

Case number: NAIH-89-3/2022. Subject: data protection decision initiated ex officio

in official proceedings

History: NAIH-6839/2021.

The National Data Protection and Freedom of Information Authority (hereinafter: Authority) with [...] (hereinafter: Customer) against [...] on the website (hereinafter: website) and by the Customer with information provided in connection with the operated online store (hereinafter: online store) regarding the processing of personal data to natural persons on the protection and free flow of such data, and outside the scope of Directive 95/46/EC Regulation 2016/679 (EU) on the placement of GDPR) Article 5(1)(a), Article 5(2) and Articles 13 and 14 for the period between May 25, 2018 and the initiation of the procedure due to its alleged violation on the subject of its relevant data management practices, it was launched ex officio on August 27, 2021 brought the following in an official procedure decision.

The Authority

I. establishes that the Customer has violated the

- Article 5, paragraph (1) point a) GDPR,
- Article 6 (1) GDPR,
- Article 12 (1) GDPR,
- Article 13, paragraph (1) points a) and c) GDPR,
- Article 13, paragraph (2) points a, b), c), d) and e) of the GDPR.

II. The Authority ex officio obliges the Client to initiate a judicial review

the expiry of the applicable deadline for filing an action, or in the case of initiation of a review, the court within 30 days of your decision, amend your data management information and questionnaire so that they should include clear, transparent information about the personal data collected on the website regarding.

The II. 30 from the day the measure was taken, the Customer must fulfill the obligation according to point

Within days, you must certify in writing - together with the presentation of supporting evidence - a

To authority. In case of non-fulfilment of the obligations, the Authority shall issue a decision

implementation.

III. In the Authority's decision, the Client is ex officio due to the illegal data processing he has carried out

300,000 HUF, i.e. three hundred thousand forints

data protection fine

obliged to pay.

.....

.....

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During the official procedure, no procedural costs were incurred, therefore no costs are incurred

provided by the Authority.

The initiation of a court review of the data protection fine is a legal action

15 days after the expiry of the deadline or, in the case of initiation of a review, after the decision of the court

within the Authority's centralized revenue collection target settlement HUF account (10032000-

01040425-00000000 Centralized direct debit account IBAN: HU83 1003 2000 0104 0425 0000

0000) must be paid in favor of When transferring the amount, NAIH-89/2022. FINE. must be counted

refer to.

If the Customer does not fulfill his obligation to pay the fine within the deadline, he is in default

must pay an allowance. The amount of the late fee is the legal interest, which is due to the delay

is the same as the central bank base rate valid on the first day of the relevant calendar semester. The fine and the in case of non-payment of late payment, the Authority orders the execution of the decision.

There is no place for an administrative appeal against the decision, but it is subject to notification

Within 30 days with a letter of claim addressed to the Capital Court in a public administrative case

can be attacked. The claim must be submitted to the Authority, electronically¹, which is the case

forwards it to the court together with its documents. Those who do not benefit from the full personal tax exemption

for him, the fee for the administrative lawsuit is HUF 30,000, the lawsuit is subject to the right to record the fee. THE

Legal representation is mandatory in proceedings before the Metropolitan Court.

No procedural costs were incurred in the procedure.

I N D O C O L A S

I.

Facts, history

I.1. The Authority shall contact the Customer's website [...], i.e. the website and the website operated by the Customer

Article 4 of the General Data Protection Regulation applies to information provided in connection with the online store

11, Article 5 (1) point a), Article 5 (2), 13-14 for his article

examination of its adequacy is necessary

saw. As a violation of these provisions

was probable, therefore it was justified to initiate a data protection official procedure ex officio,

especially considering that a large number of people are likely to be affected in the course of the Customer's activities

handles their personal data, so it complies with the provisions of the GDPR and is transparent

its information is particularly expected on the Customer's website, i.e. the website.

On the website, in the "About us" section, you can read, among other things, the following about the fact that the questionnaire

is used by many

the person concerned fills in:

"[...]"

A household test is currently running for those completing the questionnaire, due to the great interest and geographical

dispersion

in view of this, we undertake to deliver the gifts until the end of next year.

[...]"

