Case number: NAIH / 2020/34/3.

(NAIH / 2019/7857)

Subject: Application in part

decision granting it

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

hereinafter referred to as “the Applicant”) on 8 November 2019 [hereinafter referred to as the “Applicant”)

to the 2018 archived emails from your work email account provided by your previous employer

the following decisions in the data protection authority proceedings concerning access to

I. The Authority

IN ITS DECISION

I. 1. by partially granting the Applicant's application, it finds that the Applicant is unlawful

denied the Applicant access to its 2018 archived private letters.

I. 2. Ex officio finds that the Applicant did not facilitate the Applicant’s access

exercised his right as he did not provide him with transparent information following his request

measures.

I. 3. instructs the Applicant ex officio that this decision has become final

Within 15 days, it shall review, with the involvement and information of the Applicant, that the archive of the Applicant's email

account in 2018 - and, if applicable, the previous years, if applicable, of the Applicant -

which personal information is considered private and for this private electronic mail

provide access to the Applicant.

I. 4. Dismisses the part of the Applicant's claim that the Authority should order a

An applicant to provide you with the 2018 archived of your work email account,

work-related letters.

I. 5. the Applicant ex officio

HUF 200,000, ie two hundred thousand forints

data protection fine

obliges to pay.

II. The Authority

IN THE PERFORMANCE OF

orders the payment of HUF 10,000, ie ten thousand forints, to the Applicant

due to exceeding the administrative deadline - by choosing - by bank transfer or by post

voucher.

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The fulfillment of the obligation of the Applicant provided for in point I. 3 from the notification of this decision

within 30 days of receipt of the supporting evidence.

to the Authority.

The Authority shall impose a data protection fine within 30 days of the final adoption of this Decision

centralized revenue collection target settlement forint account (10032000-01040425-00000000

Centralized direct debit IBAN: HU83 1003 2000 0104 0425 0000 0000)

to pay. When transferring the amount, NAIH / 2020/200. JUDGE. number should be referred to.

If the Applicant fails to meet the obligation to pay the fine within the time limit, the above

is required to pay a late payment surcharge on the account number. The amount of the late payment allowance is the statutory

interest,

which corresponds to the central bank base rate in force on the first day of the calendar half-year affected by the delay

me.

The obligation set out in point I.3 and the data protection fine and the late payment allowance are not met

the Authority shall order the enforcement of the decision.

By the decision pursuant to point I of this decision and administrative order

There is no place for legal redress on the road, but within 30 days of the announcement of the Capital

An action before the General Court may be challenged in an administrative action. The emergency a

does not affect the time limit for bringing an action. The application shall be submitted to the Authority electronically,

which forwards it to the court together with the case file. The request for a hearing shall be made by:

must be indicated in the application. For those who do not benefit from full personal exemption a

the fee for an administrative lawsuit is HUF 30,000, the lawsuit is subject to the right to record material fees. The Capital

Legal proceedings are mandatory in proceedings before the General Court.

EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

I. 1. By letter received on 7 November 2019, the Applicant submitted a request to the Authority,

according to which he applied in vain to the Applicant on 6 February 2019 to be a civil servant

access your work email account […] 2018 after the termination of your legal relationship

to the archives, the Applicant refused to do so on data protection grounds.

The Applicant requested the Authority to initiate official data protection proceedings against the Applicant

e-mails, mainly from the official and semi-official archives of the management

to issue.

I. 2. In its order to initiate the data protection authority procedure, the Authority notified a

He invited the applicant to make a statement and provide information in order to clarify the facts.

According to the statements, the Applicant as a former civil servant and the Applicant as a former employer

There was a civil servant relationship between the employer, which was notified by the employer on October 10, 2018

terminated by exemption. The date of termination of the legal relationship was February 9, 2019. THE

after termination, the Applicant will be a civil servant on November 9, 2018

filed a labor lawsuit with the Applicant regarding the legal consequences of its illegal termination

which was dismissed by the judgment at first instance and sent to the Authority

Applicant's action.

