

Case number: NAIH / 2019/1189 /

Subject: Partial decision granting the application

DECISION

Before the National Authority for Data Protection and Freedom of Information (hereinafter referred to as the Authority) [...] (address: [...] hereinafter referred to as the "Applicant") managed by [...] (established in [...], hereinafter referred to as the "Applicant")

access to your personal data and information about the personal data you handle

The following data protection proceedings have been initiated in response to a request for a refusal make a decision.

I. The Authority shall respond to the application in part gives place,

and finds that the Applicant did not comply with the Applicant's request for access in 2012 data beyond the lease.

II. A copy of the contractual documents containing the personal data shall be submitted to the application shall be rejected by the Authority.

III. For all these reasons, the Authority will charge the Applicant for the unlawful data processing it has carried out HUF 300,000, ie three hundred thousand forints data protection fine obliges to pay.

The fine shall run from the expiry of the time limit for bringing an action for judicial review the target forint settlement account for the collection of centralized revenues of the Authority within 15 days from (10032000-01040425-000000000 Centralized direct debit account IBAN: HU83 1003 2000 0104 0425 0000 0000). When transferring the amount, NAIH / 2019/1189. JUDGE. should be to refer to.

If the Applicant fails to meet the obligation to pay the fine within the time limit, a late payment allowance is obliged to pay. The rate of the late payment interest is the statutory interest, which is the calendar affected by the delay

equal to the central bank base rate valid on the first day of the first half of the year. Fines and penalties for late payment
In the event of non-payment, the Authority shall order enforcement of the decision, including fines and late payment
recovery. Recovery of fines and late payment in the manner of taxes by the National
Tax and Customs Office.

There is no administrative remedy against this decision, but it has been available since its notification
Within 30 days, an action brought before the Metropolitan Court may be challenged in an administrative lawsuit. THE
the application shall be submitted to the Authority, by electronic means, which shall forward it together with the file
to the court. The request for a hearing must be indicated in the application. The whole personal
for those who do not benefit from an exemption, the fee for the court review procedure is HUF 30,000;
subject to the right to record material duty. Legal representation is mandatory in proceedings before the Metropolitan Court.

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EXPLANATORY STATEMENT

I. Procedure and clarification of the facts

In his application received by the Authority on 23 January 2019, the Applicant submitted that a lease
in the context of a legal relationship in which the Applicant is the lessor, the Applicant is the lessee,
despite his request, he did not inform about the processing of the Applicant's personal data and is concerned
documents created in the course of the tenancy were not handed over to him.

In view of all this, the Applicant initiated the initiation of the official procedure and as a result a
requested the Authority to send them documents.

According to the petitioner's e-mail dated 5 November 2018, the
Requested to be sent "digitally" to him from the very first contract
all documents and correspondence and informed the Applicant that it was in accordance with the GDPR
exercise its right of access.

Requested in his e-reply dated 7 November 2018 [...]. pdf filename attached

A copy of the lease agreement concluded between the Applicant and the Applicant and informed that
you will not be able to send previous paper-based correspondence electronically, but it is for that

access can be provided by another department. Applicant did not then indicate which handles the personal data of the Applicant.

By e-mail dated 9 November 2018, the Applicant indicated that he had a claim on paper

However, the reply from the Applicant will not be issued until 2019.

received on January 22nd.

By e-mail sent on 22 January 2019, the Applicant informed the Applicant that

paper-based documents related to correspondence with the Applicant are not in the archives are stored.

Before the Authority, at the request of the Applicant, the right to information self - determination and the

CXII of 2011 on freedom of information Section 60 (1) of the Information Act (hereinafter: the Information Act)

NAIH / 2018/1189 initiated a data protection official procedure.

The Authority requested the NAIH / 2019/1189/3 to initiate the data protection authority proceedings.

in order no. In the same order, the Authority, in order to clarify the facts,

Ákr. He invoked the Applicant to make a statement with reference to § 63.