1 The NAIH_KO1 form is used to initiate the administrative lawsuit: NAIH KO1 form (16.09.2019) The form it can be filled out using the general form filling program (ÁNYK program).

2

our products

distributed

their qualification

to create. THE

The following information can be found on the website regarding the Customer's activities:

According to the Customer's website, "Hungary is the representative home technology and wellness is present as a dominant company in the field of sales of oriented products. THE website further explains that "Our goal is sales based on personal advice, the high high-quality customer care, maintenance and continuous development of an outstanding service network. Our products are related to a healthy lifestyle, individual and community physical and mental renewal and in terms of their mechanism of action, they are not registered in Hungary as medical-medical devices devices, are marketed as wellness-oriented products."

According to the Customer's company certificate, TEÁOR 4791 Cosmagküldő, also carries out activities (date of entry: 2017/11/03).

I.2. The Authority NAIH-6839-1/2021. notified the Customer in order no. 2021.

On August 27th, he started a data protection official procedure ex officio, and in this case, in its order, the Customer was invited to make a statement in order to clarify the facts. The Customer a He made a statement within the deadline for the order of the authority and presented the following:

Through the website, those interested can fill out a household energy saving questionnaire, for which the Customer receives a 5-part package of cosmetic and household products they can get. In this context, the name, address and telephone number of the data subjects it is necessary to make it available. The Customer requests the phone number for the purpose of handing over the package from those completing the questionnaire. There is no other data management with this personal data. This is personal data before submitting the questionnaire, the interested parties can find out about its management on the website data management information sheet is subject to acceptance.

The Customer shall use the personal data provided by the persons concerned until contact is made manages, which is December 31 of the year following the current year. This is available before submission in the information provided. In principle, it is also possible to order products on the website by registering or by providing the following personal data:

from information. Submit the questionnaire to the referenced data management internet retail

- surname and first name,
- delivery address, telephone number and e-mail.

Before sending the order, you must declare that it is general by ticking a column the terms and conditions of the contract have been read and accepted by the person concerned.

During the examined period, no flyers or newspaper advertisements were distributed, only on the website the Customer accepted inquiries from registered interested parties.

The Customer does not forward personal data to [...] Kft.

Stakeholder requests included.

The Customer attached the questionnaire on its website and its data management information related pdf copy, screen save.

I.3. Based on the Customer's answers, the Authority considered that additional data management circumstances examination became necessary.

information on data management

related to its performance

information sheet

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The Authority NAIH-6839-3/2021. on January 3, 2022, the Customer sent the his answer and stated as follows:

Between May 25, 2018 and August 27, 2021, i.e. in the official data protection procedure during the period under review, 252 stakeholders filled out the Customer's questionnaire and responded. Of these the Customer does not store any of the affected data, it does not search for the affected persons, it has been closed or deleted.

The Customer is not yet accepting orders through the website, and will also inform website visitors of this.

The Customer's main activity is not store trade, neither by phone nor by e-mail order/have ordered a product from the Customer.

Previously, the provision of the following personal data required for contact the Customer requested:

- name,
- title,
-

telephone number.

The data was processed until the data subject was contacted, after which the personal data were deleted. THE the provision of personal data was voluntary, before the submission, the Client called the relevant parties attention to the fact that the data subject is informed about the Customer's data management and its use, contact the Customer only afterwards. In support of this, the Customer cited the the relevant part of its data management information sheet:

"I have read and acknowledged the following:

We have the opportunity to evaluate one questionnaire per household or family. [...] Kft.

the questionnaire submitted by your colleagues and family members cannot participate in the evaluation, it is guaranteed

does not receive a gift. The 5-part [...] household and cosmetic provided by our company

the amount of gift packages and [...] vouchers is the stock of the supplier and the recipient

accommodation capacity and the number of the holiday voucher given to our company by [...]

depending on it, legal recourse or claims for compensation are excluded. Guaranteed gifts are not exchangeable,

we are unable to pay them in cash. We will only accept the delivery of the gift if it is

at least six people are present at the handover. Additional advertising gifts from all our published companies

will get it. The pictures are illustrations. At the event, our company presented for more than an hour

introduces himself to you. About the detailed terms and conditions of the gift delivery, about our presentation, that is

about gifts, about our company, about our data protection policy, before submitting the questionnaire on our website

you can find out! We are currently running a household test questionnaire for those filling out the questionnaire, of great

interest and geographic

due to dispersion, we undertake to hand over the gifts until the end of next year. We ask that

if you do not accept these conditions, do not contact our company!"

