

Case number: NAIH / 2018/5559 /

Administrator: [...]

/ H.

Subject: Decision granting the application

Before the National Authority for Data Protection and Freedom of Information (hereinafter referred to as the Authority) [...]

hereinafter referred to as the "Applicant"), the [...] (hereinafter referred to as the "Defendant")

shall take the following decisions in the data protection authority proceedings initiated at the request of the

I. In the decision of the Authority

1) the Applicant

grant your request

and finds that the Debtor has not complied with the rights of the Applicant concerned - the right of access, including

the right to issue a copy or the right to restrict data processing

requests.

2) The Authority shall charge the Debtor for the unlawful data processing carried out by it

HUF 1,000,000, ie one million forints

data protection fine

obliges to pay.

The fine shall be imposed on the Authority within 15 days of the decision becoming final

forint settlement account (10032000-01040425-00000000 Centralized collection

account IBAN: HU83 1003 2000 0104 0425 0000 0000). When transferring the amount a

NAIH / 2018/5559 / H. JUDGE. number should be referred to.

If the Debtor fails to meet its obligation to pay the fine on time, to the above account number

is required to pay a late payment allowance. The amount of the late fee will be charged after each calendar day

365ths of twice the central bank base rate in force on Fines and penalties

in the event of non-payment of the surcharge, the Authority shall order enforcement of the decision, a fine and a penalty

recovery of surcharge in the form of taxes. Fines and penalties for late payment in the form of taxes

recovery is carried out by the National Tax and Customs Administration.

There shall be no administrative appeal against this decision, but it shall be subject to a right of appeal within 30 days of its notification

An action brought before the Metropolitan Court may be challenged in an administrative action within one day. THE

The application shall be submitted to the Authority, electronically, which shall forward it together with the case - 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.

II. [...]

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## EXPLANATORY STATEMENT

### I.1. Procedure and clarification of the facts

I.1.1. In its application received by the Authority on 27 August 2018, the Applicant submitted that the July 2018

Appeared in person between 08:37 and 08:50 on 9 July and between 14:09 and 14:20 on 11 July.

Obliged at its registered office with the intention of hearing the hearing on 27.09.2017. held for days

on the other hand, to take over the record of the general meeting held on the same day.

in response to a previous request for blocking related to the recording of the 2016-2017 year

He also wanted to see the reports and minutes of the Supervisory Board, but this was not the case

the Debtor did not comply with his requests.

The Applicant sent an e-mail to the Applicant on 12 July 2018 on the above dates

non-deletion of recorded camera recordings monitoring the reception and waiting area,

requested that it be blocked for a period of one year and that copies of the recordings be made available for inspection. THE

Applicant explained that the blocking of the recordings or the issuance of copies thereof was personal

you need a lawsuit, as well as a lawsuit related to a securities relationship.

In its reply sent on 3 August 2018, the Debtor informed the Applicant that the

did not restrict the handling of camera recordings, given that the General Data Protection Regulation

hereinafter referred to as the GDPR) 1

the necessary condition was not met, as the reasons given by the Applicant do not substantiate the legitimacy of the restriction claim. The camera recording only confirms that the Applicant is specified was present at the reception at times, a fact which is not disputed by the Debtor. As required by the Debtor

The camera system only captures images, not sound, so camera recording is not suitable to certify the matter in which the Applicant appeared at the Debtor's registered office.

The Applicant did not accept the response to the Debtor's request for the exercise of rights, therefore initiated a data protection authority procedure in which it was established requested the Authority that the Debtor did not comply with his request for a restriction on data processing and oblige the data processing to be limited to a period of 5 years, and also determine the Debtor breach of its obligation to provide the right of access and to bind the Debtor to restrict the handling of camera recordings and to provide appropriate information a by viewing a camera recording or issuing a copy, and - the person in question

If you delete camera images, determine whether the deletion is illegal.

The Authority shall comply with the provisions of Act CXII of 2011 on the right to information self-determination and freedom of information.

Pursuant to Section 60 (1) of the Act (hereinafter: the Information Act) 2, NAIH / 2018/5559 / H. case number initiated a data protection authority proceeding.

I.1.2. The Authority has issued NAIH / 2018/5559/3 / H. information on the case in its order number asked the Debtor to clarify the facts.

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The protection of individuals with regard to the processing of personal data and the protection of such data and repealing Directive 95/46 / EC

2 Infotv. Section 60 (1): "In order to enforce the right to the protection of personal data, the Authority shall do so initiate a data protection authority procedure upon request and may initiate an ex officio data protection authority procedure. "

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The Debtor quoted from the information on camera data processing in force at the time of the reply, that the rights or legitimate interests of the person affected by the image are protected by and Act CXIII of 2005 on the Rules of Private Investigation. Act (hereinafter:

Pursuant to Section 31 (6) of the Act, on three working days from the recording of the image request that the data not be destroyed by the controller by proving his right or legitimate interest within or do not delete it.

