Case number: NAIH/2020/4542/4.

Subject: decision partially granting the request

H A T A R O Z A T

started with ……

2020 at the National Data Protection and Freedom of Information Authority (hereinafter: Authority).

on the 6th of June based on the request of the Applicant (residential address: …… hereinafter: Applicant).

official data protection procedure

(seat: …….. a

hereinafter: Obligor) against, to check that the data management carried out by it, when

the Applicant's letter dated January 29, 2020 was answered not by the Applicant, but by the Applicant

provided to employer …… (hereinafter: Employer), during which a

He forwarded the Applicant's personal data to the Employer, whether the personal data was correct

regarding its protection and the free flow of such data, as well as a

Regulation 2016/679 (EU) on the repeal of Directive 95/46/EC (hereinafter: GDPR

or general data protection regulation) rules. The Authority vis-à-vis the Obligor is as follows

makes decisions:

I. The Authority's request to remedy data protection violations

agrees in part as follows:

I.1. It states that the Obligor forwarded the Applicant's personal information without a proper legal basis

data to the Employer.

I.2. The Applicant finds that the Obligor has violated the principle of purpose-boundness

during the transfer of your data, as the data management purpose indicated by you did not actually exist.

I.3. It finds that the Obligor violated the Applicant's right of access by not

provided complete information to the Applicant - dated March 10 and April 14, 2020

despite your repeated request - about the legal basis and purpose of transferring your personal data,

as well as the recipients of the data transfer.

I.4. It instructs the Obligor to, within 30 days of the decision becoming final

provide information to the Applicant in accordance with Article 15 of the GDPR regarding access

about all the information included in the application.

II. The Authority's request to remedy data protection violations

rejected in part as follows:

II.1. There was no data protection incident due to the fact that the Obligor is the Applicant

forwarded your data to the Employer.

II.2. The Obligee did not violate the basic principles of data saving during data transfer.

III. From the office, I.1., I.2. and I.3. the Obligor due to data protection violations established in point

within 30 days of this decision becoming final

HUF 2,000,000, i.e. two million forints

data protection fine

obliged to pay.

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***

The fine is transferred to the Authority's centralized revenue collection purpose settlement account (10032000-

01040425-00000000 Centralized direct debit account IBAN: HU83 1003 2000 0104 0425 0000 0000)

must be paid in favor of When transferring the amount, NAIH/2020/4542. FINE. number must be referred to.

If the Obligor does not fulfill his obligation to pay the fine within the deadline, a late fee will be charged

is obliged to pay. The amount of the late fee is the legal interest, which is the calendar interest affected by the delay

is the same as the central bank base rate valid on the first day of the semester. Fines and late fees

in the event of non-payment, the Authority orders the execution of the decision, the fine and the late fee

collection in the manner of taxes.

There is no place for an administrative appeal against this decision, but it is subject to notification

Within 30 days with a letter of claim addressed to the Capital Court in a public administrative case

can be attacked.

The statement of claim must be submitted electronically to the Authority, which will submit it together with the case documents forward to the court. The request to hold a hearing must be indicated in the statement of claim. The entire

for those who do not receive a personal tax exemption, the fee for the judicial review procedure

HUF 30,000, the lawsuit is subject to the right of material levy record. In the proceedings before the Metropolitan Court, the legal

representation is mandatory.

For the Obligor I.3. from the date of receipt of this decision

Within 30 days, you must prove in writing - together with the presentation of supporting evidence - a

To authority. In case of non-fulfilment of the prescribed obligations, the Authority initiates the decision

implementation.

I N D O C O L A S

I. The sales process is a fact

I.1. The Applicant - through his representative - dated May 28, 2020 and sent to the Authority on June 5, 2020.

in his application received on The Applicant 2020.

on January 29, he wanted to use the mobile parking service, but there was an error in the service, so

the payment was unsuccessful, for which he was fined.

On February 6, 2020, the Applicant sent the Obligor electronically via the email address ……..

requested to reimburse the amount of the surcharge, as the service error caused damage to him.

