

Case number: NAIH-5361-1/2022.

History: NAIH-2160/2021.

Subject: decision partially granting the request

H A T A R O Z A T

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

regarding the violation of the applicant's (hereinafter: Applicant's) right of access on February 4, 2020

with the Budapest Bar Association (headquarters: 1055 Budapest, Szalay utca 7.) (the

hereinafter: Respondent) makes the following decisions in the official data protection proceedings against:

I. The Authority in part of the Applicant's request

gives place and

I.1. states that the Respondent has violated Article 15 (1) and (3) of the General Data Protection Regulation paragraph and Article 12 (3) of the General Data Protection Regulation by a

The applicant did not respond to his request dated December 23, 2021 within the deadline.

I.2. The Authority shall include the part of the application according to which the Authority should instruct the Requested to access

to fulfill the request, rejects it.

I.3. The Authority is the I.1. due to violations established in point - with the fact that it is another data protection violation in the case of the determination of the legal consequences, the present infringement is increased as an antecedent will take it seriously - give him a warning.

There is no place for administrative appeal against the decision, but the 30th from the date of notification

can be challenged in an administrative lawsuit within days with a claim addressed to the Metropolitan Court. THE

you must submit a statement of claim electronically to the Authority, which forwards it along with the case documents

to the court. The request to hold a hearing must be indicated in the statement of claim. The complete 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.

CXII of 2011 on the right to information self-determination and freedom of information. law (a

hereinafter: Infotv.) Based on point b) of § 61, paragraph (2), the Authority publishes this decision on Authority website.

I. Procedure and clarification of the facts

I N D O C O L A S

The Applicant submitted a request for an official data protection procedure to the Authority on February 4, 2021 be, according to which, as a former member of the Respondent, he has been trying to achieve for several years that the Respondent

properly inform you about your account balance and the reasons for the creation of the items included in it and its legal basis. For this reason, on 10/01/2020, he contacted the

To the applicant, in which he requested that the suspension and disqualification decision be sent to him, and the registered account balance, and on 12/12/2020 he also sent an access request by post

with reference to the Respondent and Article 15 (1) of the General Data Protection Regulation, requested that inform you about the handling of your personal data, as well as about any other circumstances that the referred

2

general data protection

(1) indicates. The Applicant also requested a

Requested to inform you about the registered account balance, debt, the registered

on the legal basis of the debt, as well as the suspension and then disqualification due to non-payment of the 2011 membership fee

decision, their existence.

Regulation Article 15

The Applicant did not receive a response to his inquiries from the Applicant until he submitted his application to the Authority.

During the investigation of the application, the Authority found that the application was Infotv. § 60, paragraph (5).

did not comply, because it did not contain a definitive decision regarding the remedy of the indicated violation

application, therefore the Authority dated 19.02.2021, NAIH-2160-3/2021. to fill gaps in order no

called the Applicant, which call was dated 05.03.2021, and to the Authority on 03.03.2021.

In his response letter received on the 10th, he complied and requested the Authority's express decision regarding the rights of the data subjects

regarding the violation, as well as requested to warn the data controller of the violation, condemn it and instruct the data controller to fulfill the data subject's request, as well as sanctions, administrative fines asked the Authority to impose it. With the Applicant completing the application on March 10, 2021 has become complete.

The Authority dated 18/03/2021, received by the Applicant on 24/03/2021, NAIH-2160-5/2021. no

in his order, the Respondent called for clarification of the facts, who informed the

Authority to partially dispute what was stated in the order clarifying the facts, because the Applicant

In relation to some of the questions asked in the application submitted to the respondent received information.

In his statement, the Respondent submitted that the Applicant is within the deadline of his obligation to pay membership fees did not comply, therefore, after three notices, with a decision made on 07/04/2011, the Respondent the Presidency administratively canceled the Applicant with its decision on July 4, 2011 from the membership register. This decision entered into force on 08/24/2011. Then the Applicant's balance [...] showed a debt of HUF.

The Applicant contacted the Applicant on 10/18/2017 and inquired about "in the year 2011

for administrative cancellation due to non-payment of membership fees, or suspension due to criminal proceedings"

does it constitute an obstacle to his hiring as a legal advisor. The Applicant will answer this question on the same day

got After that, correspondence continued between the Applicant and the Respondent, during which

the Applicant's balance registered with the Respondent was discussed. The membership dues due to which the

The Applicant was deleted administratively, and in the meantime it expired, so the Applicant informed the Applicant,

that the MEMBERSHIP FEES AND LATE MEMBERSHIP FEES ARREARS in the 2016 Eln. to be deleted based on decision no

cost.

