

Subject: Decision rejecting the application

Case number: NAIH / 2019/2566/8.

## DECISION

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

(address: [...]) hereinafter referred to as the "Applicant") at the request of [...] (registered office: [...], hereinafter:

The following decision is taken in the data protection authority proceedings against the applicant.

I.1. In the decision of the Authority, the Office shall notify the applicant that the

on the protection of individuals with regard to the processing of personal data and on the protection of such data

2016/679 on the free movement of persons and repealing Directive 95/46 / EC

lawfully referred to in Article 6 (1) (b) of the GDPR

may not process the Applicant's personal data affected by the application.

I.2. Obliges the Applicant to certify to the Applicant the expiry of the time limit for initiating a judicial review or, in the case of initiating a review, within 15 days after the court's decision, if there is a legitimate interest in the processing of the Applicant's personal data for claims management purposes;

pursuant to Section 14 (2) (b) of the GDPR, inform the Applicant of the legitimate interest in the processing of his / her personal data for the purposes of claims management, about his right to protest and how to exercise it! If you cannot prove a legitimate interest, delete this data!

I.3. Obliges the Applicant ex officio to comply with Annex I.2. Until then, it restricts the processing of the Applicant's personal data for the purpose of claim management.

I.4. In addition to the above, the Authority rejects the Applicant's request to delete his personal data.

II. In view of the fact that the administrative deadline has been exceeded, the Authority stipulates that HUF 10,000, ie ten thousand forints, shall be assigned to the Applicant.

according to - pay by bank account or postal order.

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I.2. - I.3. fulfillment of the obligation pursuant to point 1 to the Applicant from the taking of the measure

within 15 days of receipt of the supporting evidence.

to the Authority. In the event of non-compliance, the Authority shall order the decision implementation.

There is no administrative remedy against the decision under point I, but a within 30 days of the communication with the action brought before the Metropolitan Court can be challenged in a lawsuit. The application shall be submitted to the Authority electronically, which shall include it forward it to the court together with the case file. Request for a hearing in the action to be indicated. For those who do not benefit from full personal exemption, the court the fee for the review procedure is HUF 30,000, the lawsuit is subject to the right to record fees. The Capital Legal proceedings are mandatory in proceedings before the General Court.

A II. There is no place for an independent appeal against the order referred to in point 1, it may be challenged only in an appeal against a decision made on the merits of the case.

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The Authority draws the Applicant's attention to the fact that it is open to challenge the decision until the expiry of the time limit for bringing an action or, in the case of an administrative lawsuit, until a final decision of the court a

data affected by disputed data management cannot be deleted or destroyed!

## EXPLANATORY STATEMENT

### I. Procedure and clarification of the facts

In a submission received by the Post Office on 5 March 2019, the

It received a letter from the applicant concerning a loan taken on 18 May 2000 from [...] and [...].

According to the Applicant, the debt, given that it was not paid by the Applicant, was

the financial institution assigned it to [...] and then sub-assigned it to the Applicant. THE

However, according to the Applicant, the Applicant could not keep personal data about him,

given that it has already repaid the above loan.

The Applicant requested the Authority to investigate the above.

At the request of the Applicant, on the right to self-determination of information and freedom of information

2011 CXII. Pursuant to Section 60 (1) of the Act (hereinafter: the Information Act) on 6 March 2019 a

NAIH / 2019/2566. proceedings were initiated by a data protection authority.

In a letter received by the Authority on 21 March 2019, at the request of the Authority, the Applicant replaced the

The deficiencies of his application and, together with his reply, were sent by the Applicant to the

letter dated 6 February 2006 informing the Applicant of his complaint and indebtedness

and the Applicant has indicated the purpose of remedying the alleged infringement

order the deletion of your personal data as a strong request.

The Authority dated 29 March 2019, NAIH / 2019/2566/4. in order no

requested information from the Applicant in order to clarify the facts.