This request of the Applicant, as well as its attachments, contained the name of the Applicant, which he used

phone numbers, MT ID, description of the case (place and time of parking, as well as the

registration number of the vehicle used by the applicant), Budapest II. District Mayor's Office

The decision of the Municipal Administration on the imposition of a fine during the mobile parking service

received and sent messages, the approval of the transaction of the bank managing the account, which it contained

account number and the amount paid (hereinafter together: Applicant's personal data).

The Obligor sent the reply to the Applicant's letter dated February 6, 2020, not to the Applicant, but to

He sent it to an employer. The Applicant became aware of this while employed by the Employer

another employee forwarded to the Applicant the response letter from the Obligor and its attachments, which attachments contained the Applicant's personal data, which data the Applicant attached to the letter sent to the Obligor.

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I.2. In a letter dated March 10, 2020, the Applicant addressed the Obligor, where he explained that by the fact that the Obligee sent the reply letter sent to the Applicant's letter to the Employer, the During the transmission of the applicant's personal data contained in the reply letter, the data management does not had an appropriate legal basis, and it also violated transparency, purposefulness and data saving principle. In this letter, the Applicant asked the Obligor that Article 15 of the GDPR based on this, provide him with information about to whom he forwarded his personal data and what kind manages the Applicant's personal data for the purpose and legal basis.

The Obligor invited the Applicant to provide additional data, then dated April 3, 2020 in his reply letter, he provided the information that he sent his reply letter to the Employer because in the Applicant's letter - "I parked in Budapest on 29.01.2020. At 08:24 the …… I wanted to exchange a parking ticket from a phone number via SMS service." - such a phone number indicated, in respect of which the Employer, not the Applicant, qualifies as a subscriber. And because 6.3.1 of the General Business Terms and Conditions (GTC) of the Obligor point contains that "The Service Provider investigates the Complaint and informs the Subscriber of the result of the investigation will notify you in writing within 30 days (…)", that is why the telephone number sent the reply letter its subscriber, i.e. the Employer.

In his letter dated April 14, 2020, the Applicant explained that, in his opinion, the Obligor the cited GTC provision applies to the case where a subscriber files a complaint To the obligee, because in this case the answer must be given for him, i.e. for the subscriber. THE The applicant therefore continued to maintain its position that the Obligor's personal data by forwarding it to the Employer, it violated the GDPR and electronic communications Act C of 2003 (hereinafter: Act) on the processing of personal data

its provisions. According to the Applicant's point of view, it was also not necessary to answer

the Obligee shall forward to the Employer all of the Applicant's - indicated above -

your personal data. In this letter, the Applicant repeatedly requested that the Obligor provide it

information about the recipients, purpose and legal basis of the data transfer.

In a letter dated April 29, 2020, the Obligor explained that the Applicant is the indicated telephone number

regarding the Eht. to a user according to § 188, point 26, and not to a subscriber according to point 22

it counts as. The Obligor is the Eht. Based on § 138, paragraph (1) and § 138, paragraph (2) point b)

complaints are always answered by the subscriber, since he has a contractual legal relationship with him. THE

The Obligor also submitted that his question regarding the processing of the Applicant's personal data is for this reason

does not answer, because the complaint is not related to data protection, but to communications. The Obliged

added that he had not forwarded the

Applicant's personal data.

According to the Applicant, a data protection incident occurred as a result of the data transfer

and, the Applicant has lost the possibility of disposal over his personal data, his personal data

the confidential nature of which has been violated, the data is for the Employer who is not authorized to do so

have become accessible, the Applicant does not know who and in what depth they knew him personally

data, the data management did not meet the accountability, goal-bound and fair

data management and the principles of data saving, and presumably does not have adequate

legal basis. Furthermore, according to the Obligor's judgment, he has violated his right of access.