In addition to the above, the Applicant's disciplinary council for committing a disciplinary offense

He was fined HUF 150,000 as a disciplinary penalty, and on top of that a total of procedural costs

He should have paid HUF 65,300. The disciplinary decision entered into force on June 7, 2013. THE

Regarding the disciplinary fine, the Applicant received a letter of notice from the Applicant on 07/22/2015. Since the the Respondent sent a payment notice in a verifiable manner regarding the debt, therefore the statute of limitations is the debt regarding started again. The competent chamber clerk therefore also informed the Applicant that that it is necessary to settle the fine and procedural costs related to case No. [...] of 2012, the amount of which is HUF 215,300.

According to the Applicant's information, the Applicant's presidency made a decision on 09/07/2020, according to which uncollectible debts can be cancelled. Since the Petitioner from disciplinary fine and his debt resulting from procedural costs became time-barred on 07/22/2020, so the debt was cancelled.

Based on the Respondent's statement, therefore, on March 18, 2021, the date of the reply letter, the Applicant had no registered debts.

According to the Respondent's statement, the Requester's access request dated 12/12/2020

It was received by the applicant on 12/23/2020. According to the Respondent, the service provider's office and its headquarters was closed - as every year - between 12/19/2020 and 01/03/2021, during this period no administrative work was carried out, therefore the deadline open for administration began on 01/04/2021.

Because the inquiry is not only about personal data, but also about financial records was directed, therefore, based on Article 12 (3) of the General Data Protection Regulation, the complexity of the request within one month from the receipt of the request, the Respondent must respond to the request

3

was not possible, therefore it was necessary to extend the deadline by another two months. THE

The Respondent does not dispute that the Applicant was not informed of the extension of the deadline and the reasons for it informed him according to the referenced paragraph, at the same time, according to the Respondent's point of view, a responded to the Applicant's letter within the extended deadline, on 04/02/2021.

The Respondent attached the Applicant's application dated 12/12/2020, 2020.ELN. Decision No. [...], the 2016. ELN. decision No. [...], as well as its information on data management, and on 04/02/2021, the

He sent his reply letter to the applicant.

The Respondent also informed the Authority that its data management is basically in accordance with Article 6 (1) c) of the GDPR

and e) is based on points. According to the Respondent's statement, the relevant legislation - on lawyers XI of 1998 Act, as well as LXXVIII of 2017 on lawyer activity. law (a hereinafter: Üttv.) - precisely define the range of data to be registered, which data to store statutory regulation also applies.

The Respondent also referred to the Üttv. to § 11, according to which it is not possible to attach the Individual decisions made in connection with the applicant with regard to the obligation of confidentiality.

The Authority NAIH-2160-7/2021. in his order no. he called on the Applicant to confirm that a

The deadline for responding to the applicant's request was extended by two months, respectively certifies that the Authority has already collected the information necessary to answer the request started before becoming aware of the start of the proceedings. In addition, the Authority requested that name exactly what you consider to be a lawyer's secret in this case, and explain why it exists the lawyer's duty of confidentiality.

In the letter received on May 25, 2021, the Applicant informed the Authority that April 2021

He maintains the contents of his letter written on the 8th with unchanged content, so according to their interpretation, it is general

Article 12 (3) of the data protection decree gives the possibility of an additional 60 days after the 30 days deadline for extension, so according to his calculation, the two-month extended deadline, which he thinks It started on the 4th of January 2021 and ended on the 4th of April, it did not exceed.

In this statement, the Respondent also submitted that its Articles of Association record in detail the Responsibilities of the requested officials. Considering that in the first round the the request concerned financial data, so on January 4, 2021 - with the start of the administrative deadline - for the first time, it became necessary to clarify financial issues, so within the Respondent's organization in 2021. on January 29, the data protection officer also received the material. Received from individual departments

the next task was to coordinate and compare answers, to evaluate the received data and following its decision, which was evaluated by an external colleague on February 5, 2021. The deadline there was no internal document or separate record of the extension. And he obviously slowed down the proceedings 104/2021 on the temporary tightening of protection measures, which will enter into force on March 8, 2021.

(III.5).

the premises or location for the purpose of the requesting service was obliged to be kept closed.