According to the Customer's statement, with the exception of the case of a customer from Veszprém County,

so far no complaints have been received.

II. Applicable legal provisions

CL of 2016 on the general administrative procedure. Act (hereinafter: Act) § 99

based on the authority - within the framework of its powers - checks the provisions of the law

compliance with the provisions, as well as the fulfillment of the provisions of the enforceable decision.

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Based on Article 2 (1) of the GDPR, the examined data management is governed by general data protection

regulation must be applied.

Article 4, point 1 of the GDPR "personal data": for an identified or identifiable natural person

any information concerning (“data subject”); the natural person who is directly you can be identified indirectly, in particular an identifier such as name, number, location data, online physical, physiological, genetic, intellectual, economic, cultural, or identifier of the natural person can be identified based on one or more factors related to his social identity.

According to Article 4, point 2 of the GDPR, "data management": on personal data or data files any operation or set of operations performed in an automated or non-automated manner, such as the collection, recording, organization, segmentation, storage, transformation or change, query, access, use, communication, transmission, distribution or other means by item, coordination or connection, restriction, deletion or destruction.

Point 7 of the same article defines the concept of data controller as "the natural or legal entity, public authority, agency or any other body that is personal determines the purposes and means of data management independently or together with others; if that the purposes and means of data management are determined by EU or member state law, the data manager or special considerations for the designation of the data controller are also provided by EU or member state law can determine."

Article 5 of the GDPR contains the principles for the management of personal data, which includes:

"(1) Personal data:

a) must be handled legally and fairly, as well as in a transparent manner for the data subject conduct ("legality, due process and transparency");

Management of personal data based on Article 6 (1) of the General Data Protection Regulation

it is only legal if and to the extent that at least one of the following is fulfilled:

a) the data subject has given his consent to the processing of his personal data for one or more specific purposes for its treatment;

b) data management is necessary for the performance of a contract in which the data subject is one of the parties,

steps

or at the request of the data subject prior to the conclusion of the contract

necessary to do;

by

c) data management is necessary to fulfill the legal obligation of the data controller;

...

Based on Article 12 (1) of the GDPR, the data controller takes appropriate measures in order to that the person concerned is referred to in Articles 13 and 14 regarding the processing of personal data all information and 15-22. and each piece of information according to Article 34 is concise, transparent, provide it in an understandable and easily accessible form, clearly and comprehensibly worded, especially for any information directed at children.

Based on Article 13 (1) of the GDPR:

a) the identity and contact details of the data controller and - if any - the representative of the data controller;

b) contact details of the data protection officer, if any;

c) the purpose of the planned processing of personal data and the legal basis of data processing;

d) in the case of data management based on point f) of paragraph (1) of Article 6, the data controller or a third party legitimate interests of a party;

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e) where applicable, recipients of personal data, or categories of recipients, if any;

f) where appropriate, the fact that the data controller is a third country or an international organization wishes for

and compliance of the Commission

existence or absence of its decision, or in Article 46, Article 47 or Article 49 (1)

in the case of data transfer referred to in the second subparagraph of paragraph

indication of guarantees, as well as the methods for obtaining a copy of them or that

reference to their availability.

transmit personal data,

Based on Article 13 (2) of the GDPR, in addition to the information mentioned in (1), it is data controller at the time of obtaining the personal data, in order to a ensure fair and transparent data management, the data subject is the following supplement informs about information:

a) on the period of storage of personal data, or if this is not possible, this period aspects of its definition;

b) the data subject's right to request from the data controller the personal data relating to him access to data, their correction, deletion or restriction of processing, and you can object to the processing of such personal data, as well as to the data portability concerned about his right;

c) based on point a) of Article 6 (1) or point a) of Article 9 (2) in the case of data management, the right to withdraw consent at any time, which it does not affect the legality of data processing carried out on the basis of consent before the withdrawal;

d) on the right to submit a complaint to the supervisory authority;

e) that the provision of personal data is a legal or contractual obligation is a basis or a prerequisite for concluding a contract, and whether the person concerned is obliged to the personal to provide data, and what possible consequences the provision of data may entail failure to do so;

f) the fact of automated decision-making referred to in paragraphs (1) and (4) of Article 22, including also profiling, and at least in these cases to the applied logic and that comprehensible information regarding the significance of such data management and the data subject looking at the expected consequences.