In view of all these, the Applicant asked the Authority to initiate an official procedure and establish

and the fact of illegal processing of the data, call the data controller to remedy the violation,

as well as to comply with the Requester's access request, impose beyond all these

fine, and if he makes a conviction in the case, he makes it public

I.3. Regarding the processing of personal data of natural persons upon request

on the protection and free flow of such data, and outside the scope of Directive 95/46/EC

Regulation 2016/679 (EU) on data protection (hereinafter: general data protection regulation) Article 57

(1) point f) and on the right to self-determination of information and freedom of information

CXII of 2011 Act (hereinafter: Infotv.) on the basis of Section 60 (1) of the data protection authority

a procedure was initiated, in the framework of which, in order to clarify the facts, the Authority issued the order a

He turned to the respondent.

I.3.1. In response to the Authority's question about the purpose and legal basis for which the Obligor forwarded the

Applicant's personal data to the Employer, he submitted that he submitted to the Applicant

he sent his access request to the Employer because he used it at the Obligor

service - in connection with which the Applicant submitted the access request -

subscriber and bill payer is the Employer. The Obligor added that he does not have it

with relevant information on how the subscriber arranges the

rules related to the use of the phone number, whether additional persons are allowed access a

to phone number. According to the Respondent, if "a complaint about your service

regarding the complaint and the information provided by the complainant in the complaint, it could not reveal it

in front of the subscriber, could lead to serious abuses, since without the subscriber's knowledge and intention

notwithstanding, another person could take action regarding the subscriber's subscription".

The Obligor submitted that the Eht. Based on Section 188.22, the Employer to the subscriber, while a

He is considered a requesting user. The Obligor added that the user of the subscription can also do so

complaint, but this - Eht. Subject to Section 138 (1) - it cannot be assumed that the user

the response to the complaint submitted by the subscriber should not be known.

The Obligor also referred to Eht. § 138, paragraph (2), according to the judgment of the Eht

acted in an appropriate manner when responding to the complaint to the subscriber, since he is with him

in a contractual relationship.

I.2.2. The Obligor submitted that among the Applicant's personal data only for the subscription

the data relating to the related complaint and included in or attached to the complaint

forwarded to the Employer, this data is the information necessary to settle the complaint.

This information was provided by the Applicant to the Obligor when he filed a complaint, and a

The applicant complained to the Company knowing that it was not his own, but the

Acts in relation to the phone number in the employer's subscription.

I.2.3. The Obligor also submitted that the Applicant on March 10 and April 14, 2020

submitted requests - in which the Requester inquired about the purpose of data transfer, recipients and

between his legal grounds - he answered on March 23 and April 29, 2020.

In a letter dated March 10, 2020, the Applicant asked the Obligor that Article 15 of the GDPR

provide him with information about to whom he forwarded his personal data, or

requested information on the purpose and legal basis of data management. Specifically in the subject of the submitted

application

was marked "Privacy notice".

In a letter dated March 23, 2020, the Obligor - in order to identify the Applicant -

called for additional information.

In its response dated April 3, 2020, after identifying the Applicant, the Obligor provided

information that the complaint - containing the Applicant's personal data - was forwarded to

For the employer, since they have a contractual legal relationship with him. The Obligor in this letter about it

also informed the Applicant that, according to the business GTC, the investigation of subscriber complaints

it is handled within 30 days from the notification.

In the subject of his application submitted again on April 14, 2020, the Applicant also indicated,

that "Data Protection Notice", highlighted in bold style that it is the position of data transfer

violates data protection provisions, and repeatedly specifically requested that Article 15 of the GDPR

provide information to the Obligee about the recipients of the data transmission, the purpose and

its legal basis.

In his letter dated April 29, 2020, the Obligor inserted the Eht. Paragraph (1) of § 138, as well as

(2) point b) and then described that it follows from the referenced provisions that

the Obligor always responds to complaints to the subscriber, since he has a contract with him

in a legal relationship. The Obligor added that since the Eht. in accordance with its provisions

acted, so his procedure was legal.

The Obligor explained to the Applicant that it concerns the transmission of personal data

information - the Applicant's request dated March 10, 2020 and repeated on April 14, 2020

despite - he did not make it available because, in his opinion, the complaint is not a data protection issue,

but communication-related. In addition to all of this, the Obligee noted that, otherwise, the

The applicant's personal data were not forwarded to the persons who are in accordance with Article 7 of the General Terms

and Conditions.

are listed among the possible recipients of the data transfer in point 4 of its annex.

