

## Interest Balancing Test Assessment on the processing of the copies of data subjects' driving licences for the MOL Limo service

### 1 Legitimate interest of the controller or a third party:

- **General description of the processing environment**

Users can commence the registration required for using the MOL LIMO service in the Mobile Application or on the Website.

Pursuant to section 4.3 of the General Terms and Conditions of the MOL LIMO service, "at the time of registration, the Service Provider will require a copy of the User's driving licence".

- **Controller's interest:**

It is in the controller's vital interest that the services provided are only used by those who are entitled to it according to the conditions specified by law. The controller also has an interest in being able to comply with the laws applicable to it.

Apart from this, due to business reasons, the controller wishes to provide its service to those who have a minimum level of experience as a driver so that they do not cause any damage to the rented passenger car and their environment.

The MOL LIMO service is a service based on a remote contract made via the Internet, the business model for which does not allow for personal administration, on-site verification of identity or the presentation of the driving licence in person. A basic feature of the service is that it can be used easily, with a few clicks over the Internet. This is justified on the user's part with convenient administration, and on the service provider's part with cost-efficiency.

- **Justification of the legitimacy of the interest:**

Section 5 Subsections (2)-(3) of Act I of 1988 on Public Road Transport states that "(2) Vehicles may only be driven on public roads by persons who are in a condition fit for safe driving and **have the licence required for driving the vehicle.**

(3) **The operator may not allow** persons to drive the vehicle and drivers may not surrender driving the vehicle **to persons who do not satisfy the conditions mentioned in Subsection (2).**"

Pursuant to section 3.2 of the General Terms and Conditions of the MOL LIMO service "The Service is available only to natural persons of at least eighteen (18) years of age, who have a valid driving licence and obtained their licence to drive at least one (1) year prior to the conclusion of the Framework Agreement".

- **The legitimate interest is sufficiently explicit:**

The legitimate interest is sufficiently explicit, as an act of law requires the operator to make sure that the data subject who uses the service has the licence required for driving the vehicle. For business organisation reasons, the controller is also interested in not being forced to operate a nationwide customer service network for the presentation of driving licences in person.

- **The legitimate interest is real and current:**

The legitimate interest is real and current, since processing is actually necessary for the controller to comply with its statutory obligation, and to verify the minimum level of experience as a driver.

## **Interest Balancing Test Assessment on the processing of the copies of data subjects' driving licences for the MOL Limo service**

- **The interest of a third party affected by processing or the interest of society:**

Third parties or a part of society are generally interested in processing to the extent that it can be regarded as public interest that the persons taking part in road traffic have the legally required licence and experience as necessary for road safety.

**As described above, the legitimate interest exists, so the question of necessity is to be examined next.**

### **2 The necessity of processing**

- **It must be presented in a clear and straightforward way that processing is strictly necessary and adequate for fulfilment of the interest:**

Taking into consideration that the volume of personal data processed is restricted to the lowest possible, and the processing is limited to the shortest possible time, with due regard to the laws and the various interests, there is no alternative solution that would ensure the fulfilment of the interest in a less restrictive way.

- **Examination as to whether the interest could be fulfilled by any alternative solution which is less restrictive to the individual:**

MOL only processes personal data for the purposes defined above, and these purposes cannot be achieved without disproportionate effort and costs.

**As demonstrated above, the legitimate interest in processing is also necessary, so we can continue with the examination of aspects of proportionality.**

### **3 Balancing test on the proportionality of interests**

#### **3.1 Examination of the nature of interests**

- **Nature of the controller's legitimate interest:**

The controller's legitimate interest is cost-efficient, fast and simple administration.

- **Type of the controller's legitimate interest:**

The controller processes the data subject's data in the interest of the efficient organisation of work, seamless administration and the establishment of the right to drive without doubt.

- **The data subject's interest:**

The processing affects the data subject's right to informational self-determination, which is ultimately derived from the fundamental human right to human dignity. However, the right to human dignity enjoys absolute, non-limitable protection in conjunction with the right to life. Apart from that, based on the standard practice of the Constitutional Court, rights derived from human dignity, as in our case, the right to informational self-determination, may be restricted in terms of disposition over personal data provided that the principles of necessity and proportionality are observed.

## **Interest Balancing Test Assessment on the processing of the copies of data subjects' driving licences for the MOL Limo service**

- **Type and nature of the data:**

Driving licence: A valid document entitling its holder to drive vehicles in the territory of Hungary in accordance with Government Decree no. 326/2011 (XII. 28.) on public road administration tasks, and the issuing and withdrawal of public transport documents, which complies with the conditions defined in this Decree.

The data processed do not comprise any personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data, data concerning health or data concerning sex life or sexual orientation, so no special category of personal data as defined in Article 9 of the GDPR is concerned.

Pursuant to recital (51) of the GDPR: "The processing of photographs should not systematically be considered to be processing of special categories of personal data as they are covered by the definition of biometric data only when processed through a specific technical means allowing the unique identification or authentication of a natural person."