Infotv. According to Section 2 (2), the general data protection regulation is indicated there shall be applied with additions contained in provisions.

Infotv. On the basis of § 38, paragraph (3) and § 60, paragraph (1), the Authority is the Infotv. Section 38 (2) and (2a) enforcement of the right to the protection of personal data in his duties according to paragraph

conducts a data protection official procedure ex officio.

Infotv. 60/A. On the basis of § (1), in the official data protection procedure, the administrative deadline one hundred and fifty days.

The Akr. On the basis of Section 103 (1) of the Ákr. concerning the procedures initiated on the application provisions of the Acr. It shall be applied with the deviations contained in §§ 103 and 104.

Infotv. Based on point a) of section 61 (1), the Authority in sections (2) and (4) of section 2 in connection with specific data management operations in the general data protection regulation may apply specific legal consequences.

Based on points b) and d) of Article 58 (2) of the GDPR, the supervisory authority acting within its competence, condemns the data manager or data processor, if data management

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product

to the purchaser of the product,

product seller, service provider, and

the tax number of the product seller or service provider, under which a

his activity violated the provisions of the decree, or instructs the data controller or it

data processor to perform data management operations - where appropriate, in a specified manner and within a specified time - bring it into line with the provisions of this regulation.

CXXVII of 2007 on VAT. Act (hereinafter: VAT Act) § 169

the mandatory data content of the invoice is as follows:

a) the date of issue of the invoice;

b) the serial number of the invoice, which identifies the invoice beyond doubt;

c) a

performed sales and service provision;

d) the purchaser of the product, the user of the service

da) tax number under which the sale of the product or service is carried out as a tax liability

provision has been fulfilled, or

db) tax number, under which the product sales specified in § 89 were made to him,

obsession

dc) * of your tax number or, in the case of group VAT registration, group identifier

the first eight digits of your number, under which, as a domestically registered taxpayer

the product sale or service provision has been completed, provided that the seller of the product,

service provider is established domestically for economic purposes, establishment for economic purposes

and in his absence, he has a place of residence or habitual residence in the country;

e) a

name and address of the service user;

f) * the name of the sold product, its marking - obliged to issue the invoice

on the basis of your choice - the reference number used in this law, as well as its quantity or the amount provided

name of the service, to mark it - based on the choice of the person obliged to issue an invoice -

the TESZOR'15 used in this law, and its quantity, provided that it is natural

can be expressed in units of measure;

g) the time referred to in points a) and b) of § 163, paragraph (1), if it differs from the time when the invoice is issued

from date;

h) the term "cash flow settlement", XIII/A. special rules defined in chapter

in the case of applying taxation according to;

i) the basis of the tax, as well as the tax-free unit of the product sold or the service provided

tax-free unit price, if it can be expressed in natural units of measurement, as well as the applied one

discount, provided that it is not included in the unit price;

j) the amount of tax applied;

k) the transferred tax, unless its indication is excluded by this law;

l) the term "self-invoicing" if the invoice is issued by the purchaser of the product or the user of the service

set out;

m) in the case of tax exemption, according to the relevant provisions of the law or the VAT Directive

reference or any other, but clear indication that the product is sold, service

its provision is exempt from tax;

n) the term "reverse taxation" if the buyer of the product or user of the service is required to pay tax

obligated;

o) in the case of the sale of a new means of transport as defined in § 89, the new means of transport

data relating to the device, defined in point 25 of § 259;

p) the term "different regulation - travel agencies", Article XV. defined in chapter

in the case of providing travel organization services according to special rules;

q) "regulation according to difference - used articles" or "regulation according to difference -

works of art", or the "differential regulation - collectibles and antiques"

of expressions, the corresponding expression, XVI. special rules defined in chapter

in the case of the sale of second-hand movable property, works of art, collectibles or antiques;

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r) in the case of employing a financial representative, the name, address and tax number of the financial representative.