I I . APPLICABLE LAW REGULATIONS

Based on Article 2 (1) of the General Data Protection Regulation, this regulation shall be applied a

for processing personal data in a partially or fully automated manner, as well as

for the non-automated processing of personal data that is

are part of a registration system or are intended to be part of a registration system

to do.

Infotv. Request to start the data protection official procedure based on Section 60 (2).

in Article 77 (1) and Article 22 b) of the General Data Protection Regulation

can be submitted in specific cases.

According to Article 77 (1) of the General Data Protection Regulation, other administrative or

without prejudice to judicial remedies, all interested parties are entitled to file a complaint

with a supervisory authority - in particular your usual place of residence, place of work or presumed

in the Member State where the infringement took place - if, according to the judgment of the data subject, the relevant personal

processing of data violates this regulation.

According to point 12 of Article 4 of the General Data Protection Regulation, a data protection incident is considered a

breach of security that is transmitted, stored or otherwise handled personal data

accidental or illegal destruction, loss, alteration or unauthorized disclosure

or results in unauthorized access to them.

Collection of personal data according to Article 5 (1) point b) of the General Data Protection Regulation

only for specific, clear and legitimate purposes, and they should not be treated with these a

in a way that is incompatible with goals ("goal-boundness").

According to Article 5(1)(c) of the General Data Protection Regulation, personal data is

they must be appropriate and relevant in terms of the purposes of data management, and as necessary

must be limited ("data sparing").

Management of personal data based on Article 6 (1) of the General Data Protection Regulation

it is only legal if and to the extent that at least one of the following is fulfilled:

a) the data subject has given his consent to the processing of his personal data for one or more specific purposes

for its treatment;

b) data management is necessary for the performance of a contract in which the data subject is one of the parties, or

to take steps at the request of the data subject prior to the conclusion of the contract

required;

c) data management is necessary to fulfill the legal obligation of the data controller;

d) the data processing is for the vital interests of the data subject or another natural person

necessary for its protection;

e) the data management is in the public interest or for the exercise of public authority delegated to the data controller

necessary for the execution of the task carried out in the context of;

f) data management to enforce the legitimate interests of the data controller or a third party

necessary, unless the interests of the data subject take precedence over these interests

or fundamental rights and freedoms that require the protection of personal data,

especially if a child is involved.

Based on Article 12 (2) of the General Data Protection Regulation, the data controller facilitates the data subject

15–22. the exercise of his rights according to art. In the cases mentioned in Article 11 (2), it is
data manager is the person concerned 15–22. the fulfillment of your request to exercise your rights according to Art
can refuse, unless it proves that the data subject cannot be identified.
Based on Article 12 (3) of the General Data Protection Regulation, the data controller is unjustified
without delay, but in any case within one month of receipt of the request
informs the person concerned in paragraphs 15–22. on measures taken following a request pursuant to Art. Need
taking into account the complexity of the application and the number of applications, this deadline is two more
can be extended by a month. Regarding the extension of the deadline, the data controller explains the reasons for the delay
informs the data subject within one month of receiving the request. If
the person concerned submitted the application electronically, the information is provided electronically if possible
must be provided by road, unless the data subject requests otherwise.
Based on Article 12 (4) of the General Data Protection Regulation, if the data controller does not do so
measures following the request of the person concerned, without delay, but no later than the request
informs the person concerned of the failure to take action within one month of its receipt
about the reasons, as well as about the fact that the person concerned can file a complaint with a supervisory authority and
live
with the right to judicial remedy.
Based on Article 12 (6) of the General Data Protection Regulation without prejudice to Article 11, if the
data controller has well-founded doubts regarding 15-21. a natural person who submits an application pursuant to Art
regarding the identity of the person, to further confirm the identity of the person concerned
you can request the provision of necessary information.
Based on Article 15 (1) of the General Data Protection Regulation, the data subject is entitled to
receive feedback from the data controller regarding the handling of your personal data
is ongoing, and if such data management is ongoing, you are entitled to have your personal
data and get access to the following information:
a) the purposes of data management;

b) categories of personal data concerned;

c) recipients or categories of recipients with whom or with which the personal data
communicated or will be communicated, including in particular to recipients in third countries, or
international organizations;

d) where appropriate, the planned period of storage of personal data, or if this is not possible,
criteria for determining this period;

e) the data subject's right to request personal data relating to him from the data controller
rectification, deletion or restriction of processing and may object to such personal data
against treatment;

f) the right to submit a complaint addressed to a supervisory authority;