The Debtor stated that the Applicant's application for the exercise of the right concerned was not fulfilled because the Applicant, without giving a specific justification, proposed on 8 July 2018 08:37 and Camera shots between 8:50 a.m. and July 14, 2018 from 2:09 p.m. to 2:20 p.m.

for a limited period. In his request for blocking of the camera recording, the Applicant stated that deleting the recordings would harm its legitimate interests, however, that deleting the marked camera recording in what way it would infringe its legitimate interest and the violation of its legitimate interest, and on what basis requests the blocking of the camera recordings in connection with the enforcement of the claim, the Applicant did not present it.

The Debtor has declared to the Applicant to view the recordings or a copy has not complied with his request for extradition for the reasons described above (the request is unfounded), as the Applicant has not substantiated any of the conditions set out in Article 18 (1) of the GDPR existence. In the Debtor's opinion, the recordings would have only proved that the Applicant appeared at the Debtor's registered office at that time, which is not disputed by the Debtor.

In view of the fact that the Debtor has stated in its notice on data processing that the camera recordings will be deleted within 3 days if not used, as well as the Obligated seeks to apply the principle of data minimization, also enshrined in the GDPR, to the Applicant Lock his request was answered in detail within the legal deadline, in the framework of which he was rejected.

As a result, the camera footage in question was deleted on the third day after recording.

#### I.1.2. Applicable law

##### 1. General Data Protection Regulation

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

Act (hereinafter: the Information Act)

3. CL of 2016 on General Administrative Procedure. Act (hereinafter: Act)

4. On the rules for the protection of persons and property and for the activities of private investigators

2005 CXXXIII. Act (hereinafter: Act)

I.3. Decision:

I.3.1. Request by the Applicant to exercise the right of access

According to Article 15 of the GDPR, the data subject has the right to receive feedback from the controller

whether the controller handles his personal data and, if so, whether

is entitled to have access to the personal data processed about him or her and to information on the processing of the data

access. Article 15 (3) of the GDPR provides that the controller is the controller

provide the data subject with a copy of the personal data

effective and complete access to personal data.

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The right of access, including a partial license, shall be the right to make a copy available

- the GDPR does not impose any additional requirements for its exercise, it can be exercised unconditionally,

therefore, the data subject does not have to prove his right or legitimate interest in exercising his right of access,

or you do not have to justify why you want to exercise this right.

The Debtor refused the Applicant's request for access on the grounds that the Debtor's registered office

inspecting the camera recordings of the Applicant and issuing a copy of the recordings -,

that the Applicant has not proved the existence of any of the conditions set out in Article 18 (1) of the GDPR,

moreover, in its view, the recording, in the absence of sound recording, merely proves that it is

the Applicant appeared at the Debtor's registered office.

The Debtor therefore bound the Applicant to the camera recordings in order to prove his legitimate interest

access to the data subject's request for the exercise of the right of access

it can only be refused in cases under Article 12 (5) GDPR, ie if the application

clearly unfounded or excessive, however, these circumstances were not invoked by the Debtor neither in the reply to the Applicant nor to the Authority. As a result, the Debtor violated the Article 15 of the GDPR, when it did not provide the Applicant with access to the camera recordings, nor did it provide a copy of the camera footage.

### I.3.2. Applicant's request to restrict data processing

Pursuant to Article 18 (1) (c) GDPR, the data subject has the right to request the controller restricts data processing if the data controller no longer needs personal data to achieve the purpose of the processing, but the data subject requires them to lodge legal claims, to enforce or protect. In this case, the data controller shall process the data it shall be suspended for the time necessary to bring or enforce the legal claim.

The Debtor refused to comply with the Applicant 's request for a restriction on data processing because the conditions of Article 18 (1) (c) of the GDPR were not met, the

The reasons given by the applicant did not establish the merits of the application, since it did not state that how the deletion of a camera recording would harm its legitimate interests and for which enforcement calls for a restriction on data processing in relation to camera recordings.

Pursuant to Article 18 (1) (c) of the GDPR, it is sufficient for the data subject to claim that restrictions on data processing are necessary for the submission and enforcement of a legal claim, in particular whereas in certain cases the restriction of data processing to the exclusion of personal data be deleted at the end of the data processing period, a precondition or not further enforcement.

The Debtor's argument that in the absence of sound recording, the camera recording is only to prove it is suitable that the Applicant was present at the Debtor's registered office at the given times, but not what matter appeared there, what he asked for, and what response he received to his requests, is not acceptable because it is When executing a request for a restriction on data processing, the controller shall not consider that: personal data in respect of which the data subject has requested a restriction on data processing is appropriate, or necessary for its legal submission or enforcement. We provide personal information that is handled

whether the data subject has requested to be restricted, it is not for the data controller to decide

but to the authority or court whose rights are sought in the proceedings

to enforce. Article 18 (1) (c) of the GDPR does not contain a requirement of necessity,

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if the purpose of the restriction of data processing is the submission, enforcement or

protection, the controller must comply with the request,

In the case of the case, in its view, the data the processing of which is requested to be restricted by the data subject is not necessary

to bring, assert or defend the legal claims of the data subject.

