Hungarian government offices' practice on criminal personal data in freedom of information requests

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I. Introduction

On 14 September 2026 I sent the following request for data of public interest (FOI request) to every government office in the country: 'Within the framework of a request for data of public interest, please send me by return e-mail your answer to the following question: on the day of the request (14.09.2026), how many persons on the staff of the government office are you aware of against whom criminal proceedings are pending? If a member of staff does not report that criminal proceedings are pending against them, what is the consequence? Disciplinary proceedings or immediate dismissal?' (our translation) By the day the deadline expired, 14 government offices had replied: Budapest Capital Government Office (hereinafter: BFKH), Csongrád-Csanád County Government Office (hereinafter: CSCSVKH), Zala County Government Office (hereinafter: ZVKH), Győr-Moson-Sopron County Government Office (hereinafter: GYMSVKH), Bács-Kiskun County Government Office (hereinafter: BKVKH), Heves County Government Office (hereinafter: HVKH), Veszprém County Government Office (hereinafter: VeVKH), Baranya County Government Office (hereinafter: BaVKH), Hajdú-Bihar County Government Office (hereinafter: HBVKH), Tolna County Government Office (hereinafter: TVKH), Békés County Government Office (hereinafter: BéVKH), Vas County Government Office (hereinafter: VaVKH), Nógrád County Government Office (hereinafter: NVKH) and Komárom-Esztergom County Government Office (hereinafter: KEVKH). By 29 September 2026, the last day of the deadline, no reply had arrived from 6 government offices: Borsod-Abaúj-Zemplén County Government Office (hereinafter: BAZVKH), Fejér County Government Office (hereinafter: FVKH), Jász-Nagykun-Szolnok County Government Office (hereinafter: JNSZVKH), Pest County Government Office (hereinafter: PVKH), Somogy County Government Office (hereinafter: SVKH) and Szabolcs-Szatmár-Bereg County Government Office (hereinafter: SZSZBVKH) – nor did they indicate that they needed an extension of the deadline. At first glance, the most problematic answer was given by VeVKH, according to which criminal proceedings are pending against a former (!) member of its staff, and by CSCSVKH, where criminal proceedings are currently pending against 2 persons. The other responding government offices (with the exception of KEVKH) replied that, according to their records, no criminal proceedings are currently pending against any member of their staff. I sent the same questions as an FOI request to all district offices as well, on 21 September 2026; at the time of writing, their deadline for replying has not yet expired (so I will analyse them in a subsequent article). It is already apparent, however, that among the replies received in the

meantime, several stated that, since they are aware that I contacted the government office on 14 September and received a reply, their answer is likewise negative, in line with the government office's reply – which is clearly problematic: why, and from whom, does the district office learn that I had previously contacted the government office? (A later part of the article answers this gap in my knowledge.)

Figure 1: Twenty government offices, one question, four kinds of answer
Replies to the FOI request of 14 September 2026 received by the last day of the deadline, 29 September 2026

10 Negative answer not aware of any such member of staff Budapest, Zala, Győr-Moson-Sopron, Bács-Kiskun, Baranya, Hajdú-Bihar, Tolna, Békés, Vas, Nógrád

2 Gave a number Veszprém: one former employee*, Csongrád-Csanád: 2 persons

1 'Does not process such data' Heves

1 Refused to answer Komárom-Esztergom

6 Did not reply by the deadline Borsod-Abaúj-Zemplén, Fejér, Jász-Nagykun-Szolnok, Pest, Somogy, Szabolcs-Szatmár-Bereg

Source: the author's FOI request and the replies received (September 2026). *The answer concerns a former employee. Map: Natural Earth (public domain); county boundaries drawn by us.