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

h) the fact of automated decision-making referred to in paragraphs (1) and (4) of Article 22, including
also profiling, as well as, at least in these cases, the applied logic and that
understandable information about the significance of such data management and what it is like for the data subject
has expected consequences.

Infotv. Pursuant to Section 61, Paragraph (1), point a), it was made in the data protection authority procedure
in its decision, the Authority with the data management operations specified in paragraphs (2) and (4) of § 2
in connection with the legal consequences defined in the general data protection regulation
can apply.

Pursuant to Article 58(2)(b) of the General Data Protection Regulation, the supervisory authority
acting within its corrective powers, condemns the data manager or the data processor if
its data management activities violated the provisions of this regulation.

Pursuant to Article 58(2)(d) of the General Data Protection Regulation, the supervisory authority
acting within its corrective powers, instructs the data manager or the data processor to process data
harmonizes its operations - where appropriate, in a specified manner and within a specified period of time

with the provisions of this regulation.

Pursuant to Article 58(2)(i) of the General Data Protection Regulation, the supervisory authority

acting in its corrective powers, imposes an administrative fine in accordance with Article 83, the given

depending on the circumstances of the case, in addition to the measures mentioned in this paragraph or those

instead of

Based on Article 83 (5) of the General Data Protection Regulation, regarding the principles of data management,

in case of violation of the rules contained in Articles 5, 6, 7 and 9 of the General Data Protection Regulation,

and those concerned 12–22. in the event of a violation of his rights under Article 83 (2).

in accordance - with an administrative fine of up to EUR 20,000,000, or the enterprises

in the case of a maximum of 4% of the total annual world market turnover of the previous financial year

should be punished, with the higher amount of the two being imposed.

The Eht. Pursuant to Section 188.22, the subscriber is a natural or legal person or other

organization who is or which is with the provider of the publicly available electronic communication service

is in a contractual relationship for the use of such services.

The Eht. 26, the user is a natural person, legal entity or other

organization that uses or requires electronic communication activities, so in particular

electronic communication services.

The Eht. Pursuant to paragraph (1) of § 138, the electronic communications provider providing subscriber services

service provider is obliged to handle subscriber and user reports, investigate complaints and

to remedy, the subscribers and

to operate a customer service for information

by accessing the telephone network, if possible by accessing the Internet, and - if that is the case

the number of subscribers exceeds one thousand - in a room open to customers.

The Eht. Based on § 138, subsection (2), point b), the service provider is obliged to provide the subscriber with its customer

service

published, on its website, as well as in the subscriber agreement to inform that it is

users

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how long it will take to investigate individual complaints received by customer service, and the investigation

within how much time and in what manner will the subscriber be notified of the result.

The Eht. Pursuant to § 154, paragraph (1), the service provider is for the electronic communication service

creation of a contract, determination of its content, modification, monitoring of its performance

accompanying, invoicing the resulting fees, as well as related claims

for the purpose of validation, it can handle the and necessary to identify the user or subscriber

sufficient personal data.

I I I . Decision making

III.1. The transfer of the Applicant's personal data to the Employer

By the fact that the Obligor responded to the Applicant's letter dated February 6, 2020, the

the)

It was sent to the Applicant, but to the Employer, and was forwarded to the Employer by the Applicant

his name, the telephone numbers he used, the description of the case, the vehicle registration number, the Budapest II. district

Mayor's Office City Operations Directorate's decision on the imposition of fines, the mobile parking

the messages received and sent during the service, the transaction approval of the bank managing the account, which

included your account number and the amount paid.