Regarding the collection of data concerning financial records, the June 2013 disputed by the Applicant

The debt resulting from the disciplinary decision that became final on the 7th is the Respondent's closed 2013 financial affected his year. The documents related to this financial year have already been archived, so they are paper based files had to be retrieved from the archives. The data is collected at the end of the administrative break at the beginning of the year

started in the week starting on January 4, 2021.

Collecting the information necessary to respond to the Requester's access request a

According to the respondent's statement, even before learning about the initiation of the Authority's proceedings started, which the Applicant signed with a document called "Memorandum" dated January 7, 2021

certify. From this, according to his claim, it can be established that the debts related to the person of the Applicant are already were also mentioned in this memo, the justification for their deletion from the financial side and and its confirmation was necessary.

The Respondent did not dispute that it did not inform the Applicant of the deadline extension. THE

According to the Respondent's statement, he responded because the Applicant was uncertain situation to be clarified, despite the fact that, in his opinion, the Applicant's information was partially provided it's already happened.

4

The Respondent has attached its entire correspondence with the Applicant, as well as on January 7, 2021 a document named "Note" dated under case number [...].

In his statement, the Respondent explained that the range of data to be treated as lawyer's secret is the lawyer's

due to the diversity of activities - it is difficult to define. This is also the reason why looking at this the Üttv establishing the obligation of confidentiality for the lawyer. nor does it contain guidelines. THE the law only stipulates that the lawyer is bound by confidentiality obligation regarding all data and facts about which during the exercise of his profession became aware of. An exhaustive list of the elements of lawyer confidentiality is impossible in practice, since it is it can also encompass the client's personal data and business secrets, not infrequently in the scope of bank or tax secrets related data, in matters related to family law, medical and personal status, the customer - where applicable facts regarding the adverse party's family relationships and state of health.

In his statement, the Respondent submitted that the existing relationship between the Respondent, the Applicant and the Authority

confidentiality obligation is a specific confidentiality obligation, since according to the law, a

The Respondent is obliged to keep the learned lawyer's secret, as in the meantime with the Authority

fulfills its obligation to cooperate and provide data. Thus the Üttv. Paragraph (2) of § 11

the individual decision made in the Applicant's disciplinary case must surely be considered a lawyer's secret,

which - without the Applicant's exemption as a confidential holder - the Respondent is not aware of the Authority to bring.

The Authority dated 16 August 2021, NAIH-2160-9/2021. in order clarifying the facts of case no

called the Applicant to state that in the Letter sent by the Applicant on April 2, 2021

did you answer the questions asked in your access request dated December 12, 2020, or if you received

choose it, indicate exactly why it does not suit you and which access request it is

point is affected.

The Applicant did not receive the order at his place of residence, the order was returned with the mark "not sought"

to the Authority. In view of this, the Authority dated September 21, 2021, NAIH-2160-10/2021. case number

repeatedly contacted the Applicant in an order. The Applicant did not receive the order at his place of residence, a

order was returned to the Authority with the mark "not sought". On October 25, 2021, the Authority

dated NAIH-2160-11/2021. repeatedly contacted the Applicant in order no., however, a

The applicant did not accept the order, the order was returned to the Authority with the mark "not sought".

Given that NAIH-7362-1/2021. official to the Authority from an ongoing case under case number

is aware that the Applicant's address is [...], therefore the Authority

dated November 24, NAIH-2160-12/2021. in order no., he contacted the Applicant at his home address.

The Applicant received the order on December 2, 2021, but no response has been received to date.

II. Legal provisions applicable in the case

On the basis of Article 2 (1) of the General Data Protection Regulation, the data processing in this case is the general data protection regulation must be applied.

The relevant provisions of the General Data Protection Regulation in this case are the following:

Article 4, point 1 of the General Data Protection Regulation: "personal data": identified or identifiable

any information relating to a natural person ("data subject"); the natural can be identified

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

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

based on one or more factors related to their economic, cultural or social identity

can be identified.

Pursuant to Article 12 (3) of the General Data Protection Regulation, the data controller is an unjustified delay

without, but in any case, he will inform you within one month of the receipt of the request

15–22 concerned. on measures taken following a request pursuant to Art. If necessary, consider

taking into account the complexity of the application and the number of applications, this deadline is extended by two months

can be extended. Regarding the extension of the deadline, the data controller explains the reasons for the delay

informs the data subject within one month of receiving the request. If that

5

the person concerned submitted the application electronically, the information was provided electronically if possible

must be provided, unless the data subject requests otherwise.

