

GUIDE TO REQUESTING DATA OF PUBLIC INTEREST

In order to ensure the transparency of public affairs and finances, citizens have the right to access data of public interest from any body or institution of Hungary performing state or local government responsibilities, public service functions. Requesting access to data of public interest is regulated by Act CXII of 2011 on the Right of Informational Self Determination and on Freedom of Information (hereinafter: the Privacy Act).

What is the required form of submitting a request for accessing data of public interest?

A request for accessing data of public interest has no formal requirement; it can be submitted orally, in writing or by electronic means to the body with public service functions. In a data request, it is expedient to refer to the Privacy Act so that the institution neither deems it as a notification of public interest nor does it treat it as an administrative case. A request for the same group of data presented within the same year by the requesting party may be rejected.

What data or information is required in a request?

The requesting party need not provide any other data than his or her name and the contact details (address and e-mail address) where he or she requests the information to be sent. The data controller is not entitled to verify the identity of the requesting party, and may not request any statement as to the purpose or motive of requesting the data. However, separate laws govern the access of data concerning the financial supervision of a body with public service functions at invoice and item level.

In the request, the citizen may state, beyond the data requested, the format or mode he or she wishes to receive the data of public interest in. It is worth considering however whether arranging the data in the requested format would result in additional tasks the cost of which the requesting party would have to bear.

What are the obligations of the data controller?

Bodies with public service functions are obliged to answer. The answer must include the data of public interest requested or provide the reasons of not disclosing the requested data.

The body with public service functions must fulfil the request without delay within 15 days at most. This deadline may be prolonged for fifteen days subject to due justification and notification of the requesting party.

Within fifteen days of the receipt of the request, the requesting party must be notified if fulfilling the request for public data is subject to the advance payment of its costs. The notification in such a case must include, apart from the sum of the reimbursement fee, the reasons (data request means a disproportionate use of the workforce of the body with public functions needed for its ordinary operation, or the requested data or documents are substantial in size and/or volume). Should the data controller not meet this deadline, it must fulfil the data request without being paid for its costs.

Does the fulfilment of a data request have any costs?

When a body with public functions fulfils a public data request, it is not providing services. Fulfilling a data request necessarily involves certain amount of workforce allocation, which is an institutional concomitant of the fundamental right of access to data of public interest, and thus its costs may only be charged to the requesting party in specially justified cases. The data controller may however choose not to charge any reimbursement fee for the costs of providing data at any time. Three types of cost element may be used in determining the fee chargeable: the data storage device, of the delivery, and of the workforce needed (no

other element of cost may be considered). The first four hours of the period necessary for the identification, collection, and arrangement of the requested data, and for copying its data storage device, may not be taken into account. It is therefore expedient to define the data request period or the break-down of the group of data and list of documents so that the period required for fulfilling the data request preferably does not exceed four working hours, or exceeds it a little only.

If additional workforce is required, the institution must demonstrate the number of employees and the number of hours accounted, as well as the sum broken down to hourly work per employee. It must precisely describe the work processes it uses or intends to use for fulfilling the data request. When a copy of significant size is required, the information it provides must give details, such as the amount of paper the data request involves. It must also inform the data requester of the alternate solutions available instead of making copies.

It is important to note that, if the amount of the reimbursement fee does not exceed HUF 5,000, the provision of data is not subject to advancing it.

When is the advanced fee refundable?

Reimbursement fees must always be limited to the costs directly and actually incurred. After advancing the fee and the fulfilment of the data request, the data controller may be requested to specially provide information on the costs incurred due to the data provision, the supporting calculations, and working time statements. If the advanced reimbursement fee exceeds the sum of costs actually incurred, the difference is to be refunded to the data requester.



National Data Protection and Information Authority (NAIH)

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What remedies are available?

The data requester may seek redress in the courts when his or her request to access data of public interest is rejected, when the deadline lapses unsuccessfully, or in order to review the sum charged for fulfilling the data request. The claim must be filed within thirty days of communicating the rejection of the request, the unsuccessful lapse of the deadline, or the expiry of the deadline for paying the fee.

The data requester may choose to initiate an investigation of the data controller's wrongful procedure by the National Data Protection and Information Authority (NAIH).



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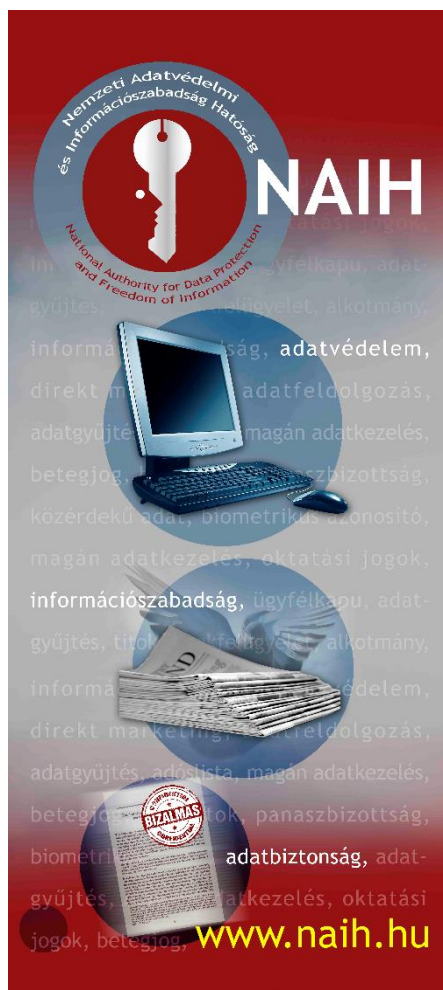
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