VAT TV. Pursuant to § 259, point 5, electronic invoice: containing the data required by this law

invoice issued and received in electronic form.

III. Decision

information", "data management

III.1. Data controller

It can be determined from the answers sent by the Customer to the Authority that it was collected on its website

In connection with the management of personal data, the purpose and means of data management are the Customer

therefore, based on Article 4, point 7 of the GDPR, the subject is considered a data controller

in connection with data management. The Customer did not dispute this either, but acknowledged it in his statements.

During the procedure, the data protection declaration attached by the Customer (addressed to data subjects) is not

contains information about the data controller, only the data processing performed

mentions operations (collection, use, communication). On the other hand, "give information" as well made in the official procedure, NAIH-6839-2/2021. in points 1, 3, 6 of the statement filed under used "privacy time" and "data protection from the wording "our declaration", T/1. a

conclusion that the Customer considers itself a data controller.

III.2. Personal data provided to the Customer through the website and data handling

The Authority examined the questionnaire on the Customer's website and found that

Among the collected data, the name, address data, telephone number and e-mail address are GDPR Article 4

Based on point 1, the answer given to personal data in connection with the previous domestic accident a

Based on GDPR Article 4, point 15, it can be considered health data, which is GDPR Article 9 (1)

according to paragraph 1, it belongs to the special category of personal data, for the processing of which special rules apply based on the GDPR.

The Authority is the attached documents, the information found on the website, and the Customer's statement based on this, the Customer has established that there are two types of data management on its website:

1. Completing a household energy saving questionnaire to obtain a gift package

in order to

2. ordering from the online store

In relation to the above, the Customer stated that he does not yet accept bets through the website orders. Which is contrary to the fact that, according to its company certificate, it is a mail order and internet service provider also conducts retail trade (date of entry: 2017/11/03), however, according to the Authority's opinion, this the following does not exclude the related data processing (according to point 2 mentioned above). because of:

The Authority examined the range of data collected in connection with the webshop on the website and in this regard, he established that so-called invoicing data is required for product purchases

to make available to those concerned. The billing data are as follows: first name, surname, address, telephone number, e-mail address. After selecting the products for purchase, it is for so-called "TREASURY" a general contract document called conditions

can be found, which includes the data management information on the Customer's website, which

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however, it does not provide information on data management related to the webshop. This is the so-called

The general terms and conditions document also contains information that "On the website

you can only order from our products by phone or e-mail.", from which, however, it is not

it follows that personal data in connection with the purchase of products via the website

is not collected, as the website contains personal data in connection with the product purchase

its provision is nevertheless possible.

The Authority also notes here that the VAT e-mail address is not required for invoicing

TV. according to the provisions on the data content of the invoice (Section 169), because a paper-based invoice is paper must be issued, handed over to the customer and kept. The electronic invoice is electronic

is issued in a form, reaches the customer, its originality and immutability is the time stamp and that

together with the electronic signature, VAT is guaranteed. Based on § 259. 5. However, more on that separately

it must be agreed that the invoice will be issued electronically, which requires special tools

to have, considering the tax administration identification of the invoice and the receipt, as well as the electronic

23/2014 on tax authority control of invoices kept in (VI.30.) NGM decree

regulations. There is no information about electronic invoicing on the Customer's website information sheet.

With his statement, the Customer confirmed the data management in connection with point 1

provides the name, address and telephone number of the persons concerned

asks those who fill out the questionnaire. It handles these personal data until contact is made (subject year

until December 31 of the following year).

Due to the above, the Authority determined that the personal data collected by the Customer on the website with its storage and use, performs data management based on Article 4, point 2 of the GDPR, or has completed a during the examined data management period.

According to the Customer's statement, the managed and examined data were deleted, but this does not mean that obstacle to establishing the violation.