The government offices' practice on the disclosure of criminal personal data is therefore not uniform; at least three main approaches can be seen: 1. the data cannot be disclosed 2. the data can be disclosed 3. where there is currently 'no such data', they answered on the basis of their own records (or the lack of them) or for another reason. Which is the correct practice? This article sets out to establish this, or at least to come closer to the method by which this type of data set should be handled. What needs to be clarified is, on the one hand, when criminal personal data may be disclosed in response to an FOI request and when the request must be refused, and, on the other, whether merely stating a headcount is criminal personal data, bearing in mind that in the case of a small district office, for example, the person subject to criminal proceedings can easily be identified by comparing the answer with newspaper articles published in the district, even if the district office did not disclose their name, but, say, the local press reported that 'the official veterinarian has been caught out issuing blank pet passports to serve the puppy-farming industry'.

II. Is disclosing the number of government office staff subject to pending criminal proceedings a disclosure of criminal personal data?

Our first starting point may be whether the answer to the FOI request qualifies as personal data. If it does, the general rule on requests for data of public interest under Section 26 of Act CXII of 2011 on the Right to Informational Self-Determination and on the Freedom of Information (Infotv.) cannot be applied to it; if the aggregate headcount is not personal data, it can be disclosed. But I must immediately qualify this statement, since even an anonymous headcount allows entirely different conclusions (and identifiability) at a large office than at a small one – especially if, for example, newspaper articles concerning a specialised field have previously appeared in the press. Under point 2 of Section 3 of the Infotv., personal data means any information relating to the data subject, and the 'data subject' is an identified or identifiable natural person. Point 5 of Section 3 of the Infotv., by contrast, expressly excludes personal data from the concept of data of public interest. In my interpretation, therefore, the legal status of an answer such as 'criminal proceedings are

currently pending against 2 persons on the staff of the government office' cannot be separated from the size of the organisation: at a large organisation, where two persons cannot be identified by any reasonable means, it may be anonymous and not personal data; at a small body, combined for example with public newspaper articles or other public information, it may be personal data relating to identifiable data subjects. Recital 26 of the General Data Protection Regulation (GDPR) expressly provides that, in determining identifiability, account must be taken of all the means reasonably likely to be used, and not only of whether the controller itself holds all the identifying data. Objective factors, such as the cost of and the amount of time required for identification, must also be taken into account. The case law of the Court of Justice of the European Union (e.g. the Nowak case, the Breyer case) points in the same direction: it is not necessary for all the information needed for identification to be in the hands of the same person; information may be personal data even where the data subject becomes identifiable when it is combined with other information. So if a single official veterinarian works in a district, and the local press has previously reported that 'criminal proceedings have been launched against the district's official veterinarian', and I ask the district office how many persons on its staff are subject to criminal proceedings, then the answer 'one person' is an official confirmation that the person concerned is subject to criminal proceedings, and is therefore no longer simple statistical data. Guidelines 02/2026 of the European Data Protection Board, put out to public consultation, as well as an opinion of the Article 29 Working Party, also highlight three relevant risks: singling out (a person becoming distinguishable), linkability (the possibility of linking different data sources) and inference (the possibility of deducing information about a person). In other words, in my interpretation, the absence of a name does not in itself make the data anonymous.

Figure 2: Same number, different meaning
What becomes of the headcount depends on how large a unit it relates to, and what the public already knows about it.

Large government office

'Criminal proceedings are pending against 2 persons'

No one can be linked to it: anonymous statistics, may be data of public interest.

Small district office

Local press 'Criminal proceedings launched against the district's official veterinarian'

'Criminal proceedings are pending against 1 person'

Identifiable when compared with the press report: personal data of a criminal nature.

Illustration based on Chapters II and VI of the article; the number of dots is not an actual headcount.

