

Case number:

Subject: Decision terminating the proceedings

NAIH / 2020/5911/7

Before the National Data Protection and Freedom of Information Authority (hereinafter: the Authority) a

University of Debrecen (represented by □... □ Data Protection Officer, established at 4028

Debrecen, Kassai út 26 .; hereinafter referred to as the Advertiser) is the MarkMyProfessor Media Advertisement

Szolgáltató Kft. (Registered office: 2040 Budaörs Kikelet utca A. building; hereinafter:

Customer or Notified) information about the processing of personal data

on the basis of a declaration of adequacy and a declaration of the rights of the data subject,

in an ex officio data protection official proceeding

## DECISION

The Authority notes that:

the Notifier by failing to comply with those involved in the matter notified by the Applicant to the Authority

requests for the exercise of the data subject's right to information and the

within the one-month deadline provided for in the General Data Protection Regulation

infringed the data subject's right to information and the

principle of transparency.

It will give the Notified a warning about the violation found.

There is no administrative remedy against this decision, but from the date of notification

within 30 days of the application to the Metropolitan Court in an administrative lawsuit

can be challenged. The application must be submitted to the Authority, electronically, which is the case

forward it to the court together with his documents. Indicate the request for a hearing in the application

must. For those who do not receive a full personal tax exemption, there is an administrative lawsuit fee

HUF 30,000, subject to the right to record material taxes. In the proceedings before the Metropolitan Court, the legal

representation is mandatory.

## EXPLANATORY STATEMENT

## I. Facts, antecedents

The Applicant filed a notification with the Authority on 11 June 2020 stating the rights of the Notified Person the practice of handling their protests against the infringement of the

It did not receive a reply to its letter to the notified.

The Applicant provided information that the lecturers of the University of Debrecen had complained to him, in which it was filed that the Notifier operated a website [www.markmyprofessor.com](http://www.markmyprofessor.com) insulting remarks were made in connection with them.

According to the announcement, since mid-March 2020, an unknown person against several university lecturers, more times, usually four waves a day (morning, noon, afternoon and evening), each

within a wave of one to two minutes, published an "assessment" consisting solely of obscene words.

For some negative comments, the instructors concerned can be found at [www.markmyprofessor.com](http://www.markmyprofessor.com)

They also complained in the "Report" interface at, reporting that the comments in question

in addition to their identity, they also violate [markmyprofessor.com](http://markmyprofessor.com)'s evaluation guidelines because "profanity, rudeness ".

Instructors filed a notice with the Notifier on April 14, 2020, in compliance with the General Privacy Policy the right of the data subject to object under Article 21 of Regulation

the Announcer that their personal information appearing on the Website is offensive to the Instructors comments / ratings - delete. In the case of the University of Debrecen

The Dean of his faculty also filed a complaint with the Announced.

According to the Applicant, the Applicant did not investigate the complaint of either the Dean or the instructors, and they nor did it provide any information on its assessment. Thereafter, the Applicant shall notify the interests and rights of the instructors

represented, by electronic means, a letter of complaint to the Notified Party on 22 April 2020,

in which, with reference to Article 21 of the General Data Protection Regulation, confirmed by the trainers protested against the rights of the data subject and the cancellation of the infringing assessments.

Given that the Notifier did not respond to his letter this time, on 12 May 2020

he resubmitted the complaint to him and requested that it be complied with. That is the answer times missed.

The Applicant subsequently approached the Authority and disregarded the protest concerned requested that an investigation be carried out and that the content complained of be deleted.

On the basis of the notification, the Authority, in accordance with Article 57 (1) (f) of the General Data Protection Regulation, and Act CXII of 2011 on the right to information self-determination and freedom of information.

initiated an investigation pursuant to Section 38 (3) (a) of the Information Act (hereinafter: the Information Act), and

1

Regulation (EU) 2016/679 of the European Parliament and of the Council concerning the processing of personal data by natural persons

the free movement of such data and repealing Regulation (EC) No 95/46

2

Article 21 - Right to object

1. The data subject shall have the right at any time to object to the processing of his or her personal data pursuant to Article 6 (1) (e) for reasons related to his or her situation.

or (f), including profiling based on those provisions. In this case, the data controller is personal

may not further process the data unless the controller demonstrates that the processing is justified by compelling legitimate reasons which:

take precedence over the interests, rights and freedoms of the data subject or which

related to the protection of

2. Where personal data are processed for the direct acquisition of a business, the data subject shall have the right to object at any time to the

against the processing of personal data for this purpose, including profiling, in so far as it relates to the direct acquisition of business.