III.3. Privacy Policy

The Authority examined it on the Customer's website established the following regarding:

III.3.1. Information provided about the data controller

According to the Authority's findings, it was not included in the data management information sheet or the questionnaire to indicate the person of the data controller, despite the fact that Article 13 (1) paragraph a) of the GDPR point specifically stipulates this as the personal data to be made available during personal collection data, and despite the fact that this is essential information for the enforcement of data subject rights, and so that the website visitor knows where his personal data is going.

Only in connection with the data subject's request is there information that they are [...] must be sent to an e-mail address.

Due to the above, the Authority concludes that the Customer has violated Article 13 (1) of the GDPR point a).

III.3.2. Information on the purpose and legal basis of data management, as well as the retention period

located data management information sheet with which

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in form, possibly

(easy to understand, structured

In the opinion of the Authority, the Customer's data management information sheet does not comply with Article 5 of the GDPR of the requirement of transparent data management according to point a) of paragraph (1), since it is not in several places

states clearly, because it does not list which personal data for which purpose and

is handled by reference to the legal basis. He did not indicate the legal basis or exact retention period at all, a

and it only listed the purposes, but did not associate the processed personal data with them.

In relation to the retention period, the information that it will be processed for as long as is not acceptable

the "achievement of specified goals makes it necessary" and "unless the law is longer

enables or permits a retention period." This statement is not in accordance with the Authority

with a statement made at his request, because in it the Customer stated that the personal data

manages it until contact is made, which is December 31 following the year in question. Furthermore, it is a contradiction that

despite this statement, the Customer informed the Authority that from May 25, 2018 to 2021

personal data related to questionnaires filled in between August 27

keeps, does not manage, despite the fact that, according to the statement sent to the Authority, they are the subject year

it manages until December 31 of the following year, so based on this, it would manage until December 31 of 2022 in the year

2021

provided personal data.

In the case of data management information, the principle of transparency is met if the data subject is personal

as data separately

in table)

contains and clearly indicates the purpose, legal basis, and duration of data management

and if you refer to point c) of Article 6 (1) of the GDPR as the legal basis for data management,

then you will also specify the legislation that prescribes mandatory data management.

The Authority further established that, despite the fact that the Customer also operates a webshop,

the so-called general contract in this regard

can be read in its terms and conditions

according to its information, it is only available when ordering by phone and e-mail

not at all about the circumstances of the processing of provided personal data (purpose, legal basis, preservation).

provided information to those concerned, as the data management information available on the website is the goal

does not list this among

Due to the above, the Authority determined that the Customer violated Article 5 (1) of the GDPR point a) and point c) of Article 13 (1) of the GDPR, as well as point (a) of Article 13 (2) of the GDPR point.

III.3.3. Information about rights of stakeholders

The Customer provided information for the correction under the heading "ACCESS" under the data subject rights and the right to erasure, therefore this information is not transparent, so also in this context a violation of Article 5 (1) point a) of the GDPR can be established.

The data management information sheet does not provide at all the right to restriction according to Article 18 of the GDPR information, thereby the Customer violated Article 13 (2) point b) of the GDPR.

In addition to the above, the Customer violated Article 13 (2) point d) of the GDPR, as he did not provide information on the right to submit a complaint to the Authority, as well as Article 13 (2) of the GDPR points c) and e) of paragraph, since he did not provide information at any time of the consent about the right to withdraw and that the provision of personal data is legally binding is it based on a contractual obligation or is it a prerequisite for concluding a contract, is it obliged to do so concerned to provide and the possible consequences of failure to provide data.

III.4. Personal data processed based on consent

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despite his invitation, he did not specifically state which one

The Client is the Authority

handles the personal data of the data subjects on the legal basis(s), it has only stated that they are its submission is tied to the acceptance of the data protection information, as well as the Customer's data management its prospectus does not indicate a legal basis.

According to the Authority's point of view, sending out the gift package, maintaining contact, and for additional purposes specified in the data management information sheet (presentation of products, services, sending offers, etc., i.e. for marketing purposes) processing of personal data processed in connection with a

They can be handled with reference to points a) and f) of Article 6 (1) GDPR. Customer response

at the same time, it indicates that Article 6 (1) point a) of the GDPR applies.