Although the Obligor did not specifically refer to Article 6 of the GDPR as the legal basis for data transfer

(1) point c), because according to his declarations, data transmission is regulated by Eht. based on its rules

– so specifically the Eht. on the basis of § 138, paragraph (1) and paragraph (2) point b) - took place, thus the

The Authority started from the fact that, according to the Obligee's point of view, the data transmission is the Obligee's Eht.

prescribed by

was necessary to fulfill its legal obligation.

A legal reference can create a legal basis for data management if it is mandatory by law

stipulates that specific personal data must be handled by the data controller or prescribes such a task

to a data controller, which task cannot be performed without the data controller managing the given scope of data.

The Eht. - Referred by the obligee - § 138, paragraph (1) of the subscriber service provider

defines the obligation of electronic communication service providers that they are obliged

to operate customer service on the telephone network and, if possible, with Internet access,

and with personal reception.

The Obligor specifically referred to Eht. § 138, paragraph (2) point b), one of which is omitted

part of it was highlighted in bold or underlined; the highlighted part of the reference reads: “The service provider

is obliged to inform the subscriber (...) about the result of the investigation".

The Eht. this point, however - the legal reference is not merely the parts of the sentence extracted from it

based on, but interpreted in its entirety - it obliges service providers to provide information

for subscribers - at customer service, on the website, and in the subscriber contract

– about how soon a subscriber complaint will be investigated, how long and how

way, the service provider will notify the subscriber about the result of the examination.

The Eht. § 138, subsection (2) point b) does not therefore mean that the service provider receives a complaint

in all cases, the subscriber of the service must be informed of the result of the investigation, to which

all information evaluated during the evaluation of the complaint - such as personal data - may be necessary

communication with the subscriber, since at this point the service provider is solely obliged to be as broad as possible

provide information to subscribers about a possible complaint in a way that is accessible

during submission, how soon will they receive information about the results of the investigation.

The Eht. it does not follow from any of the referenced provisions that if one - no

a person who is classified as a subscriber, but - a user, files a complaint with the Obligor there

in connection with a service used, the Obligor shall not disclose the results of the examination

with the user, but with the subscriber. Since the Eht. does not contain any

provision that would oblige the Obligor to do so, so the Obligor is not burdened with an obligation,

which would require the personal data of a subscriber service user

forward to the subscriber of the service, i.e. data transmission

not as a legal basis

Article 6 (1) point c) of the GDPR can be referred to.

Since the Obligor's statements do not support that the data transmission is in accordance with Eht. imposed on him by

would have been necessary to fulfill the obligation, and nothing else arose during the procedure

evidence that the other condition in Article 6 of the GDPR applies, so a

The Authority found that the Obligor had forwarded it to the Applicant without a proper legal basis

your personal data to the Employer, thereby violating Article 6 of the GDPR.

b)

According to the Authority's point of view, if according to the Obligor in this case - the Obligor

in view of the lack of detailed information available to him - there was a risk that

the Applicant "abuses" the service contract used by the Employer in such a way that

without proper authorization and without the knowledge of the Employer, in relation to the contract,

would have had the opportunity to require the Applicant to identify himself and support,

why you are entitled to information regarding the given subscription.

However, it is clear from the Applicant's access requests that they are not his subscribers

you want to take action in connection with a contract, i.e. you do not want to access the content of the contract,

you do not want to modify or cancel it, but you want information about personal data

to ask. In this context, the Applicant would have committed "abuse" if such personal data and

he would have obtained information that he was not entitled to know.

Pursuant to the above, the Obligee does not have the Eht.

should have started from the rules, but from the provisions of the GDPR, i.e. it should not have been

to consider whether the Applicant is a subscriber or a user (as this is the exercise of the rights of the affected party

is not relevant from the point of view), but that the Applicant pursuant to Article 4, Clause 1 of the GDPR

is considered a data subject with regard to the personal data to which data is accessed

exercises his right, since it would have been possible to judge whether the Obligor is obliged to do so in the light of this

to fulfill the Applicant's access request, whether the Applicant is entitled to know them

information that you inquired about in the application.