Based on Article 12 (4) of the General Data Protection Regulation, if the data controller does not do so

measures following the request of the data subject, without delay, but no later than upon receipt of the request

informs the person concerned about the reasons for not taking the measure within one month, as well as that the person concerned can file a complaint with a supervisory authority and seek legal remedies with his right.

Based on Article 12 (5) of the General Data Protection Regulation, information according to Articles 13 and 14 and 15-22. and information and measures according to Article 34 must be provided free of charge. If it is affected your request is clearly unfounded or - especially due to its repetitive nature - excessive, the data controller, with regard to providing the requested information or information or taking the requested action for administrative costs:

- a) may charge a fee of a reasonable amount, or
- b) may refuse to take action based on the request.

It is the responsibility of the data controller to prove that the request is clearly unfounded or excessive.

Based on Article 15 (1) of the General Data Protection Regulation, the data subject is entitled to receive feedback from the data controller that your personal data is being processed if there is, and if such data management is in progress, you are entitled to access personal data and get access to the following information:

- a) the purposes of data management;
- b) categories of personal data concerned;
- c) recipients or categories of recipients to whom the personal data was disclosed or will be communicated, including in particular third-country recipients and international organizations;
- d) where applicable, the planned period of storage of personal data, or if this is not possible, this criteria for determining duration;
- e) the data subject's right to request personal data relating to him from the data controller rectification, deletion or restriction of processing, and may object to the processing of such personal data against;
- f) the right to submit a complaint addressed to a supervisory authority;

g) if the data were not collected from the data subject, all available information about their source;

h) the fact of automated decision-making referred to in paragraphs (1) and (4) of Article 22, including profiling as well as, at least in these cases, the applied logic and its comprehensibility

information about the significance of such data management and what can be expected for the data subject has consequences.

Based on Article 15 (3) of the General Data Protection Regulation, the data controller is the subject of data processing provides a copy of the relevant personal data to the data subject. Additional requested by the person concerned for copies, the data controller may charge a reasonable fee based on administrative costs.

If the data subject submitted the request electronically, the information was widely used must be made available in electronic format, unless the data subject requests otherwise.

Copy referred to in paragraph (3) based on Article 15 (4) of the General Data Protection Regulation the right to claim may not adversely affect the rights and freedoms of others.

Pursuant to Article 58(2)(b), (c), (g) and (i) of the General Data Protection Regulation, the supervisory authority acting in its corrective capacity:

- b) condemns the data manager or the data processor if his data management activities violated e the provisions of the decree;
- c) instructs the data manager or the data processor to fulfill the data subject's requirements according to this regulation your request to exercise your rights;
- g) orders the correction of personal data in accordance with the provisions of Articles 16, 17 and 18, or deletion, or limitation of data management, as well as Article 17 (2) and Article 19 properly orders the notification of the recipients with whom or with whom it is personal data has been disclosed;
- i) imposes an administrative fine in accordance with Article 83, depending on the circumstances of the given case, e in addition to or instead of the measures mentioned in paragraph

6

Article 83 (1)-(2) and (5) points a)-b) of the General Data Protection Regulation:

(1) All supervisory authorities ensure that the provisions referred to in paragraphs (4), (5), (6) of this decree due to its violation, the administrative fines imposed on the basis of this article are effective in each case, be proportionate and dissuasive.

(2) Depending on the circumstances of the given case, the administrative fines are subject to Article 58 (2) a)-h) and must be imposed in addition to or instead of the measures mentioned in point j). In deciding whether whether it is necessary to impose an administrative fine, and the amount of the administrative fine in each case, the following must be taken into account:

a) the nature, severity and duration of the infringement, taking into account the nature of the data processing in question, its scope or purpose, as well as the number of persons affected by the infringement, as well as the damages suffered by them extent of damage;

b) the intentional or negligent nature of the infringement;

c) on the part of the data controller or data processor in order to alleviate the damage suffered by the data subjects any action taken;

d) the extent of the responsibility of the data controller or data processor, taking into account the provisions of Articles 25 and 32.

technical and organizational measures implemented on the basis of Article;

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

f) remedying the violation with the supervisory authority and mitigating any negative effects of the violation extent of cooperation for;

g) categories of personal data affected by the infringement;

h) the manner in which the supervisory authority became aware of the violation, in particular the fact that whether the data controller or the data processor reported the violation, and if so, in what detail;

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

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

compliance with measures;

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

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

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

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

loss.