III.4.1. Fulfillment of the conditions according to Article 4, Clause 11 of the GDPR

Article 6 (1) point a) of the GDPR, i.e. personal data managed on the basis of consent

with respect to it, a basic condition based on Article 4, point 11 of the GDPR, is that the data subjects are appropriate

have information in connection with the data management conditions in the consent

before making a decision regarding the provision, and also clearly declare the

their consent, and this consent should be specific and voluntary.

Guideline 5/2020 of the European Data Protection Board pursuant to Regulation (EU) 2016/679

on consent²

explains in detail that those involved

what conditions must be met for your consent to be a legal basis under the GDPR

qualify.

The

minimum requirements. These are the following:

included in the contribution

guideline 3.3.1. point

in the following:

guideline)

required

content

(the

- identity of data controller,
- the purpose of each data processing operation for which consent is requested,
- what (type) of data is collected and used,
- the existence of the right to withdraw consent,

- where appropriate, for the use of data for the purpose of automated decision-making

relevant information in accordance with point c) of Article 22 (2),

- the data transmission is in accordance with the conformity decision and described in Article 46

possible risks arising from the lack of guarantees.

The guideline 3.4. point also the fulfillment of the requirement of "unambiguity" of the consent details as follows:

"[...] consent requires a statement or confirmation from the person concerned

for unmistakably expressive action, this must always be done with an active action or statement

to give." In addition, it is also important that "[...] consent cannot be obtained with the same a

with an act, such as consent to a contract or a general contract for a service

acceptance of its terms'.

2 https://edpb.europa.eu/sites/default/files/files/file1/edpb_guidelines_202005_consent_en.pdf

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III.4.1.1. Consent in the case of health data management

Pursuant to Article 9 (1) - (2) of the GDPR, health data can only be expressed by the data subject can be handled based on your consent.

In point 4 of the guidelines, it is also detailed with obtaining express consent

deals with, states here that "Express consent is required in certain situations,

in which a serious data protection risk arises, therefore it is high above personal data

level, individual provision is considered appropriate." It is also expressed in the case of health data

consent is required. 4.93 of the guideline. according to point "The express term implies that

how the data subject expresses his consent. "

III.4.2. Determination of lack of consent

The questionnaire attached by the Customer and downloaded from the website contains a statement regarding that the data subject acknowledges that the information on data management can be found on the website.

However, this cannot be considered as express consent, as the data subject does not declare this

explicitly, and it is also illegal that the Customer's data management information does not provide appropriate transparent information about basic data management conditions, such as data management purpose, legal basis, retention period and data subject rights, so data subjects are not considered informed.

For these reasons, this statement is not considered a valid consent or health data

in the case of handling non-qualifying personal data or health data, as it is not responsible

and the criteria according to Article 4, Clause 11 of the GDPR.

III.4.3. Lack of adequate information

Based on Article 12 (1) of the GDPR, the data controller takes appropriate measures in order to

that the person concerned is referred to in Articles 13 and 14 regarding the processing of personal data

all information and 15-22. and each piece of information according to Article 34 is concise, transparent,

provide it in an understandable and easily accessible form, clearly and comprehensibly worded,

especially for any information directed at children.

According to the Authority's point of view, the Customer has violated Article 12 (1) of the GDPR, as well as Article III.4.2.

due to the lack of appropriate consent due to the reasons stated in point

data management is also not acceptable, therefore the Authority established that the names of those entitled to access,

address, e-mail address and phone number, as well as the questions asked in the questionnaire

answers, including your health data regarding the previous domestic accident, such as

personal data is processed by the Customer without a legal basis in violation of Article 6 (1) of the GDPR.

III.5. Legal consequences

III.5.1. Due to the above infringements, the Authority is the Client, Article 58 (2) point b) of the GDPR

condemns, and also orders, based on point d) of Article 58 (2) of the GDPR, that the

aligns its data management operations with the provisions of the GDPR by amending it

data management information sheet and questionnaire so that they contain clear, transparent information

be included in relation to the personal data collected on the website.