During the labor lawsuit, on February 6, 2019, the Applicant filed an application in which

wished to receive its 2018 letters from the Applicant on CD in order to a

scientific publications relating to research in the context of his employment,

receive e-mails about notifications. Letter from the Applicant to the Applicant
would have needed some partly private letters containing certain
conference IDs, passwords, passwords for journals,
time, the name of the journal, and is used in university training by various companies
persons and information related to the application of excipients. To the Requesting Authority
specifically by means of communications and scientific publications,
intended to receive letters concerning his scientific activity and contracts, and
correspondence with publishers which, according to the Applicant's statement, the Applicant
received on behalf of. According to the Applicant's statement, in addition to the tenders he has won,
and wanted access to doctoral correspondence.
In his application to the Applicant, the Applicant also referred to the fact that the scientific
the publication of notices is in the interest of the Candidate or also in the interest of his work
You should also ensure that letters are sent to colleagues in this context.
According to the Applicant's statement dated November 29, 2019, the archive of the e-mail account - although
you have deleted most of them - they may contain a small number of private emails. Addressee to the Applicant
his request was mainly for his internal correspondence, official and semi-official letters to management.
In this respect, however, the Authority notes that the Applicant, as the Authority
contrary to the above reason, the Applicant's application dated 7 November 2019
On the basis of another statement under the Annex, the 2018 letters on the civil service
would be used in an employment lawsuit against the legal consequences of its unlawful termination,
would have used it as evidence.
The Applicant did not accept the Applicant's submission to his e-mails
reasons for access, as in his view the Applicant, as a university, should
ensure that who takes over the duties of a former civil servant and in what way, so that
There is no interest on the requested page that would justify re-entering the mail account
access to the Applicant as a former civil servant. Given that the Applicant

civil service has ceased to exist, so that, according to the

The Applicant has no interest in its scientific publications, including on the Applicant's side,

referred to by the Applicant.

According to the Applicant's statement, further, although in the Applicant's request - provided the correspondent

used his system for private purposes - however, he requested the provision of personal data, however

given that an employment lawsuit was pending and that the Applicant did not know

identify personal data, such as scientific publications, which

was requested by the Applicant, the data controller was unable to comply with his request.

According to the Applicant's statement, during the existence of the Applicant's civil service relationship

the private use of the electronic mail system was not regulated in any way,

therefore, the Applicant could use it for private purposes in accordance with its declaration, or

used it. Thus, in the absence of appropriate internal regulations, the Applicant did not receive

no separate information, however, in accordance with Article II of the […] Organizational and Operational Regulations. Volume

Employment

Pursuant to the last sentence of Section 36 (2) of its system of requirements, given that

at the time of appointment, all civil servants declare their knowledge of the University 's regulations; and

undertakes to keep them - the Applicant should have known that he was a civil servant

your e-mail account will also be terminated upon termination.

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The Applicant further requested that in the event of a data protection official proceeding being established

the Applicant has committed an infringement and, in the Authority’s view, the imposition of a fine

justified, the Authority should note that the Requested is subject to the General Data Protection Regulation

has committed an infringement for the first time since its entry into force, so the

has not yet taken place due to a breach of the General Data Protection Regulation. The Applicant's Privacy Policy

issues investigated in official proceedings in full and in detail since the infringement was committed

regulated, properly informed its employees about the established norm, the adopted

information and privacy policy and informed public employees via the e-mail account.

data management during use. There was an employment lawsuit between the Applicant and the Applicant

in the process, due to which the Applicant's interest justified the Applicant as it was

a civil servant should not have access to his correspondence, as this would have given him an opportunity to sue

may also be used to remove evidence. Irrespective of the lawsuit, the data controller

economic interest and the protection of his business secrets justified the fact that the Applicant was a civil servant

no data may be disclosed to an outsider due to the termination of his legal relationship.

According to the Applicant's statement, the Applicant justified the reopening of its email account in its application to the

Applicant on the grounds that it was in the university's interest to achieve

publish the desired publications (scientific publications). However, given that a

The legal relationship of the applicant as a civil servant has been terminated, in his future publications, scientific

publications may not indicate the Applicant, so the Applicant's interest referred to by the Applicant

does not exist. In addition, the Applicant is of the opinion that the Applicant is reasonable

it was expected that his communications would be available on other media as well. By him

another reason cited, according to which they arrive at this e-mail address with their legal relationship and job title

related software, the Applicant considers that this is not an appropriate reason, as

these are the property of the Applicant, for which the Applicant as a former civil servant has already

he has no attachment. The Applicant arriving at this e-mail address as a former civil servant

The Applicant was able to get acquainted with the letters related to his legal relationship

took care of work.

The Applicant also requested the Authority to note that on the Applicant's side

no pecuniary or non-pecuniary damage has occurred, and that the Applicant

terminated by a waiver of four months' effective interest

he learned before the termination, so he had the opportunity to redirect, save,

delete or perform any other operation on them. According to the Applicant's statement further

is fully open to the transfer of the Applicant's private letters, provided he marks them

the e-mails from which you have received and to which you have sent e-mails, indicating

that he requests correspondence for the entire duration of his employment or for a specified period

to know and publish, indicating the medium on which the data is requested

to transfer the data to yourself or another data controller.