(5) Violation of the following provisions - in accordance with paragraph (2) - up to EUR 20,000,000

with an administrative fine in the amount of , and in the case of enterprises, the previous financial year is a full year

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

a higher amount must be imposed:

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

b) the rights of the data subjects in Articles 12–22. in accordance with article

Infotv. According to Section 2 (2), the general data protection regulation is indicated there

shall be applied with additions contained in provisions.

Infotv. Validation of the right to the protection of personal data based on § 60, paragraph (1).

in order to do so, the Authority may initiate an official data protection procedure ex officio. For the official data protection

procedure

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

apply with the additions specified in Infotv. and according to the general data protection regulation

with differences.

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

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

regarding the handling of personal data - in legislation or in a mandatory legal act of the European Union

in the case of the first violation of specified regulations, to remedy the violation - that

in accordance with Article 58 of the General Data Protection Regulation - you are primarily the data controller

takes action with a warning from the data processor.

CL Act of 2016 on general public administrative order (hereinafter: Act) § 5 [The

customer principles]

(1) The client may make a statement or comment at any time during the procedure.

7

The Akr. § 62 [Clarification of the facts]

(1) If the available data are not sufficient for decision-making, the authority shall use an evidentiary procedure continues.

(2) Any evidence that can be used to clarify the facts may be used in the official procedure suitable. It cannot be used as evidence obtained by the authority in violation of the law evidence.

(3) Facts that are officially known by the authority and that are common knowledge do not need to be proven.

(4) The authority freely chooses the method of proof and the available evidence evaluates according to his free conviction.

Acr. On the basis of Section 35 (3), at the customer's request, until the decision made on the matter becomes final may have.

The Akr. Based on § 50, paragraph (5), point b), the client is not included in the administrative deadline duration of your default or delay.

The Hit. Pursuant to § 9, paragraph (1), all facts, information and data are classified as attorney secrets, which the practitioner of the legal profession became aware of during the practice of this activity. THE 2) according to paragraph, if this law does not provide otherwise, the practitioner of the legal profession is obliged to do so to maintain lawyer's secrecy. This obligation of confidentiality extends to the document containing the lawyer's secret or other also on a data carrier.

The Hit. According to paragraph (3) of § 13, the document prepared for the purpose of defense is official, judicial and other cannot be used as evidence in public proceedings and - the cases defined in this subsection with the exception of - it cannot be examined, confiscated or copied by public authorities, it may be refused to show, hand over, or grant access to it. The data subject is informed of these rights may waive it, unless the document is related to the defense in a criminal case.

Infotv. On the basis of § 71, paragraph (1), during the Authority's procedure - it is necessary for its conduct to the extent and for a period of time - you can treat all personal data, as well as confidential and protected by law confidential information related to the procedure, or the management of which is necessary for the successful completion of the procedure.

(2a) In the case of a document prepared for the purpose of defense, the provisions contained in paragraphs (1) and (2) are those of the attorney shall be applied with the deviations specified in the Act on Activities.

III. Decision:

In his application, the Applicant requested the Authority's express decision regarding the violation of the rights of the data subject, and requested to warn the data controller of the violation, condemn and refuse it data controller to fulfill the data subject's request, as well as to impose sanctions and administrative fines asked the Authority.

III.1. Stakeholder request of the Applicant

In his letter of October 1, 2020, the Applicant did not clearly indicate the subject of his submission, so nor that he wishes to exercise his rights as a data subject. The Applicant during the procedure on October 1, 2020 indicated the subject of his letter as a general request for information related to his debt.

However, it is dated December 12, 2020

exercise of right,

exercising the right to data portability - GDPR". The domestic was attached to the Applicant's application receipt, on the basis of which it can be established that the data subject's request for delivery on 12/23/2020 was given to the Applicant. In his request, the Applicant clearly defined his request as primary its purpose, that is, that it wanted to use its right of access according to the GDPR. During the procedure, it is affected the Authority examined the handling of the request by the Requested Party.

its subject is already "access

his letter

In terms of the examined data management, it is related to the account balance, debt, and chamber membership

The information about the Applicant contained in chamber records and documents is GDPR Article 4 1.

according to point, the personal data of the Applicant, the Data Controller, the registration of the data and

8

its storage is considered data processing based on Article 4, point 2 of the GDPR, for which the GDPR rules are applicable.