3. If the data subject objects to the processing of personal data for the direct acquisition of business, the personal data shall continue to be

cannot be treated for this purpose.

4. The right referred to in paragraphs 1 and 2 shall be expressly introduced at the latest at the time of the first contact with the data subject and

the relevant information shall be displayed clearly and separately from all other information.

5. In relation to the use of information society services and by way of derogation from Directive 2002/58 / EC, the it may also exercise its right to object by automated means based on technical specifications.

6. Where personal data are processed for scientific and historical research or statistical purposes in accordance with Article 89 (1)

the data subject has the right to object to the processing of personal data concerning him or her on grounds relating to his or her own situation, unless

data processing is necessary for the performance of a task performed in the public interest.

2

In its letter dated 30 June 2020, the Notifier is bound by the contents of the notification asked for information.

The Notifier did not respond within 15 days, so the Authority will investigate

closed and Infotv. Pursuant to Section 60 (3) - (4), ex officio data protection authority proceedings initiated, during which it called on the Client to provide information in order to clarify the facts.

In its reply dated 14 September 2020, the Client informed the Authority that the reference was made

he did not receive any requests, presumably due to a technical error, and did not obtain them

note. The Applicant's objections to the ratings recorded on the website it manages

it was only informed of an order of the Authority to clarify the facts.

## II. Applicable legal provisions

The Infotv. Section 2 (2)

the General Data Protection Regulation should be supplemented by the provisions set out therein apply.

Infotv. Pursuant to Section 38 (2), the Authority is responsible for the protection of personal data, and

the exercise of the right of access to data in the public interest and in the public interest

free movement of personal data within the European Union

promoting. According to paragraph (2a) of the same section, the General Data Protection Decree a

the tasks and powers established for the supervisory authority under the jurisdiction of Hungary

in the General Data Protection Regulation and in this Act

exercised by the Authority.

Infotv. Pursuant to Section 60 (1), the enforcement of the right to the protection of personal data

the Authority shall, at the request of the data subject, initiate a data protection authority procedure to that effect, and

may initiate ex officio data protection proceedings.

Subject to paragraph 3, the Authority shall initiate ex officio data protection proceedings if:

(a) on the basis of its investigation, finds that there has been an infringement of the law relating to the processing of personal data

has occurred or is imminent, and a summons or recommendation under section 56

to remedy the infringement or to eliminate the imminent threat of an infringement

Within the time limit set by the Authority,

(b) on the basis of its investigation, finds that there has been an infringement of the law relating to the processing of personal data

occurred or is imminent and the General Data Protection Regulation

a fine may be imposed in accordance with its provisions.

4. If the data protection authority procedure has been preceded by an investigation by the Authority based on a notification, the the notifier shall be notified by the Authority of the initiation or termination of the data protection authority proceedings.

Pursuant to Section 3 (6) of the Information Act, public data in the public interest does not fall within the definition of data of public interest.

any information relating to which the disclosure, disclosure or

making it available in the public interest.

Pursuant to Article 2 (1) of the General Data Protection Regulation, the General Data Protection Regulation

shall apply to the processing of personal data in a partially or fully automated manner,

and the non - automated processing of personal data which:

are part of a registration system or are part of a registration system

they want to do.

3

According to Article 4 (1) of the General Data Protection Regulation, "personal data" means identified or

any information relating to an identifiable natural person ("data subject");

a natural person who, directly or indirectly, in particular by an identifier, e.g.

name, number, location data, online identifier or physical, physiological,

genetic, intellectual, economic, cultural or social identity

identifiable by a factor.

According to Article 4 (2) of the General Data Protection Regulation, "data processing" means the processing of personal data

or any operation on automated or non - automated data files, or

a set of operations such as collecting, recording, organizing, segmenting, storing, or transforming

change, query, view, use, transmit, distribute or otherwise

harmonization or interconnection, restriction, deletion,

or destruction.

According to Article 4 (7) of the General Data Protection Regulation: "controller" means the natural or legal person

person, public authority, agency or any other body that provides personal data

determine the purposes and means of its management, alone or in association with others; if the data management

purposes and means are determined by Union or Member State law, the controller or the controller

EU or Member State law may also lay down specific criteria for the designation of

Personal data only under Article 5 (1) (b) of the General Data Protection Regulation

may be collected for, and not combined with, specific, clear and legitimate purposes

cannot be handled in a compatible way ('purpose-based').