However, the Applicant declared all this to the Authority, to the Applicant on 25 February 2019.

e-mail sent on the day of the

to access its archived e-mails in 2018 that - citing the Applicant

data protection officer - “unless justified by a specific university interest, no

we can allow this. On behalf of […] is no longer authorized to act, to do work, so the university

correspondence in the course of work belongs to […]. Nor is it published independently of the GDPR

it could have worked, and so much more since then. ”

II. Applicable legal provisions

On the protection of individuals with regard to the processing of personal data and

on the free movement of such data and repealing Directive 95/46 / EC

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Article 2 (1) of Regulation (EU) 2016/679 (hereinafter referred to as the General Data Protection Regulation)

the general data protection regulation applies to the processing of data under the present case.

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

hereinafter: Infotv.) pursuant to Section 2 (2) of the General Data Protection Decree

shall apply with the additions provided for in

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

the Authority shall, upon request, initiate an official data protection procedure and of its own motion

initiate proceedings against the data protection authority. The data protection authority procedure is the general administrative

CL of 2016 on Public Order. (hereinafter: Ákr.) shall apply with the additions specified in the Infotv. and with the exceptions

according to the general data protection decree.

According to Article 12 (1) to (6) of the General Data Protection Regulation: ‘1. The controller shall

take measures to ensure the processing of personal data by the data subject

all the relevant information referred to in Articles 13 and 14 and Articles 15 to 22. and Article 34

each piece of information in a concise, transparent, comprehensible and easily accessible form, in a clear manner

and provide any information addressed to children, in particular, in plain language

in the case of. The information shall be provided in writing or otherwise, including, where appropriate, by electronic means

must also be provided. Oral information may be provided at the request of the data subject, provided otherwise

the identity of the data subject has been established.

2. The controller shall facilitate the processing of the data subject in accordance with Articles 15 to 22. exercise of their rights

under this Article. Article 11 (2)

In the cases referred to in paragraph 15, the controller shall to exercise their rights under this Article

may not refuse to comply with his request unless he proves that he has not

able to identify.

3. The controller shall, without undue delay, but in any case upon receipt of the request,

shall inform the data subject within one month of the following an application under Article

measures. If necessary, taking into account the complexity of the application and the number of applications,

this period may be extended by a further two months. The extension of the time limit is

controller within one month of receipt of the request, stating the reasons for the delay

inform the data subject within If the application has been submitted by electronic means, the information shall be provided

if possible, by electronic means, unless otherwise requested by the data subject.

If the controller does not act on the data subject 's request without delay, but

shall inform the data subject no later than one month after receipt of the request

the reasons for not taking action and the fact that the person concerned may lodge a complaint with one of the

supervisory authority and may exercise its right of judicial review

5. The information referred to in Articles 13 and 14 and Articles 15 to 22 and 34

the measure shall be provided free of charge. If the data subject's request is clearly unfounded

- due in particular to its repetitive nature - excessive, the data controller, depending on the information requested or

administrative costs of providing information or taking the requested action:

(a) charge a reasonable fee, or

(b) refuse to act on the application.

The burden of proving that the request is manifestly unfounded or excessive is on the controller.

6. Without prejudice to Article 11, where the controller has reasonable doubts as to the application of Articles 15 to 21, article

the identity of the natural person submitting the application under

may request the information necessary to confirm his identity. "

Under Article 15 of the General Data Protection Regulation: '1. The data subject shall have the right to:

receive feedback from the data controller on the processing of your personal data

is in progress and if such data processing is in progress, you are entitled to personal

access to data and the following information:

(a) the purposes of the processing;

(b) the categories of personal data concerned;

(c) the recipients or categories of recipients with whom the personal data are held

have been or will be communicated, including in particular to third country consignees, and

international organizations;

(d) where applicable, the intended period for which the personal data will be stored or, if that is not possible,

criteria for determining this period;

(e) the data subject's right to request personal data concerning him or her from the controller

rectification, erasure or restriction on the processing of such personal data

against its treatment;

(f) the right to lodge a complaint with a supervisory authority;

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

(h) the fact of automated decision-making referred to in Article 22 (1) and (4), including:

profiling and, at least in these cases, the logic used

understandable information about the significance of such data processing and what it is for the data subject

with expected consequences.

(2) If personal data are transferred to a third country or to an international organization

the data subject is entitled to be informed of the transfer

appropriate guarantees in accordance with Article 46.

(3) The data controller shall receive a copy of the personal data which are the subject of the data processing

make it available. For further copies requested by the data subject, the data controller shall be the administrative one

may charge a reasonable fee based on costs. If provided by the data subject electronically

the information shall be made available in a widely used electronic format

unless the person concerned requests otherwise.