According to the Authority's point of view, there was therefore no valid purpose for which

it would have been necessary to transfer the data. It did not follow from the circumstances of the case that a

The applicant might abuse the subscription contract in such a way that the contract

without the Employer's knowledge, as the contract itself clearly states

he did not want to have, he only wanted to access personal data.

The Authority considers it generally acceptable that it is "prevention of abuses".

defined as a data management purpose, however, only in those cases where any

the risk of abuse specifically arises. Since in this case it did not arise that the Applicant is

would like to take action in connection with a subscriber contract, so it can be implemented in the process

Data transfer in order to eliminate "abuse" violates the principle of purpose limitation, i.e. a

Obliged to use the personal data of the Applicant in a manner contrary to Article 5 (1) point b) of the GDPR

forwarded.

c)

According to the Authority's point of view, there was no data transmission in the investigated case

necessary, since the possible abuse could have been eliminated in another way, data transmission

without. However, it cannot be determined that only certain data are transmitted

management would have been necessary, which would have violated the principle of data saving, but that

the data transmission itself - and not the handling of any transmitted data - was unnecessary

in view of the Authority's lack of legal basis and purposelessness of data management in the above

he stated. In this way, it was not possible to specifically establish a violation of the principle of data saving.

d)

Although the transmission of the Applicant's personal data to the Employer

is considered an unauthorized communication, however, as a result of the data transmission, the

A data protection incident according to Article 4, point 12 of the GDPR, since unauthorized disclosure and access are not resulted from a breach of security, but was clearly the Obligor's own decision, since the Obligor According to him, forwarding the data was the appropriate way to handle the case.

III.2. Handling the Requester's access request

In the access request, the Applicant wanted to receive information on the fact that the Obligor to whom you forwarded your personal data. Access requests for recipients in such a way it must be answered that the data controller specifically lists the person or group of recipients, or provides the answer that he did not forward the data to a third party. In this case, since the Obligee only forwarded the Applicant's personal data to the Employer, so it a he should have provided a specific and clear answer that it was only forwarded to the Employer the data, not to other third parties. The one provided by the Obligor is not adequate answer that "we have not forwarded the Complainant's personal data", since it does not clearly follow from this answer that on this whether the data was sent to other persons in addition to the scope of recipients - in addition to the Employer for transmission.

The information provided by the Obligor when he cited the Eht. Section 138, paragraph (1), and (2) point b) of paragraph 2 - beyond the fact that it is not relevant from the point of view of the access request - is not does not qualify as information on the legal basis of data management, nor on its purpose, which the Applicant's request for access to information is also extensive.

The Authority does not accept the Obligor's reason that the "complaint" is not about data protection, but classified it as communication-related, since from the Applicant's submissions - so in particular the from the subject matter, the wording and the request specifically based on Article 15 of the GDPR - it is clear that they are related to data protection.

The Authority notes, however, that if the Applicant concerns his personal data informed about the information, the Obligee - as a data controller - would have had to do so even then to know that the request is a request under Article 15 of the GDPR, if the Requester had not done so

made so clear, and even then, according to GDPR regulations, it should have provided access to the

For the information requested by the applicant.

In view of all of this, the Authority concludes that the Obligor has - although formally - complied with the GDPR

of Article 12 (3), because he gave an answer to the Applicant within the deadline - he violated the

The applicant's right to access, because his answer was not adequate in terms of content, because no

information about the purpose and recipients of data management. Although the Applicant access

his request was broader than the data set in Article 15 (1), because the

also requested information on the legal basis of data management, which information is provided for in Article 15 (1)

does not list, however, the GDPR only defines the minimum content elements of the information

and, however, the obligation to provide information in the event of an access request - and Article 5 (1)

for the full fulfillment of the principle of transparency according to paragraph a) the Respondent is

data management on all relevant information, including the legal basis of data management

to provide information.

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Based on the above, the Obligor's behavior violated Article 15 (1) of the GDPR.

I V Application sanction and rationale

The Authority ex officio examined whether it was justified due to the violation committed in the individual case

Imposition of a data protection fine against the obligee. In this context, the Authority is responsible for general data protection

Regulation Article 83 (2) and Infotv. 75/A. on the basis of §, the whole case was considered ex officio

circumstances and found that the imposition of a fine in the case of a violation discovered during this procedure

proportionate and justified sanction.