III.5.2 The Authority examined whether a data protection fine against the Customer was justified

imposition. In this context, the Authority has Article 83 (2) of the GDPR and Infotv. 75/A. on the basis of §

considered all the circumstances of the case. Given the circumstances of the case, the Authority established,

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that in the case of the violations discovered during this procedure, the warning is neither proportionate nor not a dissuasive sanction, so the imposition of a fine is necessary.

The Authority considered the following as aggravating circumstances when imposing fines:

- The violation is of a continuous nature, for data management during the period investigated by the Authority relevant information practice would not have changed. [Article 83 (2) GDPR

the dot];

- The violation affects a relatively large number of persons concerned, the recorded personal data

infringement committed by providing inadequate information about its management, or a

the number of customers affected by data processing without a legal basis, according to the Customer's statement

252 people who filled out the

questionnaire. [GDPR Article 83(2)(a)];

- Largely incomplete information about the handling of personal data is serious

constitutes a violation [GDPR Article 83 (2) point k)].

- Established data protection violations are considered negligent [GDPR

Article 83 (2) point b)], as well as personal data affected by special

also its categories [GDPR Article 83 (2) point (g)].

- The Customer complies with several provisions of the GDPR, including GDPR Article 5 (1) a)

point, therefore also violated the principle of data management. (GDPR Article 83 (5) a)

point)

The Authority considered the following as mitigating circumstances when imposing fines:

- The Customer has not yet been convicted of violating the GDPR. [GDPR

Article 83 (2) and (i)].

The Authority did not consider the imposition of a fine to be relevant in accordance with GDPR Article 83 (2) c), d), f), h),

j) circumstances.

According to the Customer's 2020 consolidated report, the pre-tax profit is HUF -38,379.

Based on the above, the Authority decided in accordance with the provisions of the statutory part.

ARC.

Other questions

The competence of the Authority is set by Infotv. Paragraphs (2) and (2a) of § 38 define it, and its competence is covers the entire territory of the country.

The Akr. § 112 and § 116, paragraph (1) and § 114, paragraph (1) with the decision on the other hand, there is room for legal redress through a public administrative lawsuit.

The rules of the administrative trial are set out in Act I of 2017 on the Administrative Procedure hereinafter: Kp.) is defined. The Kp. Based on § 12, paragraph (1), by decision of the Authority the administrative lawsuit against falls within the jurisdiction of the court, the lawsuit is referred to in the Kp. § 13, subsection (3) a)

Based on point aa), the Metropolitan Court is exclusively competent. The Kp. Section 27, paragraph (1).

Based on point b), legal representation is mandatory in a lawsuit within the jurisdiction of the court. The Kp. Section 39 (6) of the submission of the claim for the administrative act to take effect does not have a deferral effect.

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tv.) According to § 9, paragraph (1), point b), the customer

The Kp. Paragraph (1) of § 29 and, in view of this, Pp. According to § 604, the electronic one is applicable CCXXII of 2015 on the general rules of administration and trust services. law (a hereinafter: E-administration

yogi

representative is obliged to maintain electronic contact.

The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). THE information on the possibility of a request to hold a hearing in Kp. Paragraphs (1)-(2) of § 77

is based on. The amount of the fee for the administrative lawsuit is determined by Act XCIII of 1990 on fees. law

(hereinafter: Itv.) 45/A. Section (1) defines. It is from the advance payment of the fee

Itv. Paragraph (1) of § 59 and point h) of § 62 (1) exempt the party initiating the procedure.

The Akr. According to § 132, if the obligee does not comply with the obligation contained in the final decision of the authority

fulfilled, it is enforceable. The Authority's decision in Art. according to § 82, paragraph (1) with the communication

becomes permanent. The Akr. The Akr. Pursuant to § 133, enforcement - if you are a law

government decree does not provide otherwise - it is ordered by the decision-making authority. The Akr. § 134

according to the implementation - if it is a law, government decree or municipal authority case

the decree of the local government does not provide otherwise - it is carried out by the state tax authority. The

Infotv. Pursuant to § 60, paragraph (7), a specified action included in the Authority's decision

to carry out, for specific behavior,

obligation to

regarding the implementation of the decision, the Authority undertakes.

dated: Budapest, according to the electronic signature

toleration or cessation

Dr. Attila Péterfalvi

president

c. professor