4. The right to request a copy referred to in paragraph 3 shall not adversely affect others

rights and freedoms. "

According to Article 23 (1) of the General Data Protection Regulation: “The data controller or

Union or Member State law applicable to the processor may restrict the

12-22. Articles 12 and 34 and Articles 12 to 22. with the rights set out in Article

the rights and obligations set out in Article 5 in

obligations if the restriction respects fundamental rights and freedoms

necessary and proportionate measure to protect the following

in a democratic society:

(a) national security;

b) national defense;

(c) public security;

(d) the prevention, investigation, detection or prosecution of criminal offenses; or

enforcement of criminal sanctions, including against threats to public security

protection and prevention of these dangers;

(e) other important general interest objectives of general interest of the Union or of a Member State, in particular:

Important economic or financial interests of the Union or of a Member State, including monetary,

budgetary and fiscal issues, public health and social security;

(f) protection of judicial independence and judicial proceedings;

g) in the case of regulated professions, the prevention, investigation and detection of ethical violations

and conducting related procedures;

(h) in the cases referred to in points (a) to (e) and (g), even occasionally,

control, inspection or regulatory activity related to the provision of

(i) the protection of the data subject or the protection of the rights and freedoms of others;

(j) enforcement of civil claims. "

According to Article 58 (2) of the General Data Protection Regulation: “The supervisory authority shall be corrective

acting under the authority of:

(a) warn the controller or processor that certain data processing operations are planned

its activities are likely to infringe the provisions of this Regulation;

(b) condemn the controller or the processor if he or she has breached his or her data processing activities

the provisions of this Regulation;

(c) instruct the controller or processor to comply with the conditions laid down in this Regulation

request for the exercise of his rights;

(d) instruct the controller or processor to carry out its data processing operations, where applicable

in a specified manner and within a specified period, in accordance with the provisions of this Regulation;

(e) instruct the controller to inform the data subject of the data protection incident;

(f) temporarily or permanently restrict the processing, including the prohibition of the processing;

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

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

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

or with whom personal data have been communicated;

(h) withdraw a certificate or instruct a certification body in accordance with Articles 42 and 43

revoke a certificate issued by the. or instruct the certification body not to issue the

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

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

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

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

suspension. "

Under Article 83 (2), (5) and (7) of the General Data Protection Regulation:

2. Administrative fines shall be imposed in accordance with Article 58 (2), depending on the circumstances of the case

It shall be imposed in addition to or instead of the measures referred to in points (a) to (h) and (j). When deciding

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

In each case, due account shall be taken of the following:

(a) the nature, gravity and duration of the breach, taking into account the processing in question

the nature, scope or purpose of the infringement and the number of persons affected by and affected by the infringement

the extent of the damage suffered;

(b) the intentional or negligent nature of the infringement;

(c) the mitigation of damage caused to the data subject by the controller or the processor

any measures taken to

(d) the extent of the responsibility of the controller or processor, taking into account the

and the technical and organizational measures taken pursuant to Article 32;

(e) relevant infringements previously committed by the controller or processor;

(f) the supervisory authority to remedy the breach and the possible negative effects of the breach

the degree of cooperation to alleviate

(g) the categories of personal data concerned by the breach;

(h) the manner in which the supervisory authority became aware of the infringement, in particular that:

whether the breach was reported by the controller or processor and, if so, what

in detail;

(i) if previously against the controller or processor concerned, on the same subject matter

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

compliance with measures;

(j) whether the controller or processor has kept itself approved in accordance with Article 40

codes of conduct or approved certification mechanisms in accordance with Article 42;

and

(k) other aggravating or mitigating factors relevant to the circumstances of the case, such as:

financial gain or avoidance as a direct or indirect consequence of the infringement

loss.

[…]

5. Infringements of the following provisions in accordance with paragraph 2 shall not exceed 20 000 000

With an administrative fine of EUR 1 million or, in the case of undertakings, the previous financial year in full

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up to 4% of its annual worldwide turnover,

the higher amount shall be charged:

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

(b) the rights of data subjects under Articles 12 to 22. in accordance with Article

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

transmission in accordance with Articles 44 to 49. in accordance with Article

d) the IX. obligations under the law of the Member States adopted pursuant to this Chapter;

(e) the instructions of the supervisory authority pursuant to Article 58 (2) or the temporary processing of data

or a request to permanently restrict or suspend the flow of data

failure to provide access in breach of Article 58 (1).