In its reply to the Authority received on 1 March 2019, the Applicant

NAIH / 2019/1189/3. provided with a 15-day response to the fact-finding order

requested an extension of 15 days, which was granted by the Authority.

In its reply to the Authority received on 19 March 2019, the Applicant informed the

Authority that the lease between the parties was concluded on 1 January 2002, which the parties

01 was extended. On behalf of [...], [...] acted, which is the rent for a period of 8 days

made an offer to amend the Applicant, to which the Applicant did not respond, thus the submission of the offer

upon termination of the obligation, the lease concluded on January 1, 2012 between the Applicant and the Applicant

the provisions of the contract remained in force. Subsequently, the Applicant challenged the civil law contract

and then in an e-mail sent by the Applicant to the Applicant on 05 November 2018

sending copies of all documents resulting from the first contract; and

requested information on the processing of his personal data. The Applicant sent on November 7, 2018

informed the Applicant in its electronic reply that the rental file attached under the [...] pdf file name cannot send a document other than the contract to the Applicant before paper-based documents have been archived, access to them by another colleague can provide. Subsequently, the Applicant in a letter dated November 9, 2018 to the archives

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also requested the provision of documents from the Applicant, which the Applicant requested in January 2019. He replied by e-mail dated 22 December, informing him that the cannot provide anything other than electronic correspondence on the subject, the other letter is are not stored in the archives in connection with the Applicant.

According to the reply of the Applicant to the Authority received on 7 May 2019, the Applicant the lease agreement entered into on January 1, 2012 and the lease agreement entered into on January 1, 2012 archived on paper, Act C of 2000 on Accounting. Based on. Of these, the previously concluded lease contract dated 7 November 2018 and the subsequent lease dated 21 February 2019 forwarded to the Applicant. As set out in points 4 and 9 of the Applicant's reply additional paper document in order to fulfill the obligations and in connection therewith (such as invoices and tax-related statements required by law) only for rent in respect of a third party entitled to issue an invoice for the fee, not in relation to the Applicant.

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

Pursuant to Article 2 (1) of Regulation 2016/679 (General Data Protection Regulation, hereinafter "GDPR") the general data protection regulation applies to all or part of personal data automated processing of personal data and non-automated processing of personal data which are part of a registration system or which are intended to be part of a registration system.

Pursuant to Article 2 (2) (c) GDPR, the GDPR does not apply to personal data

natural persons solely in the course of their personal or domestic activities

carried out. According to recital 18 in the preamble to the GDPR, it is a personal or domestic activity

such as correspondence, directory storage, and said personal and domestic activities

social networking and online activities.

Pursuant to Article 12 (1) to (3) of the GDPR, the controller shall take appropriate measures to that effect

in accordance with Articles 13 and 14 on the processing of personal data

all the information referred to in paragraphs 15 to 22. and Article 34 shall be concise,

in a transparent, comprehensible and easily accessible form, worded in a clear and comprehensible manner

particularly in the case of any information addressed to children. You are in writing

otherwise, including, where appropriate, by electronic means. Oral at the request of the person concerned

information may be provided provided that the identity of the data subject has been otherwise established.

The controller shall facilitate the 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 is not present

way to identify.

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

the time limit may be extended by a further two months. On the extension of the deadline, the data controller a

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

the data subject. If the person concerned submitted the application electronically, the information shall be provided as far as possible

shall be provided by electronic means, unless otherwise requested by the data subject.

Pursuant to Article 15 (1) of the GDPR, the data subject has the right to receive feedback from the controller

whether your personal data is being processed and if so

data processing is in progress, you have the right to access personal data and the following information

get access to:

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(a) the purposes of the processing;

(b) the categories of personal data concerned;

(c) the recipients or categories of recipients to whom the personal data have been disclosed

or will be communicated, including in particular to third country recipients or 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 and may object to the processing of such personal

data

against;

(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.