Under point 4 of Section 3 of the Infotv., criminal personal data means personal data relating to criminal proceedings that can be associated with the data subject and that was generated at the bodies authorised to conduct criminal proceedings or to detect criminal offences, or within the penitentiary system, as well as data relating to a criminal record. Under Article 10 of the GDPR, however, personal data relating to criminal offences and criminal convictions may be processed only under the control of official authority or on the basis of Union or Member State law providing for appropriate safeguards. The information held by the government office's HR department is therefore not criminal personal data within the meaning of the Infotv., since it was not generated at the body conducting the criminal proceedings; it is, however, personal data under the GDPR, and may be data

relating to criminal offences within the scope of Article 10 of the GDPR. On the basis of the above, the title I chose for my article has also become a point to be corrected. The 2025 annual report of the Hungarian National Authority for Data Protection and Freedom of Information (NAIH) emphasises that, as regards data on pending criminal proceedings, the restriction under Section 27(2)(c) of the Infotv. is relevant primarily to proceedings-related data processed by the bodies conducting the proceedings. If this is true, then KEVKH's answer is not acceptable either, since it should have substantiated why a figure (if there is such a person on the staff) could be identifiable.

III. When may data relating to criminal proceedings be disclosed?

The case law I came across during my research has nuanced my earlier categorical view ('data relating to criminal proceedings cannot be disclosed in response to an FOI request'). According to the Curia (Kúria), Hungary's supreme court, the mere fact that a document containing data of public interest was requested by the investigating authority and has thus become part of the criminal case file does not automatically make it possible to refuse disclosure of the data; the restriction must be specifically justified. The NAIH's 2025 report confirms the same: Section 27(2)(c) of the Infotv. – in the interest of the prosecution or prevention of criminal offences – cannot be invoked as a general, blanket ground for refusal; according to the NAIH, in this context it is primarily the bodies conducting the proceedings that may rely on it, where the statutory conditions are met. This does not mean, however, that the government office would have to disclose the fact of criminal proceedings against a member of staff: if the answer itself is data relating to an identifiable natural person, then, because of point 5 of Section 3 of the Infotv., it is not data of public interest. Looking at the types of answers given, KEVKH's refusal to answer may therefore be partly correct, but it is open to challenge because of the blanket ground for refusal, which was not given any substance; in doing so, KEVKH should have moved on from the assertion that 'criminal personal data cannot be the subject of an FOI request' to the question of whether the requested headcount is personal data: if it can be linked to an identifiable person, it is not data of public interest; if it is not identifiable, however, it may be data of public interest. The controller must assess all this with regard to the specific organisation and the specific request. In KEVKH's case, then, the answer itself may be correct, but the reasoning is wrong.

VeVKH's answer concerning a former employee is the most problematic, since it does not answer the question asked ('on the day of the request, how many persons on the staff of the government office are you aware of'); its answer ('criminal proceedings are pending against a former employee') therefore raises two main concerns: they disclosed data about a person to whom the request did not relate, and, since the fact of criminal proceedings against a specific former employee is personal data, and Article 10 of the GDPR makes the processing of such data subject to special conditions, the processing here had no appropriate legal basis. Purpose limitation and data minimisation under Article 5 of the GDPR are also lacking: the information disclosed was not needed to answer the question. Moreover, a departing employee, whether in a small or a large organisation, is always much easier to identify than those who remain on the staff. The NAIH's 2025 report itself stresses data minimisation in a case where, in a disclosure, only the data necessary for identification may be disclosed from among the personal information relating to the criminal case. It is of course possible that by the statement 'former' employee VeVKH meant that the person was

still on the staff of the government office on the day of the request and that their employment ended afterwards, perhaps precisely in view of the criminal proceedings – but in that case it should have made this clear in its answer, because if it did not mean this version, the processing no longer has a legal basis.

In the case of CSCSVKH's answer, 'criminal proceedings are pending against 2 persons', the question is whether these two persons could be identifiable to me by reasonably available means. At a large office certainly not, but at a small office, or in the case of news published by the local regional press, or on the basis of earlier information, it may be known who the two persons could be, so the data is not anonymous at all. In assessing identifiability, the GDPR expressly takes into account that another person or other information may be used for identification; when analysing CSCSVKH's answer, the main dilemma is therefore of course not that the two persons are not named, but whether they are otherwise identifiable. If they are, then disclosing information on the criminal proceedings against the two persons is problematic from a data protection point of view.