[…]

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

each Member State may lay down rules on the

whether an administrative or other body performing a public function may be imposed

fine and, if so, the amount. "

Infotv. 75 / A. § “the Authority shall comply with Article 83 (2) to (6) of the General Data Protection Regulation

shall exercise its powers in accordance with the principle of proportionality, in particular by:

legislation on the processing of personal data or binding European Union law

for the first time in the event of a breach of the rules laid down in

in accordance with Article 58 of the General Data Protection Regulation

alert the controller or processor. "

Infotv. According to Section 61 (4) (b): “The amount of the fine is from one hundred thousand to twenty million forints

may apply if the payment of a fine imposed in a decision in an official data protection procedure

budgetary body, a fine imposed pursuant to Article 83 of the General Data Protection Regulation

in case of."

III. Decision

III. 1. General remarks

Available to the employee according to the definitions in the General Data Protection Regulation

the data content of the workplace e-mail account provided is personal data, performed on the personal data

and any operation is considered data management. A separate issue is that personal data,

or the data processing is exclusively related to the work, its purposes or for private purposes

which occurs when assessing the identity of the data controller and the lawfulness of the data processing

may be relevant.

In the present case, on the basis of the statements and the attached documents, it can be concluded that a

The use of the electronic mail system by the Applicant was not regulated, so the Applicant

the so-called “corporate e-mail account” provided by the Applicant for the use of a

Applicant also used it for private purposes, their private use was not prohibited for him.

In the case where an employee uses an email account - regardless of whether

the employer otherwise prohibits or authorizes private use - stored in it

with regard to personal data, it itself carries out data management activities.

Where the processing is connected with the performance of the work, it shall be for the purpose of:

the employee acts essentially on behalf of the employer as data controller and his activity as

data processing activities can also be attributed to the employer. That this data management a

to the extent that it is lawful for persons other than the employee, regardless

and the liability for any illegality depends on whether

necessary and appropriate technical and organizational arrangements made by the employer as data controller

non-compliance with the measures by the employer or the absence of such measures as a result of

that, in relation to third parties, in accordance with the relevant civil law rules, the

employer is responsible.

With respect to the employee’s own personal data, as long as data processing is the job

the legal basis for data processing in the case of an employment relationship

above all, the employment contract and the data processing must be judged accordingly. That's it

however, as in the present case, when a body or data controller performing a task in the public interest

the legal basis for the data processing is Article 6 of the General Data Protection Regulation.

The legal basis under Article 1 (1) (e) is that the processing of personal data then

lawful if the processing is in the public interest or a public authority vested in the controller

necessary for the performance of its task.

However, in the case of an employee in an email account provided by the employer

also carries out activities which are not related to the performance of work - for private purposes and in connection with which

the

handles the personal data of itself and, in most cases, other third parties, is no longer the case

the situation is clear. In this case, the purpose of the data processing is not determined by the employer

but also the employee, who may, where appropriate, become the data controller himself

in no way related to your work with regard to the personal data of individuals

data management. He decides whether to include personal information in his email account and until

In the possession and control of the account, you can decide to delete it or use it in the meantime.

However, the operation of the system for these personal data continues to be a

the duties and powers of the employer and the disposition of the e-mail account that stores personal information

nor does the employer lose his right to remain a data controller for private data.

The quality of the employer 's data controller cannot be questioned in this case either, because a

are not prohibited by private use and, as a result, may be avoided

to the e-mail account used by him for data processing purposes for his own purposes,

personal data in connection with the processing of data for the purposes of employees, on the one hand

they are actually obtained through persons acting in relation to their own data processing. On the other hand,

whereas, due to the circumstances of the data processing, it is actually possible to have such personal data

in your e-mail account for any purpose that you do not control

they don’t actually show a connection - which is the case with a work email account or cell phone

it can almost never be ruled out in the case of other computer equipment provided as a work tool

and although it would be expected to occur in most cases, it should be expected that

employer - to meet the requirements for their own data management

All data management activities carried out under this Regulation necessarily cover such data

(above all, store them) and to ensure the lawfulness of your own data management

access this personal data in the performance of its essential tasks.

It should also be noted that, as long as the employee is concerned, the processing of such data stored in the email account

solely for his or her private interest, i.e. for private purposes, may be

as data processing exclusively in the context of a personal or domestic activity is excluded

within the scope of the General Data Protection Regulation, this may not be the case for the employer. The

in such cases, therefore, a very specific joint data processing situation arises, in which case the

in any case, the employer qualifies as a data controller and the employee in a legal sense

at least - not necessarily.