On the question of whether the imposition of a data protection fine is justified, the Authority referred to Article 83 of the GDPR

(2) considered all the circumstances of the case. The Authority considers it necessary to

the imposition of a fine, as the Obligor has violated the provisions of the GDPR on data subject rights

and which practice not only the Applicant, but also all current and future Obligors

also affects the rights of your client.

In view of this, the Authority informs Infotv. Based on point a) of § 61, subsection (1), in the relevant part
decided in accordance with the provisions, and in this decision the Obligee to pay a data protection fine
obliged.

The amount of the fine was determined by the Authority acting within its statutory discretion.

Based on the nature of the violation - obstruction of the exercise of the rights of the affected party - the upper limit of the fine
that can be imposed
20,000,000 euros based on point a) of Article 83, paragraph (5) of the GDPR, or in the case of the Obligor,
a maximum of 4% of the previous financial year's total worldwide market turnover, whichever is higher.

The Authority considered the following factors as aggravating circumstances when imposing fines:

- data transfer without a suitable legal basis, contrary to the principle of purpose limitation, Article 83 of the GDPR
is considered a more serious violation of the law according to paragraph (5) point b);
- by the Obligor's inadequate fulfillment of the Applicant's stakeholder requests, GDPR III.
violated the rights of stakeholders listed in chapter 83 of the GDPR
is considered a more serious violation of the law according to paragraph (5) point b);
- the violation committed by the Obligor - the access notice dated September 20, 2019
in the case of handling an application - was grossly negligent, as the Applicant on several occasions and
indicated in various ways that your letter is a request for access, to which Article 15 of the GDPR
wishes to receive an answer, the Obligor nevertheless did not provide an appropriate answer
(GDPR Article 83 (2) point b) because he classified the submission as a communications complaint.

When imposing the fine, the Authority took into account the following other circumstances:

- the Authority's right of access to a single person in a case initiated on an individual request
evaluated its treatment;
- personal data is not affected by the violation committed by the Obligor
categories;
- Obliged to cooperate with the Authority during the official procedure, and the Authority
answered your inquiries within the deadline;

- according to the Obligor's 2019 report, the net sales revenue is 192,659,000,000

was HUF, the profit after tax was HUF 18,512,000,000, so the imposed data protection fine

does not exceed the maximum fine that can be imposed.

Other questions

The Authority did not specifically assess any circumstances as mitigating factors.

When imposing the fine, the Authority did not consider GDPR Article 83 (2) c), d),

e), h), i), j) and k), since they are not related to the specific case

are interpretable.

Sun.

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

covers its entire territory.

This decision is based on Art. 80-81. § and Infotv. It is based on § 60, paragraph (1).

The decision of the Ákr. Based on § 82, paragraph (1), the decision becomes final upon notification.

The Akr. on the basis of § 112 and § 116 (1) against the decision by means of an administrative lawsuit

there is room for a legal remedy.

The rules of the administrative trial are set out in Act I of 2017 on the Administrative Procedure

hereinafter: Kp.) is defined. The Kp. Based on § 12, paragraph (1), by decision of the Authority

the administrative lawsuit against falls within the jurisdiction of the court, the lawsuit is referred to in the Kp. § 13, subsection

(3) a)

Based on point aa), the Metropolitan Court is exclusively competent.

The Kp. Pursuant to § 27, paragraph (1) point b) in a lawsuit within the jurisdiction of the court, the legal

representation is mandatory. The Kp. According to paragraph (6) of § 39, the submission of the claim is administrative

does not have the effect of postponing the entry into force of the act.

The Kp. Paragraph (1) of § 29 and, in view of this, Pp. According to § 604, the electronic one is applicable

CCXXII of 2015 on the general rules of administration and trust services. law (a

hereinafter: E-administration act) according to § 9, paragraph (1), point b) of the customer's legal representative obliged to maintain electronic contact.

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

Budapest, October 22, 2020.

Dr. Attila Péterfalvi

c. professor

president