As the Applicant explained in his application that the recordings were blocked or copied

for the issuance of a personality lawsuit, as well as a lawsuit related to a securities relationship, legal

procedure, which is justified or probable by the provisions of the GDPR

according to which it is not necessary, therefore the Debtor violated it by refusing the blocking request of the Applicant

The right to block data processing, ie the GDPR. Article 18 (1) (c).

The Debtor shall comply with the provisions of Section I.2. referred to in its notice on the handling of data by the camera

the Svv. § 31 (6). The Svv. its rules should be interpreted in the light of the GDPR. From this

due to the Svv. Section 31 (6), however, provides that whose rights or legitimate interests are affected by a

camera recording, it may only request this from the controller by proving this right or legitimate interest,

not to destroy or delete the recording, however, the GDPR has the right to access and

provisions on the exercise of the right to restrict data processing do not provide for such

conditions, the data subject does not have to prove his rights or legitimate interests in order to exercise those rights to practice.

This is borne out by the fact that individual laws with the European Union's data protection reform

Pursuant to Section 42 (2) of the Substantive Amendment, the Ministry of Justice

made a proposal to the Government for the To amend § 31, the adoption of which by the Act.

in the future, it would not require data subjects to prove their rights or legitimate interests

so that the data controller does not delete or destroy the camera recordings.

The provisions of the GDPR are directly applicable to Hungarian legal entities from 25 May 2018, except for those for the full application and implementation of each Member State's national additional provisions are required by its legislation. In addition, the Regulation Member States have an additional or different direction rules, but the exercise of the rights of the data subject does not fall within this scope, Member States, Thus, Hungary has not been authorized to exercise the rights of the data subject the data subjects must prove their legitimate interests, therefore the Szvtv. Section 31 (6) shall not apply, if the data subject requests the data controller not to delete or destroy the camera recordings.

#### I.3.3. Rejection of the Applicant's claims for the exercise of the rights concerned

Pursuant to Article 12 (4) GDPR, if the controller does not take action at the request of the data subject inform the data subject of the factual and legal reasons for not taking action, and that the person concerned may lodge a complaint with a supervisory authority and have recourse to the courts right of appeal.

In its reply, the Debtor explained the factual and legal reasons for the rejection of the Applicant's claims reasons, but did not inform the Applicant of his remedies, in breach of the GDPR.

Article 12 (4).

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#### I.4. Sanction and justification applied:

During the clarification of the facts, the Authority established that during the data processing of the Debtor - Annex IV. infringed Article 12 (4), Article 15 and Article 18 of the GDPR.

Article 1 (1) (c). The Authority examined Article 58 (2) (i) of the GDPR ex officio the need to impose a data protection fine in the light of Article 83 of the GDPR.

In view of this, the Authority Pursuant to Section 61 (1) (a), they are contained in the operative part and in this decision obliged the Debtor to pay a data protection fine.

As to whether a data protection fine is justified, the Authority will address the issue of Article 83 (2) GDPR.



considered all the circumstances of the case. The Authority considers it necessary to impose a fine as the Debtor has not complied with the requirements for the exercise of the Applicant's rights as a data subject and did not inform him of his remedies.

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

In imposing the fine, the Authority took into account Article 83 (2) GDPR aspects. Depending on the nature of the infringement - infringement of the rights of the persons concerned - the maximum amount of the fine that may be imposed is EUR 20 000 000 pursuant to Article 83 (5) (b) GDPR or, in the case of the Debtor, the previous up to 4% of total world market turnover for the financial year.

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

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the nature of the infringement, as it involved an infringement of the rights of the Applicant;  
refusing to comply with the Applicant's request for a restriction on data processing  
as a result, the Debtor has deleted the camera recordings, which cannot be recovered;  
the Debtor committed the IV. infringements referred to in point (a);  
the Sv. the rules relevant to the present case are still in force, but they are not in accordance with GDPR as specified by the Authority in Annex I.3.2. and this could have misled the Obligated during the examination of the Applicant's application.

In view of the above, and in view of the fact that the sales revenue of the Debtor in the 2017 financial statements was HUF 15,319 million, the data protection fine imposed is a token amount and does not exceed the maximum fine that may be imposed.

II. [...]

III. 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 Ákr. § 112 and § 116 (1) and § 114 (1), respectively

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) by decision of the Authority

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The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (11)

the Metropolitan Court has exclusive jurisdiction. 2016 on Civil Procedure

CXXX. Act (hereinafter: Pp.) - the Kp. Applicable pursuant to Section 26 (1) - Section 72

legal representation is mandatory in litigation within the jurisdiction of the tribunal. Kp. Section 39 (6)

according to - unless otherwise provided by law - the filing of the application by the administrative

has no suspensory effect on the entry into force of the 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 administration and trust services. Act (a

hereinafter: E-Administration Act), the client's legal representative pursuant to Section 9 (1) (b)

obliged 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.)

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.

Budapest, December 21, 2018

Dr. Attila Péterfalvi

President

c. professor