In addition to the above, it is also important that due to the legal relationship between the employer and the employee the employer has the primary responsibility for the lawfulness of the data processing, as for him

primarily available tools (internal regulatory and technical operational measures) to ensure legality. So it is his responsibility to recognize this situation, and appropriate employer measures to deal with it, including in the case of joint data management agreement on the details of data management, the responsibilities related to data management its regulation (essentially in accordance with Article 26 of the General Data Protection Regulation).

In the light of the above, the personal data of that employee must be judged by the employer who, in addition to using your e-mail account for work purposes, also use the email account provided by your employer.

In such situations, the lawfulness of data processing is subject to data protection requirements its adequacy in this respect shall be assessed in accordance with the above.

III. 2. Applicant's right of access

The data subject has a right of access under Article 15 (1) of the General Data Protection Regulation is entitled to receive feedback from the controller that it is personal whether your data is being processed and, if such data is being processed, you have the right to have access to your personal data and data management information.

Regarding how to provide information about data management, your data controllers obligations are detailed in Article 12 of the General Data Protection Regulation. It's based on personal information in a concise, transparent, comprehensible and easily accessible form, in a clear and concise manner must be given in plain language. The information must be in writing or otherwise to specify.

Pursuant to Article 12 (3) of the General Data Protection Regulation, the controller is unjustified without delay, but in any case within one month of receipt of the request

shall provide information on the basis of a request for access to personal data

measures. If necessary, this period may be extended by a further two months, which

the fact of the extension and the reasons for the delay within one month of receipt of the request

provide information to the controller within

Pursuant to Article 12 (4) of the General Data Protection Regulation, if the controller a

no action shall be taken following a request, without delay, but no later than the request

within one month of receipt of the measure

the reasons for the non-compliance and the fact that the person concerned may lodge a complaint with the

may exercise his right of judicial review.

According to Article 12 (5) of the General Data Protection Regulation

such as a request for access to personal data

The measure and the information provided about it shall, in principle, be provided free of charge. If concerned

The application is manifestly unfounded or, in particular because of its repetitive nature, excessive

data controller, subject to the provision of the requested information or information or the requested action

may charge a reasonable fee for the administrative costs of making the application, or

may refuse to act on the request. The request is clearly unfounded

however, the burden of proving that it is excessive is on the controller.

Article 23 of the General Data Protection Regulation also sets out the specific cases that

the rights of the data subject, such as the right of access, may be restricted.

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It should be emphasized that the data subject has only a personal right to access

you can access your data. The Authority shall amend Annex III to this Decision. In paragraph 1, it was held that a

the data content of the work email account provided to the employee although personal data

is a separate issue, whether personal data or data processing is limited to

related to work, for its purposes, or for private purposes, as work

related letters, including, where appropriate, business secrets, shall be protected,

therefore, in the event that the data subject's employment relationship is terminated, his or her full e-mail will not be issued to him or her.

This also follows from recital 63 of the General Data Protection Regulation, which states that

the right of access must not adversely affect the rights and freedoms of others,

including the protection of trade secrets or intellectual property, and in particular software

copyright. If the controller handles a large amount of information about the data subject,

may ask the data subject to specify the nature of his or her request before disclosing the information

information or which data management activities.

In the present case, the Applicant requested access to his personal data when his e-mail account was full,

To his archives in 2018 via CD, when his legal relationship has already ended

With application. He wanted to access from this archive, according to his statements, basically

work-related letters. Within that, he would have needed one, in part

private letters containing the identifiers of certain of your applications to conferences,

password, the password sent to the journals, the time of submission, the name of the journal, and various

related to the application of teaching aids for university training in companies

people, information. In addition, specifically with certain communications or scientific

intended to receive letters concerning publications, scientific activity and contracts,

and correspondence with publishers received on behalf of the Applicant,

as well as letters related to the applications he has received and the doctoral training

wanted to access it. However, it did not specify exactly which of these was electronic

you need letters.

In the Authority's view, in this case the Applicant could legitimately refuse to

Applicant has access to the full 2018 archive of his emails, subject to

See also recital (63) of the General Data Protection Regulation, on behalf of the Applicant a

after the termination of his legal relationship, a legitimate aim or interest can no longer be identified which

based on work-related data, information, where applicable, the employer's business

would allow you to access your emails containing your secrets. The Authority is of the opinion that

includes the publications requested by the Applicant, as well as scientific publications, scientific

activity-related letters relating to his activities and contracts.

Such correspondence is also correspondence with publishers, which is a statement of the Applicant

on behalf of the Applicant.

However, this does not mean that the Applicant did not have access to his private letters.