III.2. Violation of the Applicant's stakeholder rights

According to Article 15 (1) of the General Data Protection Regulation, the data subject is entitled to personal get access to your data.

On the basis of Article 12 paragraphs (3)-(4) of the General Data Protection Regulation, upon the request of the data subject, the data manager

is obliged to give a substantive answer within one month. Due to special circumstances, this deadline is at most

it can be extended by another two months, but it must be done before the end of the original one month

data controller to send information about what he has done until then and for what reason the deadline is necessary extension.

The Respondent failed to fulfill the original request to exercise the Applicant's right of access before the expiry of one month did not indicate the need for an extension of the deadline to the Applicant. This is the procedure during which the Respondent also admitted.

According to the Applicant's statement, since the office and headquarters of the Applicant service provider are on 12/19/2020 and

It was closed between 01.03.2021, no administration work was carried out during this period, open for administration standing deadline started on 04.01.2021.

The deadline set in § 12 of the General Data Protection Regulation is a calendar day and not a working day must be calculated, as a result of which the deadline available for completing the request is December 24, 2020. started on and not on January 4, 2021.

In this context, the Authority notes that the chamber regulations cited below also apply on a calendar day

the deadline for responding to stakeholder requests is calculated:

- According to point 131 of the Articles of Association published on the Respondent's website, "The Chamber is managed by data are contained in the laws related to classified data protection in force at all times according to This includes the necessary records, reports, and data services will do."

- The Hungarian Bar Association's data protection regulations "XVI. Information, right to object, in point 3 of the chapter entitled "data erasure, limitation of data management" states that the Bar Association is obliged within the shortest time from the submission of the application, but no more than fifteen (15) to provide the information in writing, in an understandable form, free of charge within a day. The data protection regulation does not provide for pausing or suspending the deadline.

The Applicant's vacation schedule has no effect on the calculation of the deadline, because it is the performance of tasks the Applicant must also ensure its continuity. Nor is it for the possibility of deviating from this obligation

Üttv., neither the internal rules of the Hungarian Bar Association nor the Respondent contain any reference. THE

The restrictive measures that entered into force on March 8, 2021 referred to by the applicant are also not considered as an excuse, because exercising the rights of the data subject is not a service that requires a personal appearance.

The Respondent is also obliged to organize the work in such a way as to comply with the provisions of the GDPR fulfill access requests properly and within the deadline.

The Respondent could have refused the access request for reasons according to Article 12 (5) of the GDPR fulfillment. The Authority established that the Respondent subsequently provided the Applicant, April 2, 2021 - did not refer to the excessive nature of the request in his letter, therefore, by the Applicant, the GDPR

In relation to his access request submitted for the first time since its application, it was unfoundedly cited during the procedure, that he had previously provided information about the requested data and a copy of the decisions.

In view of the above, the Respondent violated Article 15 (1) and (3) of the GDPR, and Article 12

(3), since he did not respond within one month of the receipt of the request and the deadline

did not provide an extension to the Requester's access request, so within the deadline according to the GDPR a he did not grant his right of access.

The Respondent did not ensure the Applicant's right of access even beyond the deadline until a

He did not become aware of the present procedure of the Authority, that is, he acted as a result of the Authority's procedure, because a

The applicant sent a response to the Applicant after receiving the order of the Authority on March 24, 2021. THE however, this response to the request is the period to be examined (from the submission of the access request to until the start of the authority's proceedings) and is not relevant from the point of view of establishing the infringement, but the should be evaluated in terms of sanctioning.

III.3. Obligation of the requested person to fulfill the access request

The Authority found the part of the application aimed at obliging the fulfillment of the access request to be moot rejects it because on April 2, 2021, the Respondent sent the final disciplinary decision, and the canceling decision to the Applicant, or during the procedure, before the Authority's decision-making has already arranged for the information to be provided to the Applicant. The Applicant informed the Applicant regarding the debt registered with the Applicant, the storage of the Applicant's personal data duration, as well as if the Applicant considers that the Respondent has violated it the General Data Protection Regulation during the processing of the Applicant's personal data, then with the Authority can file a complaint, or about the contact details of the Data Protection Officer of the Respondent.

The Applicant did not object to the response sent by the Respondent on April 2, 2021, since then with the Authority does not cooperate, therefore, in the absence of evidence to the contrary, the Authority will consider the Applicant's silence assessed that the obligation to fulfill your access request has become obsolete.