In its reply, the Applicant stated that it had taken place on 11 May 2011 with [...]

to sign the assignment agreement. According to the Applicant, for three purposes

handles the personal data of the Applicant:

1. Data processed for the purpose of recovery

1.1. Data obtained through an assignment agreement:

- name, birth name, mother's name, place of birth, time, amount of debt, details of claim (capital, interest, cost, fee), title of debt, legal relationship, classification of debtor (debtor), case number

1.2. Data obtained from the register kept by the Ministry of the Interior:

- permanent address

The information indicated in point 1 shall be provided by the Applicant, in accordance with Article 6 (1) of the GDPR.

between the debtor and the original creditor

to perform the contract.

2. Data handled for complaint handling purposes

- name, file number, assignor, identification number of the assignor, address, complaint

place, time and method of submission, subject of the complaint, description, documents presented by the client,

documents, signature of the complainant in case of recording minutes, data included in the reply

According to the Declaration of the Requested, the data indicated in point 2 shall be provided in accordance with Article 6 (1) of the GDPR.

for which it has designated the following jurisdictions:

- Act CCXXXVII of 2013 on Credit Institutions and Financial Undertakings. Section 288 (3) of the Act

paragraph

- investment firms, payment institutions, electronic money institutions

institutions, voucher issuers, financial institutions and independent financial institutions

the procedure for the complaint handling of service intermediaries and the complaint handling policy

435/2016 on detailed rules for (XII. 16.) Government Decree § 3 (2) - (3)

paragraphs

- Decree of the Governor of the Magyar Nemzeti Bank 28/2014. (VII. 23.) decree

- CLV 1997 on consumer protection. Act 17 / A. §-the

3. Processed for the purpose of transmitting reference data to the Central Credit Information System ("CCIS")

data

- name, birth name, mother's name, place of birth, time, identity card (passport) number, other,

identification of citizens' personal data and address

LXVI of 1992 on statutory card number, address, mailing address,

electronic mail address, type and identifier (number) of the contract, conclusion of the contract,

expiration date, customer status (debtor, co-debtor), amount of contract and

currency, method and frequency of repayment, the installment of the contractual amount

amount and currency, date of default, termination of default

method and date, default ID, default per KHR ID, claim other

transfer to a reference data provider, note referring to litigation, prepayment

fact, time, amount repaid and amount and currency of outstanding principal debt.

The information indicated in point 3 shall be provided by the Applicant in accordance with Article 6 (1) of the GDPR.

for which it has designated the following jurisdictions:

- Act CXXII of 2011 on the Central Credit Information System. Section 6 (3) (b) of the Act,  
and Section 11 (1).

According to the Applicant's statement, he does not keep the telephone number and e-mail address belonging to the Applicant obviously.

## II. Applicable legal requirements

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

According to recital 44 of the GDPR, data processing is lawful if it is  
required under a contract or the intention to enter into a contract.

Pursuant to Article 6 (1) of the GDPR, the processing of personal data only if and to the extent that  
lawful if at least one of the following is met:

[...]

(b) processing is necessary for the performance of a contract to which one of the parties is a party;  
or to take action at the request of the data subject prior to the conclusion of the contract  
required;

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

(f) processing for the legitimate interests of the controller or of a third party  
necessary, unless the interests of the data subject take precedence over those interests  
or fundamental rights and freedoms which call for the protection of personal data,

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especially if the child concerned.

Pursuant to Article 17 (1) of the GDPR, the data subject has the right to request the controller  
delete personal data concerning them without undue delay and the data controller  
shall be required to provide the personal data of the data subject without undue delay  
delete if any of the following reasons exist:

(a) personal data are no longer required for the purpose for which they were collected or for other purposes

treated;

(b) the data subject withdraws the authorization provided for in Article 6 (1) (a) or Article 9 (2) (a);

consent to the processing, and there is no other consent to the processing

legal basis;

(c) the data subject objects to the processing pursuant to Article 21 (1) and there is no priority

lawful reason for the processing or the data subject objects in accordance with Article 21 (2)

against data management;

(d) personal data have been processed unlawfully;

(e) personal data are required by the law of the Union or Member State applicable to the controller

must be deleted in order to fulfill an obligation;

(f) the collection of personal data through the information society referred to in Article 8 (1)

in connection with the provision of related services.

