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Judgment of the Court in Case C-46/23 | Újpesti Polgármesteri Hivatal

Protection of personal data: the supervisory authority of a Member State may order the erasure of unlawfully processed data even in the absence of a prior request by the data subject

Such erasure may cover data collected from that person and data originating from another source

In 2020, the municipal administration of Újpest (Hungary) decided to provide financial support to persons who had been made vulnerable by the COVID-19 pandemic. To that end, it asked the Hungarian State Treasury and the government office of the fourth district of Budapest to provide it with the personal data needed to verify the eligibility requirements for receiving the aid.

After being alerted by a report, the Hungarian authority responsible for data protection ('the supervisory authority') found that the Újpest administration, the Hungarian State Treasury and the government office had breached the rules of the General Data Protection Regulation (GDPR) ¹. Fines were imposed on that basis.

The supervisory authority found that the Újpest administration had not informed the data subjects, within the one-month period provided for that purpose, of the actual use of their data, the purpose thereof, or of their rights in relation to data protection. It also ordered the Újpest administration to erase the data of eligible persons who had not applied for the support.

The Újpest administration has contested that decision before the Budapest High Court (Hungary). It argues that the supervisory authority does not have the power to order the erasure of personal data in the absence of a prior request made to that effect by the data subject.

The Hungarian court has sought an interpretation of the GDPR from the Court of Justice.

In its judgment, the Court of Justice responds that the supervisory authority of a Member State **may order of its own motion, namely even in the absence of a prior request made by the data subject to that effect, the erasure of unlawfully processed data** if such a measure is necessary in order to fulfil its responsibility for ensuring that the GDPR is fully enforced. If that authority finds that the treatment of data does not comply with the GDPR, it must remedy the infringement found, even without a prior request from the data subject. A requirement that there be such a request would mean that the controller, where no request is made, could retain the data at issue and continue to process them unlawfully.

Moreover, the supervisory authority of a Member State may order the erasure of unlawfully processed personal data both where those data originate directly from the data subject or originate from another source.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European

Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, the abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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Pictures of the delivery of the judgment are available from ['Europe by Satellite'](#) ☎ (+32) 2 2964106.

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¹ [Regulation \(EU\) 2016/679](#) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).