III.4. Clarification of facts and attorney confidentiality

The Authority, with regard to its procedural and data recognition rights, with the applicant's statements makes the following comments in this context:

The Authority NAIH-2160-5/2021. in the clarification of the facts in order no

Asked whether he responded to the Applicant's data subject request and, if so, whether he requested the

A copy of the response sent to the applicant.

The Respondent sent the Authority a copy of its response of April 2, 2021, without its attachments and the Üttv. He refused with the Applicant, referring to his duty of confidentiality stipulated in § 11 decisions made in connection - such as attachments to the response to the stakeholder request - to the Authority sending

However, according to the Authority's point of view, individual decisions concerning the Applicant do not qualify lawyer's secret. Since during the disciplinary proceedings against the Applicant, the Respondent did not performed the activities of a lawyer, but performed the task of a public body, therefore the duty of confidentiality is the Üttv. It cannot be based on the provisions of § 9.

Furthermore, according to the Authority's point of view, the Claimant's claim that he does not have the possibility to attach the Individual decisions made in connection with the applicant, citing his duty of confidentiality not founded because Infotv. According to paragraph (1) of § 71, the Authority during its procedure - that to the extent and for the time necessary to conduct it - you can manage all personal data, as well as data classified as secrets protected by law and secrets bound to the exercise of a profession, which are are related to the procedure, and the management of which is necessary for the successful completion of the procedure required. Infotv. However, based on § 71 paragraph (2a), the Üttv. in paragraph (3) of § 13 for the perusal of certain documents prepared for the purpose of defense is specified in the Üttv conditions apply.

This is supported by the Üttv. entry into force of certain laws and other legal matters CXXXVI of 2017 on amending laws to § 80 of the Act - Infotv. to paragraph (2a) of § 71 - attached legislative justification, which states the Authority's right to access data as follows defined by:

"CXII of 2011 on the right to information self-determination and freedom of information. law (a hereinafter: Infotv.) Paragraphs (1) and (2) of Section 71 of the National Data Protection and Freedom of Information 10 defense

It provides authority with the rights that its procedure

necessary for its completion

can manage and use all personal data to the extent and for the time required, 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, and the management of which is necessary for the successful completion of the procedure.

This right also applies to the lawyer's secret, which is a secret bound to the exercise of the profession

belongs to the authority primarily performing the fundamental rights protection function. In this respect, therefore, Infotv.

the Üttv makes an exception. Section 13, paragraph (1), is general for the protection of lawyer's confidentiality

regulations. This special regulation is also maintained by this law. The Hit. in paragraph (3) of § 13

defined,

by

regarding the lawyer's activity in connection with its accessibility and usability

in law, the application of the conditions defined for the enhanced protection of these documents, however, a

It is also justified in terms of the procedure of the National Data Protection and Freedom of Information Authority, the law for this

accordingly, it aims to create a clear legal environment."

As a result of the above, the Respondent filed for attorney confidentiality in the proceedings at the request of the Applicant

could not have denied the individual decision made in connection with the Applicant

sending, especially considering that they are not considered documents for the purpose of defense.

The Authority, as it does not share the Respondent's argument regarding the lawyer's duty of confidentiality and

legal interpretation, according to which the decision made in the Applicant's disciplinary case must be a lawyer's secret

considered, he did not consider it necessary to exonerate the Applicant as a secret master in the proceedings

ask him to keep it a secret.

documents official procedure

in the framework of

for the purpose of

was made

The Authority is responsible for obtaining documents that have not been sent and for sanctioning non-fulfillment of data requests.

he waived it, because although it was closely related to the case and justified, the facts in the end could be adequately clarified even without precise knowledge of it.

III.5. The issue of data protection fines

If the Authority establishes a violation of the law in the official data protection procedure, it is general may apply the legal consequences specified in the data protection decree and Infotv. Among these also includes data protection fines, which the Authority provides for in the general data protection regulation based on its free discretion, independently or with other legal consequences, decides ex officio, no upon request. The application of the data protection fine directly affects the right or legitimate interest of the applicant does not affect him, such a decision of the Authority does not create any right or obligation for him, as a result on this - with regard to the application of legal consequences falling within the scope of enforcing the public interest a The applicant does not qualify as a customer under Art. Based on paragraph (1) of § 10, and - since the Ákr. Section 35 (1) does not comply with paragraph 1, there is no place to submit an application in this regard, the submission is on this part cannot be considered as an application.