Pursuant to Article 15 (3) of the GDPR, the controller is the personal data subject

provide a copy of the data to the data subject. For further copies requested by the data subject,

the controller may charge a reasonable fee based on administrative costs. If concerned

submitted the application electronically, the information is widely used electronically

shall be provided in a format other than that requested by the data subject.

The Authority shall inform Infotv. With regard to Section 61 (1) (a), pursuant to Section 58 (2) of the GDPR

may apply legal consequences.

Pursuant to Article 58 (2) (b) of the GDPR, acting within the corrective power of the supervisory authority condemn the data controller or the data processor if its data processing activities have violated this provisions of this Regulation. According to point (d) of the same paragraph, the supervisory authority is corrective instruct the controller or processor, acting in accordance with its powers, to carry out its data processing operations, where appropriate and within a specified period, bring this Regulation into line provisions.

III. Decision of the Authority

III.1. Applicant 's right of access

III.1.1. With regard to the examined data management, it arose in connection with the lease agreement information on the Applicant in the documents shall be provided by the Applicant in accordance with Article 4 (1) of the GDPR personal data, the Requested Data Controller, the processing of documents in internal procedures its use constitutes data processing under Article 4 (2) of the GDPR, subject to the rules of the GDPR apply.

III.1.2. The Applicant's request to exercise the right of access and issue of a copy in 2018.

sent it to the Applicant by e-mail on 5 November. The applicant for the lease

He sent it on November 7, 2018, but requested a copy of the paper correspondence referred to therein

did not send or inform the Applicant about the handling of his personal data, but did not provide information about it informed the Applicant that the paper documents had been filed.

The Applicant declares that, contrary to the previous information, it does not deal with the Applicant paper-based correspondence, only informed the Applicant by e-mail dated 22 January 2019.

In view of the above, the Authority concludes that the Applicant is the Applicant only partially fulfilled his right of access by sending the lease.

The Authority does not accept the argument in the reply sent by the Applicant that

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the Applicant 's letter did not contain an express request to request information from the

About the personal data managed by the Applicant, as the Applicant is dated electronic on 05 November 2018

his letter expressly stated that “consider my request that I wish to live under the GDPR

to obtain information and data held about me and the other parties, and

my right of access’.

The Applicant would have acted lawfully if the request had been

forward it to the department or the Data Protection Officer and shall request the Applicant

within the time limit laid down in Article 12 (3) of the GDPR,

it shall reject its application in respect of the other Contracting Parties.

The content of the information obtained under the right of access is basically divided into three categories

can be classified in terms of content: the fact of data management, actually handled by the data controller

personal data and the relevant circumstances of data processing. By requesting the

only one of the Applicants wishing to exercise their right of access and information

sent a lease within the prescribed time limit, caused a violation of the Applicant's right of access.

Furthermore, during the reply, the Applicant did not inform the Applicant of his right to a legal remedy,

in breach of Article 15 (1) of the GDPR. (f).

The Applicant submitted a further request to the Authority at the same time as the

To the Applicant, the Applicant replied on 21 February 2019. The exercise of the rights of the data subject in this

The request made to the applicant authority by

the information thus provided is to be ordered only in the present case

measures.

The Authority shall provide the Applicant's application with contractual documents containing personal data

rejects the part relating to the sending of a copy because it is in the Requested Part of the Authority

requests for data prior to the initiation of the proceedings and in part after the initiation of the proceedings

performed during.

III.2. Legal consequences

III.2.1. The Authority shall inform Infotv. With regard to Section 61 (1) (a), Article 58 (2) of the GDPR

may apply the legal consequences of

The Authority grants the Applicant's request in part and Article 58 (2) (b) GDPR

condemns the Applicant as a data controller on the basis of the

The provisions of Article 12 (3) of the GDPR and Article 15 of the GDPR.