Several government offices gave an answer along the lines of 'according to our records, there is currently no person on our staff against whom criminal proceedings are pending'; in itself, this answer is unobjectionable from a data protection point of view: if the government office actually knows this information from its own records, it is an appropriate answer. As an exception, however, I would again point to the case of a small office where, if one person works in a given specialised field (e.g. as an official veterinarian), even an answer of zero may carry information relating to a person.

IV. Deadline and forwarding of the request

As regards failure to meet the deadline, the situation is clear: for a request received on 14 September 2026 at 14:50 – if it actually reached the addressee that day – the general 15-day deadline under Section 29(1) of the Infotv. expires on 29 September. The controller must comply with the request as soon as possible, but within 15 days at most. The deadline may be extended by a further 15 days at most if the request is extensive, concerns a large amount of data, or if this is necessary because of a disproportionate use of the workforce needed for the controller's core activities, but the requester must be informed of this within the first 15 days. The six government offices that did not reply within the deadline (and did not give notice of an extension either) therefore breached their obligations under Section 29 of the Infotv.; in this regard, the NAIH may take various steps if a report is made, and under Section 31(1) of the Infotv. I can turn to the court if the deadline for compliance expires without result (among other cases); in the lawsuit, the controller must prove that the refusal was lawful.

My concerns about the district offices (which will be examined in detail in a later study) regarding answers such as 'We are aware that you contacted the government office on 14 September 2026, and in view of the government office's reply there is no such person at our office either' (our translation) raise the question of on what legal basis and for what purpose the information that I had previously also contacted the government office reached the district office. Under Section 28(2) of the Infotv., the personal data of a person requesting data of public interest may be processed only to the extent necessary for fulfilling the request and for certain purposes laid down by law. So if the government office forwarded to the district office the fact of my request, my name, my e-mail address and the specific

question I asked, then the legal basis and purpose of that transfer must be specified separately. It is of course possible that they use the same internal records, that the government office gave general information to the district offices, or that they worked from the same HR records, but 30 years of experience in public administration tell me that the simplest explanation is always the most realistic, so they really did forward my request as it was. The solution, however, is much simpler than one might think, and it stems from a gap in my professional knowledge; later on, I will cite a specific piece of legislation to explain why the district office may know about my request to the government office – lawfully. The personal nature of the data therefore does not depend on whether the person subject to criminal proceedings is named, because in a given individualised working environment even an answer that is merely a figure may allow identification; Recital 26 of the GDPR expressly assesses this on the basis of all the means reasonably likely to be used for identification. Where articles of the kind 'criminal proceedings have been launched against the official veterinarian' have previously appeared in the local press, the bare headcount given as an answer is no longer statistics, but the official confirmation of information that has already been made public.

V. Specific evaluation of the replies sent by the government offices

Four government offices answered that they were 'not aware of any such person' (quotations from the replies: our translation), so they clearly answered the question asked; HVKH, however, wrote in its reply that 'the basic public service register does not contain such data, therefore it does not process data relating to criminal proceedings', but logically this does not mean that there is no such person in the government office, only that it may be aware of such a person, but from another source. Whether a person affected by criminal proceedings reports this or fails to do so – although not a data protection issue – is very interesting in that, 'naturally', practice is not uniform here either. According to the replies of BKVKH, BéVKH and BFKH, 'the' criminal proceedings entail immediate dismissal, while the replies of BaVKH, HBVKH, VaVKH, ZVKH and CSCSVKH are more nuanced: automatic dismissal applies only in certain criminal proceedings, i.e. for certain criminal offences – quite rightly, since Section 82(2)–(3) of Act CXXV of 2018 on Government Administration (Kit.) does not attach immediate dismissal to every pending criminal proceeding. BFKH, BéVKH, GYMSVKH and ZVKH understand 'staff' to include the district offices, while the others replied only with regard to the staff of the government office (in GYMSVKH's wording, for example: 'regarding government office employees – including the employees of the Government Office's district offices') or, according to BaVKH, ('with regard to its organisational units directly headed by the főispán (the government-appointed head of the county government office), and its district offices'), but ZVKH also treats the government office and the district offices together. This is misleading, because the very aim of the FOI request of 21 September 2026 would have been to obtain information on the own staff of the individual smaller organisational units – which leads back to the problem of small offices, the local press and other available public information making identification easier.