III.6. Legal consequences

The Authority partially grants the Applicant's request and based on Article 58 (2) point b) of the GDPR condemns the Applicant as a data controller because its data management activities violated Article 12 of the GDPR. (3) and Article 15 (1) and (3) of the GDPR.

The Authority ex officio examined whether a data protection fine against the Application was justified imposition. In this context, the Authority is in accordance with Article 83 (2) of the General Data Protection Regulation and Infotv.

75/A. considered all the circumstances of the case based on § In doing so, the Authority as a significant circumstance took into account the fact that the Applicant is a public body performing professional and interest representation tasks, whose members and officials are also lawyers, so it is especially expected of him to know it correctly interpret the provisions of the GDPR and handle them appropriately from a data protection point of view

applications.

At the same time, the Authority took into account that the Authority significantly exceeded the 150-day period in the procedure administrative deadline, and that the procedure was prolonged.

Based on all this, the Authority waived the imposition of a fine.

Based on the above, the Authority decided in accordance with the provisions of the statutory part.

11

III.7. Calculation of the administrative deadline, exceeding the administrative deadline

The authority has the Ákr. The procedural obligation and the administrative deadline prescribed in paragraph (1) of § 15 it begins when the application becomes suitable for substantive assessment by filling in the gaps.

The Applicant submitted his application to the Authority on February 4, 2021, but it did not include the a definite request for a decision to remedy the specified violation, therefore the Authority 2021.

on February 19, he called to make up the gap. The Applicant on March 5, 2021

he complied with his reply letter dated and received by the Authority on March 10, 2021, his request thereby has become complete.

The Authority subsequently issued NAIH-2160-9/2021 in order to clarify the facts. and NAIH-2160-10/2021.

sent an order to the Applicant's place of residence on August 16 and September 21, which the

They were returned to the Authority on September 9, 2021 and

on October 11, 2021. The Authority issued its order NAIH-2160-11/2021. also NAIH-2160-12/2021.

number, he therefore sent it to another address according to his official knowledge on October 25, 2021 and then on 2021.

on the 24th day of November. Order No. NAIH-2160-11/2021 was returned on November 15, 2021

to the Authority, while the Applicant is the Authority NAIH-2160-12/2021. 2021.

he received it on December 2, but did not respond to it.

By failing to do the above, the Applicant caused the clarification of the facts to be delayed, which is stipulated in Art. Section 50 (5)

on the basis of paragraph b) it is considered a period not included in the administrative deadline.

ARC. Other questions:

The competence of the Authority is set by Infotv. Article 38, Paragraphs (2) and (2a) defines it, the jurisdiction of the country covers its entire territory.

The decision is in Art. 80-81 § and Infotv. It is based on paragraph (1) of § 61. The decision is in Art. Section 82 (1) based on paragraph

During the procedure, the Authority exceeded Infotv. One hundred and fifty days of administration pursuant to § 60/A. (1). deadline, therefore Art. Based on point b) of § 51, ten thousand forints - according to your choice to be indicated in writing - belongs to the Applicant.

The Akr. § 112 and § 116, paragraph (1), respectively, against the decision based on § 114, paragraph (1) there is room for legal redress through an administrative lawsuit.

The rules of the administrative trial are set out in Act I of 2017 on the Administrative Procedure hereinafter: Kp.) is defined. The Kp. Against the decision of the Authority based on Section 12 (1).

administrative proceedings fall under the jurisdiction of the courts, the proceedings are governed by the Kp. 13. Paragraph (3) point a) subpoint aa).

based on which the Metropolitan Court is exclusively competent. The Kp. Based on point b) of paragraph (1) of § 27 a legal representation is mandatory in a lawsuit within the jurisdiction of a court. The Kp. According to paragraph (6) of § 39 a the submission of a claim does not have the effect of postponing the entry into force of the administrative act.

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 Section 9, Paragraph (1), point b), the client's legal representative shall electronically

obliged to maintain contact.

The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). The trial information about the possibility of an application for keeping the Kp. It is based on paragraphs (1)-(2) of § 77. THE the amount of the fee for an administrative lawsuit is determined by Act XCIII of 1990 on fees. law (hereinafter: Itv.) 45/A. Section (1) defines. Regarding the advance payment of the fee, the Itv. Section 59 (1) and Section 62, paragraph (1), point h) exempts the party initiating the procedure.

Dated: Budapest, according to the electronic signature.

Dr. Attila Péterfalvi

president

c. professor