The Authority refused to send the Contractor the contract documents

as the Applicant provided these documents to the Applicant by letters dated 07 November 2018 and 21 February 2019.

The Authority examined of its own motion whether a data protection fine against the Applicant was justified.

imposition. In this context, the Authority will amend Article 83 (2) of the GDPR and Infotv. 75 / A. §

all the circumstances of the case and found that, in the case of the infringements found in the present proceedings,

the warning is neither a disproportionate nor a dissuasive sanction, so a fine should be imposed. THE

In imposing the fine, the Authority took into account the following factors:

The infringement committed by the Applicant falls into the category of Article 83 (5) (b) GDPR

as the violation committed by the Applicant is related to the exercise of the rights of the data subject.

III.2.2. In setting the fine, the Authority assessed the following:

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- the Applicant acted negligently in not properly informing the Applicant

processing of your personal data and your request for access

fulfilled;

- the Applicant did not recognize the application for the exercise of the rights of the data subject, so his / her reply

acted improperly;

- not to convict the Applicant for violating the General Data Protection Regulation

took place;

- the Applicant forwarded his / her request to the Applicant after the commencement of the procedure

copies of documents.

The imposition of a fine is necessary for the Applicant with respect to additional violations

despite the exercise of the rights of a single party in the present case

it is a related infringement.

In view of the above, as well as the fact that the Applicant has sales revenue according to its 2017 report more than HUF 28 billion, the data protection fine imposed is a token amount and does not exceed the maximum fine that may be imposed.

The amount of the fine was determined by the Authority acting in accordance with its statutory discretion.

Based on the above, the Authority Pursuant to Section 61 (1) (a), in the operative part decided in accordance with the provisions of.

ARC. Other issues

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

In the course of the procedure, the Authority exceeded the Infotv. 60 / A. § (1) is one hundred and twenty days administrative deadline, therefore Ákr. Pursuant to Section 51 b), it pays ten thousand forints to the Applicant.

The Ákr. Pursuant to § 112 and § 116 (1) and § 114 (1) there is an administrative remedy against him.

The rules of the administrative lawsuit are set out in Act I of 2017 on the Rules of Administrative Procedure (a hereinafter: Kp.). A Kp. Pursuant to Section 12 (2) (a) by decision of the Authority

The administrative lawsuit against the court falls within the jurisdiction of the court Pursuant to Section 13 (11) the Metropolitan Court has exclusive jurisdiction. Act CXXX of 2016 on Civil Procedure.

Act (hereinafter: Pp.) - the Kp. Applicable pursuant to Section 26 (1) - Pursuant to Section 72 a legal representation is mandatory in litigation within the jurisdiction of the tribunal. Kp. Pursuant to Section 39 (6) - if law does not provide otherwise - the filing of an application is an administrative act has no suspensive effect.

A Kp. Section 29 (1) and with this regard Pp. Applicable in accordance with § 604, electronic CCXXII of 2015 on the general rules of public administration and trust services. Act (a hereinafter: E-Administration Act) § 9 (1) (b), the customer's legal representative obliged to keep in touch.

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

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

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

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

Section 62 (1) (h) exempts the party initiating the proceedings.

If the required compliance is not duly demonstrated by the applicants, the Authority shall:

considers that the obligation has not been fulfilled within the time allowed. The Ákr. According to § 132, if the debtor

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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), it becomes final with the communication. The Ákr. Pursuant to § 133

enforcement, unless otherwise provided by law or government decree, is the decision-making authority

order. The Ákr. Under Article 134 of the Enforcement - if by law, government decree or municipal

in the case of an official matter, the decree of the local government does not provide otherwise - the state tax authority

implements. Infotv. Pursuant to Section 61 (7), it is included in the decision of the Authority

an obligation to commit an act, to behave in a certain manner, to tolerate or to cease

implementation of the decision shall be carried out by the Authority.

Budapest, May 23, 2019

Dr. Attila Péterfalvi

President

c. professor