



Case number: NAIH-5605-2/2023

[...]
Chief Notary

via Government Gateway

Subject: Information on consultation submission

Dear Chief Notary!

You submitted a request for consultation to the Hungarian National Authority for Data Protection and Freedom of Information (hereinafter: Authority) requesting information regarding the fact that if the representative body delegates its powers related to townscape preservation enforcement as defined by Act LXXIV of 2016 on Townscape Preservation to the mayor in a local government decree, would the municipal representative or the representative body be able to request specific information or regular reports from the mayor regarding the procedures carried out by him in this area.

The Authority hereby informs you as follows:

Pursuant to Section 38 (2) of Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information the Authority shall be responsible to oversee and promote the enforcement of the right to the protection of personal data and access to public information and information of public interest, as well as to ensure the free flow of personal data within the European Union. Therefore, the Authority cannot adopt an opinion regarding your query.

However, I would like to inform you that Section 42 of Act CLXXXIX of 2011 on Local Governments of Hungary (hereinafter: Act) provides for the following:

„The following powers may not be delegated from the representative body:

- 1. regulatory power by way of local government decrees;*
- 2. the power to design its organization and determine its operation as well as the election, appointment and leadership assignment conferred to its powers by law;*
- 3. ordering local referendums, founding awards and appreciation titles;*
- 4. economic programme, loan borrowing, bond issuance, commitments resulting in loan borrowing or other debt, receiving and transmitting foundation sources;*
- 5. creation and termination of municipal associations, splitting off from them, amending the association agreement, joining or splitting off from associations or advocacy bodies;*
- 6. agreement on cooperations with foreign municipalities, joining or splitting off from international municipal organizations;*
- 7. creation, reorganization or dissolution of institutions;*
- 8. naming of public areas, putting up public statues or artwork;*
- 9. initiate procedures at the Constitutional Court;*
- 10. selecting court jurors;*
- 11. taking a stand on the reorganization or cessation of institutions, on their supply and service districts if the service affects also the settlement;*

12. *decision in unworthiness matters and matters related to the asset declaration or incompatibility of the settlement representatives or the mayor;*
13. *decision on the termination of the mandate of municipal representatives if they fail to participate in the meetings of the representative body;*
14. *approval of the plan and urban development plan;*
15. *territorial organization initiative;*
16. *decision on the transfer of the ownership of assets of the municipality free of charge pursuant to Section 108 or receiving the ownership of national assets free of charge;*
17. *anything else conferred by law to the non-transferable powers of the representative body.”*

Pursuant to Subsection (4) of Section 41 of the Act „The representative body - with the exceptions determined by this Act - may delegate its powers to the mayor, its committee, the body of the part municipality, the notary or its association. It may give an instruction to exercise these powers or may withdraw it.”

Based on the above, the municipal representative or the representative body may legally request information or a report from the mayor regarding the procedures carried out in connection with townscape preservation enforcement.

In order to request an opinion or obtain more information, the Authority suggests that you contact the competent government office.

Kindly do not hesitate to contact the Authority in matters concerning the protection of personal data and access to public data or public interest data.

Budapest, signed electronically

Yours sincerely,

Dr. habil. Attila Péterfalvi
President
National Authority for Data Protection and
Freedom of Information
Honorary Professor