Pursuant to Article 17 (3) of the GDPR, paragraphs 1 and 2 do not apply if

data management required:

[...]

(b) the Union or Member State law applicable to the controller governing the processing of personal data

or in the public interest or in the exercise of official authority vested in the controller

to perform a task performed in the exercise of a license;

[...]

Pursuant to Article 77 (1) of the GDPR, any interested party has the right to lodge a complaint with one

supervisory authority if the data subject considers that the processing of personal data concerning him or her

violates the GDPR.

Infotv. Pursuant to Section 2 (2), the GDPR is there

shall apply with the additions set out in the provisions set out in

Infotv. According to Section 38 (2), the task of the Authority is to protect personal data,

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

monitoring and facilitating the enforcement of personal data within the European Union

facilitating the free movement of According to paragraph (2a) of the same section, the GDPR is the supervisory  
the tasks and powers established for the authority under the jurisdiction of Hungary  
as defined in the GDPR and this Act  
exercise.

Infotv. Pursuant to Section 60 (1), the enforcement of the right to the protection of personal data  
the Authority shall, at the request of the data subject, initiate a data protection authority procedure.

Infotv. Pursuant to Section 60 (2), an application for the initiation of official data protection proceedings a  
It may be submitted in the case specified in Article 77 (1) GDPR.

Infotv. Pursuant to Section 61 (1) (a), in its decision in the data protection authority proceedings, the Authority In connection  
with the data processing operations specified in Section 2 (2), it may apply the legal consequences specified in the GDPR.  
Article 58 (2) of the GDPR

the supervisory authority shall prosecute the controller or processor if its data processing activities have infringed the  
provisions of this Regulation or the same

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Pursuant to paragraph 1 (d), the supervisory authority, acting in its corrective capacity, shall instruct the  
data controller to carry out its data processing operations - where appropriate in a specified manner and specified  
bring it into line with the provisions of this Regulation.

Unless otherwise provided by the GDPR, the data protection authority proceedings initiated upon request shall be  
CL of 2016 on general administrative order. Act (hereinafter: Act)  
shall apply with the exceptions specified in the Infotv.

The Ákr. Pursuant to § 36, the application is submitted by the customer in writing or in person  
a statement requesting that a right be instituted or a decision taken by the authority, or  
legitimate interest.

The Ákr. Pursuant to Section 62 (4), the authority is free to choose the method of proof, and a  
assess the available evidence in its sole discretion.

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

exercise the powers set out in paragraph 1 in accordance with the principle of proportionality,

in particular by the legislation on the processing of personal data or the European

Infringement for the first time of the requirements laid down in a binding act of the Union

in accordance with Article 58 of the General Data Protection Regulation.

### III. Decision of the Authority

The Applicant disputes the existence of the claim, in his opinion he has already repaid the loan.

In the present proceedings, the Authority will establish the existence of the claim in relation to the data processing of the

Requested and

did not examine the legality of the Infotv. Not pursuant to § 38 (2) - (2a)

falls within the competence of the Authority. It is for the courts to decide this question. With respect

that the Applicant keeps a record of the claim against the Applicant with which

In connection with this, the Applicant has not attached a court decision stating that it did not

therefore, in view of the claim registered by the Applicant, a legitimate interest may in principle exist.

In view of the above, to assess the Applicant's request for deletion of data

in particular, the Authority had to examine whether the deletion was covered by Article 17 of the GDPR

whether the conditions are met, ie, above all, that the processing of the data for an appropriate purpose and a

Whether it is based on an appropriate legal basis under the GDPR or, if not, on the basis of data processing

whether there is an exception under Article 17 (3)

one of the cases.

It can be stated from the statements of the Applicant and the documents attached to them that the Applicant has one

handles the Applicant's personal data for several data management purposes in a timely manner.

