted from another source

your telephone number, if it is obtained from a specified third party by the Respondent 2,

since in this case the Applicants did not even make this personal data public

for use

for storage,

further

costs

h) The management of the telephone number is not required by law for Respondent 2, because a

the referenced MNB recommendation is not considered legislation, subject to this data management

cannot be considered a legal basis either, especially considering that it was referred to by Respondent 2

Recommendation No. 2/2019 (II.13.) "I. The point entitled "Purpose and scope of the recommendation" contains the following

included:

"This recommendation is about data management and data protection issues

no guidelines

states, none regarding the management of personal data

does not contain expectations, and the requirements contained therein in no way

they cannot be interpreted as an authorization for the processing of personal data. The

in connection with the fulfillment of the supervision requirements set out in the recommendation

data management is exclusively based on data protection in force at all times

legislation

can be carried out by complying with

According to the Authority's point of view, Respondent 2 cannot manage the Applicants' telephone number data,

if the Applicants have not expressly consented to it, because the Applicants' residential address data

management ensures the possibility of contact even after deleting their phone numbers. THE

Respondent 2 stated during the procedure that he manages the Applicants' residential address data

too.

In addition to the above, the Authority also points to the fact that Respondent 2 is only general

forwarded considerations of interests to the Authority, so they are unique - specifically the Applicants

regarding his phone number - they do not contain considerations of interest, and thus he did not support it

Under the Respondent 2, why would he be hindered in asserting his rights if he cannot handle the

Applicants' phone number data. By Respondent 2 - in the general considerations of interests -

presented financial considerations and business interests do not in themselves precede the Applicants

his right to an inviolable private sphere.

On the basis of the above, an appropriate consideration of interests, i.e. a verification of the priority of the legitimate interest

in the absence of the telephone number data, Article 6 (1) point f) of the General Data Protection Regulation

cannot be handled on the basis of, therefore, Respondent 2 is the Applicants

phone number data

violated Article 6 (1) of the GDPR by handling it for the purpose of debt collection, therefore the Authority

instructs Respondent 2 to delete the telephone number data processed without legal basis.

ARC. 7. Request to establish the illegality of marked data transmissions

The Applicants highlighted the following 3 data transfers separately:

20

- the personal data of the Applicants to the notary […] on July 13, 2018

forwarded

- The personal data of applicant 2 [….] to the Executive Office on September 7, 2018.

forwarded it on the day of and

- Applicant 1's personal data […] to the Executive Office September 11, 2018.

sent it on the day

In the opinion of the Applicants, since these personal data on April 1, 2021

were forwarded before, and since for this period the Respondent 2 GDPR Article 6 (1)

indicated paragraph b) as the legal basis for its data processing, therefore these data transfers

violators, so the Authority should oblige Respondent 2 to

delete data.

The Authority highlights it, referring to IV.6 of this decision. to the provisions of point 2, that the Applicant 2 a

can assert its claim against the Applicants, and in the framework of this also an enforcement procedure

can initiate, in connection with which it legally handles the personal data necessary for this

data. The fact that Respondent 2 previously invoked an inappropriate legal basis does not

necessarily makes data transmission illegal, as it only violates GDPR Article 5 (2)

violates paragraph 2, which the Authority has already established in the present procedure.

The notary issues the payment order and the executor the enforcement actions

during its implementation and the application of enforcement coercion, it exercises public power, on this

carried out during the performance of their duties in the exercise of public authority

data management, as well as the execution ordered by the executor during the execution of the execution

data processing carried out during implementing measures pursuant to Article 6 (1) paragraph (e) and (c) of the GDPR

are considered mandatory data management according to point, regardless of whether the person requesting the enforcement

is

(in this case, Respondent 2) with reference to what legal basis the personal information is forwarded to them

data for the purpose of initiating enforcement, the enforcement procedure is merely the legal basis

incorrect marking does not make it illegal.