The fact that you wanted access to your entire 2018 mail includes your private mail

access. However, the Applicant did not take any measures to:

have access to these letters from the Applicant. Between the Applicant and the Applicant

It can be established from the correspondence that the Applicant sent the e-mail on February 25, 2019

in its letter denying the Applicant access to the 2018 archives

to his emails that “unless justified by some special university interest, no

we can allow this. On behalf of […] is no longer authorized to act, to do work, so the university

correspondence in the course of work belongs to […]. Nor is it published independently of the GDPR

it could have worked, and so much more since then. ”

12

It follows from recital 63 of the General Data Protection Regulation that a work email account contains such a large number of

incoming and outgoing mail that

the Data Controller, in the present case the Applicant, could not be expected to

sort and send mail on a specific topic. For the full archive

however, as explained above, the Applicant may not have access due to the termination of his legal relationship

to it. However, it was in these circumstances that the Applicant should have been present

Decision III. Take the measures detailed in point 3 so that the Applicant can receive them

private letters.

However, given that the Defendant did not allow the Applicant access

private e-mails in 2018, the Authority notes that the Applicant

infringed Article 15 of the General Data Protection Regulation.

III. 3. Measures and transparency requirements related to the Applicant's right of access

When processing requests for the exercise of data subjects' rights, the data controller shall be subject to the general rules

provide transparent information upon request pursuant to Article 12 of the Data Protection Regulation

measures taken.

In the present case, the Applicant therefore denied the Applicant access to 2018.

after the termination of his legal relationship on behalf of […]

is not entitled to act or perform work, so correspondence in the course of university work a

[…] belongs to.

The Authority shall amend Annex III to this Decision. It stated in paragraph 2 that the Applicant, citing this reason

has unlawfully failed to comply with the Applicant's request for access, thereby violating

Article 15 of the General Data Protection Regulation.

However, in the Authority's view, this information provided at the request of the Applicant is not in line

nor transparency requirements. In the Authority's view, that would have been the case

transparency requirements and it would have been appropriate for the Applicant to

would have informed the Applicant, which it also stated to the Authority during the clarification of the facts.

That is to say, in view of the fact that the Applicant’s employment as a civil servant has been terminated,

You may not mark the Applicant in its publications and scientific publications, so the

There is no interest of the applicant in releasing it - even

in a copy - the complete archive of your e-mail account for 2018 to the Applicant, but complete

open to the transfer of the Applicant 's private letters, provided that they are marked with the

specific emails you need, and indicating on what media

asks to be sent the data.

This can be done even in the manner suggested by the Applicant, according to a table of contents

selects which e-mails you need or, for example, as the Authority states

In its decision, the petitioner explained that the activities of the Applicant and the Applicant, private and

through the joint sorting of letters for the purpose of his work. By this it could be realized that a

Indeed, the applicant should only have access to private letters that do not infringe the

Requested interests.

In view of the fact that the Applicant - Article 12 (1) of the General Data Protection Regulation

did not provide adequate and transparent information on how to know where applicable

to fulfill the Applicant’s access to private letters and why it was refused in February 2019

On the 6th day of its application, the Authority finds that the Applicant has violated the

Article 12 (2) of the General Data Protection Regulation, as it was not facilitated by the Applicant

exercise of the right of access.

III. 4. Legal Consequences

The Authority, granting the Applicant's request, found that the Applicant was unlawful

denied the Applicant access to its 2018 archived private letters,

in breach of Article 15 of the General Data Protection Regulation.

The Authority found of its own motion that the Applicant had not facilitated the Applicant's access

exercised his right as he did not provide him with transparent information following his request

in breach of Article 12 (1) to (2) of the General Data Protection Regulation.

The Authority shall act ex officio in accordance with Article 58 (2) (c) of the General Data Protection Regulation

instructs the Applicant, within 15 days of the final adoption of this decision

review the Applicant’s email account by engaging and informing the Applicant

which personal data in your archive is considered private and for this private electronic purpose

provide access to the Applicant's mail.

The Authority rejected the part of the Applicant's claim that the Authority

oblige the Applicant to issue him / her his / her workplace e-mail account for 2018

archived work-related letters.

The Authority also examined of its own motion whether data protection against the Applicant was justified

imposition of a fine. In this context, the Authority shall comply with Article 83 (2) and (3) of the General Data Protection Regulation

Infotv. 75 / A. § considered all the circumstances of the case and found that the present

In the case of infringements detected during the procedure, the warning is not a disproportionate sanction and therefore a fine required.

In setting the amount of the fine, the Authority took into account, in particular, that:

Infringements by the applicant under Article 83 (5) (b) of the General Data Protection Regulation

shall be deemed to constitute an infringement falling within the higher category of fines.