### III. 1. Legal basis for the data processing of the Applicant

#### III. 1. 1. Data processed for the purpose of recovery

The Authority finds that the legal basis under Article 6 (1) (b) of the GDPR - a

with the exception of certain pre-contractual steps, is applicable only if it is a contract



therefore not possible to extend this legal basis to

which, in order to remedy the situation resulting from the non - performance of the contract by the person concerned, acts beyond the normal duty of cooperation of the Contracting Parties

required to do so. The performance of the contract may also include steps when it is

data controller who has concluded the contract with the data subject, ie who is the other party to the contract.

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in the event of a delay in performance, calls on the person concerned to comply. However, Article 6 (1) of the GDPR

The contractual legal basis referred to in paragraph 1 (b) shall no longer apply if:

data controller due to non-performance of a claim against the data subject by debt collection

(ie wants the problem outside the contract)

to solve). Thus, there is no contractual relationship between the Applicant and the Applicant.

The legal basis for the transfer of data in the context of a transfer is thus only different, typically

the legitimate interest of the assignee in enforcing the claim for his own part

may.

According to the justification attached to the Civil Code, the transfer of claims is the same as the transfer of ownership

it is based on logic, so the assignment is in fact nothing more than a claim

transfer of ownership.

By assignment, the claim is separated from the original legal relationship from which it arises and

the concessionaire enters only in respect of the claim and not in respect of the fundamental relationship

in place of the transferor. By assigning the claim to the

from the fundamental right and the assignee becomes the holder of the claim, the assignment of the claim

enforcement of the contract, and no longer the performance of that contract

from which the claim originally arose, since in this case it is

the assignee should assert it not for his own benefit but for the benefit of the assignor

a claim acquired by assignment. With the assignment, if the consideration

the assignor's claim against the obligor is contingent upon the purchase price

fully or partially recouped. The assignee shall, for his own benefit and in order to recover the claim acts in his own favor, since by the assignment he becomes the holder of the claim and the claim enforcement of the debtor and the processing of the data for that purpose legitimate interest and not for the performance of the underlying contract, as the claim is became independent of the contract by assignment.

Pursuant to Annex 3 to the reply sent to the Requested Authority, [...] informed the Applicant by letter dated 8 May 2002 that, due to the persistent delays in [...] entered into a loan agreement with the Applicant with immediate effect on 08.05.2002. resigned.

The [...] and [...] sold the Applicant's debt to [...] on 6 December 2002. On February 26, 2007 [...] reassigned the claim to [...] and on 20 May 2011 to [...]. forwarded it to the Applicant.

A precondition for the processing of data under Article 6 (1) (b) of the GDPR, if not a it is a matter of taking steps at the request of the data subject prior to the conclusion of the contract, that the contract for which the data processing takes place is valid and valid.

The Applicant therefore processed the processing of personal data with reference to the performance of a contract which has been terminated, ie it is not suitable to produce legal effect. Consequently, the applicant could not have legitimately invoked Article 6 (1) of the GDPR as a legal basis for his data processing.

would otherwise be the appropriate legal basis for the processing of the data.

However, this does not necessarily mean that the Applicant's personal information is receivable there is no legal basis for the treatment of claims, as it is permitted by law to purchase receivables obtained the Applicant's personal data in the framework of his / her activities and lawfully to enforce acquired claims and to manage the above data required for this purpose the existence of a legitimate interest in bringing proceedings can in principle be established by law.

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III. 1. 2. For complaint handling purposes and reference data to the central credit information system ('CCIS')

With regard to the data processed for the purpose of complaint handling, the Authority found that the Applicant a  
GDPR referred to Article 6 (1) (c) accordingly, given that a  
CCXXXVII of 2013 on Credit Institutions and Financial Undertakings Section 288 (3) of the Act  
mandatory data processing in accordance with  
Processed for the transmission of reference data to the Central Credit Information System ("CRR")  
the Authority also found that the Applicant had complied with Article 6 (1) of the GDPR.  
referred to point (c) of paragraph 1 because of the central credit information system  
CXXII of 2011 also performs mandatory data processing with regard to these data in accordance with the law  
as long as the obligation to transfer and register data with the CCIS and the debt  
exists.