VI. Summary

In my assessment, the different answers will receive different data protection risk classifications in an investigation or administrative proceedings launched before the NAIH. Most government offices did not state 'zero', but that they were not aware of any such

person; this is legally significant because it does not mean the same as there being no such person. HVKH's answer ('does not process such data') does not necessarily prove that there is no person of whom the employer could otherwise have become aware by other means. The data protection assessment of the positive answers (in the case of VeVKH and CSCSVKH) cannot be separated from the indirect identifiability of the data subjects. Only data that does not fall within the concept of personal data can be data of public interest (Infotv. Section 3, point 5). If the answer is personal data, the request cannot be directed at that data. The exception is data accessible on public interest grounds, but data relating to criminal proceedings is not such data. Personal data is any data that can be associated with an identified or identifiable person. According to Recital 26 of the GDPR, in determining identifiability, account must be taken of all the means that anyone may reasonably use. According to the Breyer case (C-582/14), this includes additional information held by a third party that can be lawfully obtained. Under the Infotv., criminal personal data is data generated at the bodies authorised to conduct criminal proceedings that can be linked to a data subject. Such information held by the employer falls rather under Article 10 of the GDPR (data relating to criminal offences). Such data may be processed only under the supervision of an authority, or where authorised by EU or Member State law. The CJEU interprets this broadly; see Case C-439/19, Latvijas Republikas Saeima. The precise name of the concept I have everywhere defined as criminal personal data is therefore 'personal data relating to criminal proceedings'. The bare headcount is therefore not criminal personal data per se. It is anonymous statistics, and thus data of public interest, as long as no one can be linked to it. It becomes personal data, indeed data of a criminal nature, if it can be attributed to a specific person. The decisive question is therefore not what the subject of the question is, but how large a unit the number relates to, and what the known background is. Under the relevant legislation (Government Decree 568/2022 (XII. 23.) on the Budapest and county government offices and on the district (Budapest district) offices), the district office is not an independent body but an organisational unit of the county government office. I did not know this; I came across it while writing the study, which is of course a professional error, but what is more awkward is that a good many of the district offices that have answered so far do not know it about themselves either. An important consequence of this for our subject is that the controller is the same, and the staff of the government office also includes the employees of the district offices. The government offices typically handle FOI requests centrally (in some counties), so the district office may learn of the earlier request through the head office, except in other counties, where each district office began answering me independently. Moreover, under Section 29(1a) of the Infotv., the controller is not obliged to comply with a request from the same requester concerning the same set of data within one year if the data have not changed. However, if the district office merely repeats the county's answer, it gives no specific information about the small unit.

Twenty government offices, a single question and at least four kinds of answer. The most important lesson of the survey is not which office gave the 'right' answer, but that there is no uniform, professionally well-founded practice even for a seemingly simple question. For the headcount is in itself neither prohibited nor freely disclosable: what becomes of it depends on how large a community it relates to, and what the public already knows about it. The controller cannot skip this balancing exercise, either with a boilerplate refusal or with a mechanical disclosure of a number. There is, however, an even more disturbing lesson. If more can be learned about proceedings against official veterinarians from the press, from the prosecution service's press releases and from criminal complaints than from their

employer's records, then the question is no longer one of data protection but of administration: does the state know who acts in its name? Data protection exists to protect the individual from unnecessary publicity, not so that the employer remains unaware of what the whole county or district is talking about. Processing the district offices' replies will hopefully bring us closer to finding out where this chain of information breaks, and what professional proposals can be made towards putting the concept of the ‘good state’ into practice.