Based on the above, the Authority rejected the Applicants' request that the Authority

state that it was made to […] notary public, […] Executive Office and […] Executive Office

transmission of data for the purpose of enforcing the claim is illegal.

IV.8. Rejection of the request to impose a data protection fine

The Authority rejects the Applicants' request for the imposition of a data protection fine, since e

the application of a legal consequence does not directly affect the rights or legitimate interests of the Applicants,

for him, such a decision of the Authority does not create any rights or obligations, as a result

with regard to the application of this legal consequence falling within the scope of enforcing the public interest a

in relation to the imposition of fines, the Applicants are not considered clients in accordance with Art. Section 10 (1)

based on paragraph Since the Ákr. It does not comply with paragraph (1) of § 35, in this respect

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

Authority in relation to the request for the imposition of a data protection fine - general data protection

on the basis of preamble paragraphs (148) and (150), Article 58 and Article 83 (2) of the Regulation -

also points out that the Supervisory Authority - depending on the circumstances of the given case -

ex officio is entitled to decide in its discretion in order to protect personal data

effective, proportionate and dissuasive applicable to the data manager/data processor

measures, or instead of or in addition to these sanctions, such as administrative fines

on the necessity of its imposition and, if it is imposed, on its extent.

IV.9. Motion for evidence that the Authority investigate each May 25, 2018

subsequent data transfer

The Akr. Based on § 62, subsection (4), the authority freely chooses the method of proof, and a

evaluates the available evidence according to his free conviction, therefore the relevant

justified, since the Applicants in this round only

fact

no clarification

saw

the illegal data processing of Respondent 2 was raised in general, nothing specific

no evidence was attached in this regard.

This is actually the Applicant 2 and, due to the wording, all other data controllers (since so

stated that if it would mean an examination of the practices of a data controller...), considering that a

Applicants not nominated - IV. In addition to what is written in point 8 - such specific data transfer,

which would have been damaged after May 25, 2018 as being related to it

illegality is suspected.

Given the fact that the Authority is the decision IV.8. rejected by Respondent 2

data processing for claim purposes

establishing its illegality, therefore the Respondent 2

evidentiary aimed at examining data transmissions within the scope of data management for claim purposes

motion was rejected by the Authority.

IV.10. Legal consequences

IV.10.1. The Authority partially granted the Applicants' request, and GDPR Article 58 (2)

shall be convicted on the basis of point b).

the Respondent 2, because he violated the GDPR

- Paragraph 2 of Article 5 and

- Paragraph 1 of Article 6.

IV.10.2. The Authority instructs Respondent 2 on the basis of GDPR Article 58 (2) point c)

-

delete the Applicants' phone number data from your claims management record (except for

you can store them on accounting documents and data management other than storage

cannot continue on them on the basis of the legal basis according to Article 6 (1) point c) of the GDPR).

IV.10.3. The Authority ex officio examined whether it was justified due to Respondent 2's violation of law

imposing a data protection fine. In this context, the Authority is Article 83 (2) of the GDPR and

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

in the case of the violation discovered during this procedure, the warning is neither proportionate nor not

is a deterrent sanction, therefore a fine must be imposed.

When imposing the fine, the Authority considered the following factors as aggravating circumstances

taking into account:

- The violation is serious because it has been going on for years, so quite a long time, May 2018

It is related to data management without a legal basis since the 25th. (GDPR Article 83 (2)

paragraph point a)

- The unlawful data management of Respondent 2 is intentional, not an administrative error.

(GDPR Article 83(2)(b)).