### III. 2. Applicant's request for data deletion

The Applicant has requested the Authority to order the processing of his personal data  
deletion.

The Authority found that, in view of Article 17 (3) (b) of the GDPR,

The Applicant shall not be obliged to delete the data registered for the purposes indicated in points 3,  
as required by the law of the Member State applicable to the controller  
data management is required to fulfill this obligation. The Authority found that this

The scope of the data processed on the basis of Article 6 (1) (c) GDPR is the same as a  
the range of data processed for claims management purposes.

In the light of the above, the Authority will apply Article 17 (3) (b) and Article 6 (1) of the GDPR.

Rejects the Applicant 's application for an order under Article

An applicant for the deletion of personal data processed under mandatory data management.

### III.4. Legal consequences

In accordance with Article 58 (2) (g) of the GDPR, the Authority shall, of its own motion, order a restriction on the processing of  
the Applicant's personal data until the Applicant certifies the  
the rights and interests of the Applicant

as he did not prove this to the Authority during the proceedings.

The need for data management for the Claimant's claim management purposes is basically the claim

its existence could be substantiated, however, this is disputed by the Applicant. To the Applicant therefore

it must examine whether the disputed claim exists or is not time-barred, given that the assessment of the lawfulness of its data processing depends on that question. If the claim exists, a

Authority, in order to allow the Applicant to properly control the data of the Applicant due to the illegality of the data processing, obliged the Applicant ex officio,

to inform the Applicant pursuant to Section 14 (2) (b) of the GDPR of what

the processing of personal data necessary for the management of claims due to the legitimate interest of

Does the Applicant take precedence over his / her fundamental rights and inform the Applicant

about his right to protest and how to exercise it.

If the claim does not exist, delete the data that you do not have to keep

legal obligation.

ARC. Other issues

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

there is an administrative remedy against him.

The rules of administrative litigation are laid down in Act I of 2017 on the Procedure of Administrative Litigation (a hereinafter: Kp.). A Kp. Pursuant to Section 12 (2) (a), the Authority

The administrative lawsuit against the decision of the Criminal Court falls within the jurisdiction of the court. Section 13 (11)

The Metropolitan Court shall have exclusive jurisdiction pursuant to On civil procedure

on the 2016 CXXX. Act (hereinafter: Pp.) - the Kp. Pursuant to Section 26 (1)

applicable - legal representation in a lawsuit falling within the jurisdiction of the tribunal pursuant to § 72

obligatory. Kp. Pursuant to Section 39 (6), unless otherwise provided by law, the application

has no suspensory effect on the entry into force of the administrative act.

A Kp. Section 29 (1) and with this regard Pp. Applicable in accordance with § 604, electronic

CCXXII of 2015 on the general rules of public administration and trust services. Section 9 of the Act

Under paragraph 1 (b), the client's legal representative is required to communicate electronically.

The time and place of the submission of the application is Section 39 (1). The

Information on the simplified procedure and the possibility of requesting a hearing a

Kp. Section 77 (1) - (2) and Section 124 (1) and (2) (c), and (5)

based on paragraph The amount of the fee for an administrative lawsuit shall be determined in accordance with Act XCIII of 1990 on Fees.

Act (hereinafter: Itv.) 45 / A. § (1). Advance payment of the fee

under the Itv. Section 59 (1) and Section 62 (1) (h) exempt the proceedings

initiating party.

In the course of the procedure, the Authority exceeded the Infotv. 60 / A. § (1), therefore the Ákr. Pursuant to Section 51 b), he shall pay the Applicant ten thousand forints - at the choice of the Applicant to be indicated in writing - by bank transfer or postal voucher.

Budapest, August 8, 2019

Dr. Attila Péterfalvi

President

c. professor