### **3.2 Assessment of the impacts of processing**

- **Impacts of processing beneficial and not beneficial to the data subject**

Although the processing may potentially restrict the data subject's right to informational self-determination over his/her personal data, he/she benefits from not being required to make a personal appearance in an office to present his/her driving licence.

- **The data subject's status:**

Users of the MOL LIMO service are 18 years of age or more.

- **The controller's status:**

MOL Nyrt. is a member of the MOL Group, which is active in 30 countries with 25 thousand employees, and is based in Budapest. The MOL Group is a major group of companies in Central and Eastern Europe. Accordingly, it can be established that the controller has significant economic power.

- **Relationship between the data subject and the controller:**

The relationship between the data subject and the controller is imbalanced in the sense that the service provider unilaterally sets the terms and conditions of the contract, which the person intending to use the service can accept or decline.

- **Impact of the processing on the data subject, in light of his/her relationship to the controller:**

Due to the slight imbalance of the relationship between the data subject and the controller, it is important to examine the nature and necessity of the legitimate interest more carefully, and to provide transparent and understandable information to the data subject.

- **The means of processing:**

In accordance with the principles of data minimisation and purpose limitation, the processing is restricted to the scope of data which is strictly necessary for the fulfilment of the legitimate interest. The processed data are used exclusively for the legitimate and explicit purpose, and their accessibility is strictly limited to those employees who need to

## **Interest Balancing Test Assessment on the processing of the copies of data subjects' driving licences for the MOL Limo service**

know the personal data for the completion of their work. As a result, the impacts of processing are fully foreseeable and predictable.

- **Information provided to the data subject on processing:**

At the start of processing, the controller provides the data subject with comprehensive, clear and easily understandable information on the scope of personal data to be processed, the ground, means, duration of processing, the data subject's rights related to the processing.

### **3.3 Other security measures**

- **Keeping data for a limited time:**

The data controller stores the copy of the data subject's driving licence uploaded in the system only for the period absolutely necessary for data verification, for 24 hours after registration, after which it permanently deletes the copy of the driving licence from its system.

- **Restriction on data access:**

Accessibility of the data subject's personal data is strictly limited to those employees who need to know the personal data for the completion of their work.

## **4 Outcome of the interest balancing test and its documentation**

### **A legitimate interest exists**

In regard to the processing operations concerned, the controller has a legitimate interest, since it is actually interested in efficient and fast administration, and in proving that the user of the service has a driving licence.

It can also be concluded from the above discussion that the legitimate interest is sufficiently explicit, real and current, so the further examination of necessity is correct.

### **The processing is necessary**

Processing is necessary for the fulfilment of the legitimate interest, since in the absence of data provision, the controller's economic model would not be feasible.

### **The processing represents proportional limitation to the data subject's rights**

#### **Examination of the nature of interests**

As it regards the nature of the interest, it can be stated that, although processing potentially limits the data subject's right to informational self-determination in regard to his/her personal data, this right is not absolute and non-limitable, so the limitation is admissible if processing is necessary and proportional. Since necessity is already justified on the grounds described above, the further examination of proportionality is required.

On the controller's part, in respect of the nature of interest, other legitimate interest exists, which, when tested for proportionality, can be regarded as a weaker economic and efficiency interest than the exercise of the fundamental right and the public interest, or the culturally or socially recognised interest. In this respect, the nature of the interest tips the

## **Interest Balancing Test Assessment on the processing of the copies of data subjects' driving licences for the MOL Limo service**

balance for admissibility as it is an interest related to the basic and efficient operation of the controller's organisation.

### **Impact assessment of the processing**

Taking into account both the negative and the positive impacts on the data subjects, the processing clearly shifts towards admissibility, because while negative impacts are arbitrary and negligible, the impacts supporting simple and cost-efficient administration exist in any case.

The status of the parties can influence the scale of proportionality, since the controller has significant economic power, and it has unilaterally established the General Terms and Conditions, so the legal relationship between the controller and the data subject is partially imbalanced.

On the other hand, taking into consideration that, already at the time of the collection of data, the data subject is appropriately informed of the processing, and also that, due to the means of processing, the impacts of processing are fully predictable. In this way, the standard of proportionality is shifted towards the admissibility of processing.

As a further factor supporting the proportionality of the limitation of right, the controller provides the data subject with comprehensive, clear and easily understandable information upon the collection of data on the scope of personal data to be processed, the ground, means, duration of processing and the data subject's rights related to the processing.

### **Other security measures**

Proportionality is further enhanced by two security measures: that the data are kept for a limited time, and that access to the data is restricted.

**Based on the above discussion, as a result of the Interest Balancing Test Assessment, it can be established the data subject's right is not overriding as compared to the controller's legitimate interest, and the processing realises a necessary and proportionate restriction regarding the data subject.**