- NAIH/2020/687/2. in decision No. 6, as it violated Article 6 (1) of the GDPR

and therefore obliged him to pay a fine of HUF 3,000,000. (Article 83 (2) GDPR

points e) and i)

When imposing the fine, the Authority took into account the fact that the Authority is a mitigating factor

was exceeded by Infotv during the procedure. One hundred and fifty days of administration pursuant to § 60/A. (1).

deadline. (GDPR Article 83 (2) point k)

When imposing the fine, the Authority does not consider it as either a mitigating circumstance or an aggravating circumstance

took into account the following provisions of Article 83 (2) of the GDPR: points f) and g),

and the fact that in the Precedent decision, Respondent 2 has already been convicted

due to a violation of Article 5 (2) of the GDPR, for which the Authority fined HUF 1,000,000

obliged to pay. With the data management examined in the present case in the Precedent decision

related to the same claim,

[…] to manage your personal data

the Authority established the violation. In the present case, the claim against [...]

the violation applies to the handling of the personal data of its pledgees - the Applicants

determination. For this reason, the Authority does not consider the previous infringement as an aggravating circumstance

took into account.

Based on the 2021 report of Respondent 2, its pre-tax profit was HUF [….] THE

the imposed data protection fine does not exceed the maximum fine that can be imposed, i.e. 4% of HUF […]

[…]. (GDPR Article 83 (5) point a)

The Authority follows the provisions of Article 83 (2) of the GDPR regarding the imposition of fines

did not take its provisions into account because, according to his judgment, they were not in the subject matter

are relevant: point c), point d), point h), point j).

IV.10.4. The Authority exceeded Infotv. 60/A.§ paragraph (1) administrative deadline, therefore a

Applicants are entitled to HUF 10,000, i.e. ten thousand forints - according to their choice - to a bank account

by money order or postal order Based on § 51, subsection (1), point b).

A. Other questions:

The competence of the Authority is set by Infotv. Paragraphs (2) and (2a) of § 38 define it, and its competence is

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. 82.

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

paragraph or § 114 (1) against the decision by way of an administrative lawsuit

there is room for a legal remedy.

* * *

The rules of the administrative trial are set out in Act I of 2017 on the Administrative Procedure

hereinafter: Kp.) is defined. The Kp. Based on § 12, paragraph (1), by decision of the Authority

the administrative lawsuit against falls within the jurisdiction of the court, the lawsuit is referred to in the Kp. § 13, subsection

(3) a)

Based on point aa), the Metropolitan Court is exclusively competent. The Kp. Section 27 (1)

legal representation is mandatory in a lawsuit falling under the jurisdiction of the court based on paragraph b).

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. law (a
hereinafter: E-administration act) according to § 9, paragraph (1), point b) of the customer's legal representative
obliged to maintain electronic contact.
The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). THE
information on the possibility of a request to hold a hearing in Kp. Paragraphs (1)-(2) of § 77
is based on. The amount of the fee for the administrative lawsuit is determined by Act XCIII of 1990 on fees. law
(hereinafter: Itv.) 45/A. Section (1) defines. It is from the advance payment of the fee
Itv. Paragraph (1) of § 59 and point h) of § 62 (1) exempt the party initiating the procedure.
If the Respondent 2 does not adequately certify the fulfillment of the prescribed obligation, a
The authority considers that the obligation was not fulfilled within the deadline. The Akr. according to § 132,
if the obligee has not complied with the obligation contained in the final decision of the authority, that
can be executed. The Authority's decision in Art. According to § 82, paragraph (1), it becomes final with the communication
becomes The Akr. Pursuant to § 133, the execution - if otherwise by law or government decree
does not have - it is ordered by the decision-making authority. The Akr. Pursuant to § 134, the execution -
if it is a law, government decree or, in the case of municipal authority, a local government decree

does not provide otherwise - it is undertaken by the state tax authority. Infotv. § 60, paragraph (7).
on the basis of the Authority's decision to carry out a specific act, specified
the decision regarding the obligation to conduct, tolerate or stop
its implementation is undertaken by the Authority.
During the procedure, the Authority exceeded Infotv. One hundred and fifty days according to paragraph (1) of § 60/A
administrative deadline, therefore the Ákr. On the basis of point b) of § 51, he pays HUF ten thousand to the Applicant.
dated: Budapest, according to the electronic signature

Dr. Attila Péterfalvi

president

c. professor

24