In setting the amount of the fine, the Authority took into account as an aggravating circumstance

that the Applicant's request for access rights to the Applicant is inadequate

impeded the exercise of the Applicant's right as a data subject. [general privacy]

Article 83 (2) (a) and (k) of Regulation (EC) No In this context, it assessed the nature of the infringement and the data processing

that the right of the person concerned had been exercised in respect of a previous employment relationship.

The Authority took into account as an aggravating circumstance that the Applicant had expressly excluded a

Applicant from the exercise of the data subject's right by not allowing the Applicant

access to its private e-mails in 2018 [Article 83 (2) of the General Data Protection Regulation

paragraph (c) and (d)].

The Authority took into account as an attenuating circumstance that the applicant was convicted of

has not yet taken place due to a breach of the General Data Protection Regulation [General Data Protection Regulation

Article 83 (2) (e)].

The Authority did not consider the general data protection to be relevant when setting the fine

circumstances under Article 83 (2) (b), (f), (g), (h), (i) and (j) of

cannot be interpreted in this case.

In view of the above aggravating and attenuating circumstances, the Authority will set the amount of the fine at

close to the minimum fine. The Authority has taken strong account of this

mitigating circumstances, as in his opinion this could also be the case for the Applicant

to provide for general and special prevention purposes due to a data breach.

Based on the income statement of the Applicant according to the 2018 financial statements

was in the order of HUF 6,500 million, so the data protection fine imposed does not exceed the applicable

maximum fine.

III. 5. Exceeding the administrative deadline

During the procedure, the authority exceeded the Infotv. One hundred and twenty days in accordance with Section 60 / A (1)

administrative deadline, therefore Ákr. Pursuant to Section 51 b), it pays ten thousand forints to the Applicant.

ARC. Other issues:

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

the country

covers the whole territory.

The present decision of the Authority is based on Art. 80-81. § and Infotv. It is based on Section 61 (1). The decision is

Ákr. Pursuant to Section 82 (1), it becomes final upon its communication. The Ákr. Section 112 and Section 116 (1)

and § 114 (1) is the subject of an administrative lawsuit against the decision

place of redress.

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The Ákr. Pursuant to Section 135 (1) (a), the Applicant is entitled to the statutory interest rate

is obliged to pay a late payment allowance if it fails to meet its payment obligation on time.

The Civil Code. 6:48. § (1), in the case of a debt owed, the debtor is in arrears

valid on the first day of the calendar half-year affected by the delay

shall pay default interest at the same rate as the basic interest.

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 (1) by decision of the Authority

The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (3) a)

Pursuant to point (aa) of the Act, the Metropolitan Court has exclusive jurisdiction. A Kp. Section 27 (1)
(b), legal representation is mandatory in litigation falling within the jurisdiction of the Tribunal. A Kp. § 39
(6) of the application for the entry into force of the administrative act
has no suspensive effect.
A Kp. Section 29 (1) and, in this regard, Act CXXX of 2016 on Civil Procedure. law
Applicable according to § 604, electronic administration and trust services are general
CCXXII of 2015 on the rules of According to Section 9 (1) (b) of the Act, the customer is legal
representative is required to communicate electronically.
The time and place of the submission of the application is Section 39 (1). The trial
Information on the possibility of requesting the maintenance of the Kp. It is based on § 77 (1) - (2). THE
the amount of the fee for an administrative lawsuit in accordance with Act XCIII of 1990 on Fees. Act (hereinafter:
Itv.) 45 / A. § (1). From the advance payment of the fee, the Itv. Section 59 (1)
and Section 62 (1) (h) shall release the party initiating the proceedings.
15
74/2020 on certain procedural measures in force during an emergency. (III. 31.)
According to Section 35 of the Government Decree, the state of emergency is the expiration of the deadlines, thus the time
limit for initiating an action
does not affect.
If the Applicant does not duly prove the fulfillment of the required obligation, the Authority shall
considers that it has failed to fulfill its obligations within the prescribed period. The Ákr. According to § 132, if the Applicant
has not complied with an obligation contained in the final decision of the authority, it shall be enforceable. The Authority
decision of the Ákr. Pursuant to Section 82 (1), the communication becomes final. The Ákr. Section 133
implementation, unless otherwise provided by law or government decree
ordering authority. The Ákr. Section 134 of the Enforcement - if law, government decree
or in the case of a municipal authority, the decree of the local government does not provide otherwise - the
carried out by a state tax authority. Infotv. Pursuant to Section 61 (7) in the decision of the Authority

to perform a specific act, conduct or tolerate a specific act

the Authority shall enforce the decision in respect of the standstill obligation

implements.

Budapest, June 8, 2020

Dr. Attila Péterfalvi

President

c. professor