Pursuant to Article 6 (1) of the General Data Protection Regulation, personal data may only be used if and

can be lawfully managed if at least one of the following is met:

(a) the data subject has given his or her consent to the processing of his or her personal data for one or more specific purposes

treatment;

(b) processing is necessary for the performance of a contract to which one of the parties is a party; or to take steps at the request of the data subject before concluding the contract

required;

(c) processing is necessary for compliance with a legal obligation to which the controller is subject;

(d) processing is in the vital interests of the data subject or of another natural person

necessary for its protection;

(e) the exercise of a public interest or the exercise of official authority vested in the controller necessary for the performance of its task;

(f) processing for the legitimate interests of the controller or of a third party

necessary, unless the interests of the data subject take precedence over those interests

or fundamental rights and freedoms which call for the protection of personal data,

especially if the child concerned.

Pursuant to Article 15 (1) of the General Data Protection Regulation, the data subject is entitled to:

receive feedback from the data controller regarding the processing of your personal data

is in progress and if such data processing is in progress, you are entitled to personal

access to data and the following information:

(a) the purposes of the processing;

(b) the categories of personal data concerned;

(c) the recipients or categories of recipients with whom the personal data are held

have been or will be communicated, including in particular to third country consignees, and

international organizations;

(d) where applicable, the intended period for which the personal data will be stored or, if that is not possible,

criteria for determining this period;

4

(e) the data subject's right to request personal data concerning him or her from the controller

rectification, erasure or restriction on the processing of such personal data

against its treatment;

(f) the right to lodge a complaint with a supervisory authority;

(g) if the data were not collected from the data subject, all available information on their source;

(h) the fact of automated decision-making referred to in Article 22 (1) and (4), including:

profiling and, at least in these cases, the logic used

understandable information about the significance of such data processing and what it is for the data subject with expected consequences.

Pursuant to Article 17 (1) of the General Data Protection Regulation, the data subject is entitled to:

at the request of the controller, delete the personal data concerning him without undue delay,

and the data controller is obliged to make the personal data concerning the data subject unjustified

delete without delay if one of the following reasons exists:

(a) personal data are no longer required for the purpose for which they were collected or for other purposes treated;

(b) the data subject withdraws the authorization referred to in Article 6 (1) (a) or Article 9 (2)

consent to the processing, and there is no other consent to the processing

legal basis;

(c) the data subject objects to the processing pursuant to Article 21 (1) and there is no priority

lawful reason for the processing or the data subject objects in accordance with Article 21 (2)

against data management;

(d) personal data have been processed unlawfully;

(e) personal data are required by the law of the Union or Member State applicable to the controller

must be deleted in order to fulfill an obligation;



(f) the collection of personal data through the information society referred to in Article 8 (1)

in connection with the provision of related services.

Pursuant to Article 17 (2) of the General Data Protection Regulation, if the controller

has disclosed personal data and is required to delete them pursuant to paragraph 1,

taking into account the technology available and the cost of implementation

expected steps, including technical measures, to inform

data controllers that the data subject has requested them to provide the personal data in question

deleting links or copies or duplicates of such personal data.

Pursuant to Article 17 (3) of the General Data Protection Regulation, paragraphs 1 and 2 do not

applicable if data processing is required:

(a) for the purpose of exercising the right to freedom of expression and information;

(b) the Union or Member State law applicable to the controller governing the processing of personal data

or in the public interest or in the exercise of official authority vested in the controller

to perform a task performed in the exercise of a license;

(c) in accordance with Article 9 (2) (h) and (i) and Article 9 (3), a

on grounds of public interest in the field of public health;

(d) for the purposes of archiving in the public interest in accordance with Article 89 (1), scientific and

for historical research or statistical purposes, in so far as the right referred to in paragraph 1 is concerned

would be likely to make such processing impossible or seriously jeopardize; obsession

e) to file, enforce or defend legal claims.

The data controller's obligations related to the deletion of personal data are subject to general data protection

Article 12 of that Regulation.

5

Pursuant to Article 12 (3) of the General Data Protection Regulation, the controller is unjustified

without delay, but in any case within one month of receipt of the request

inform the data subject in accordance with Articles 15 to 22. on the action taken in response to a request under Article. Need

In view of the complexity of the application and the number of applications, this time limit shall be extended by two additional periods

may be extended by one month. The extension of the deadline by the data controller shall be the reasons for the delay within one month of receipt of the request. If

the person has submitted the application electronically, the information shall be made possible, if possible, electronically unless otherwise requested by the data subject.

Pursuant to Article 12 (4) of the General Data Protection Regulation, if the controller does not do so measures at the request of the data subject without delay, but at the latest at the time of the request within one month of receipt of the measure

and that the person concerned may lodge a complaint with a supervisory authority and may reside with the right to judicial redress.

According to Article 12 (5) of the General Data Protection Regulation, it concerns the rights of data subjects requests, including the action taken on the request for cancellation and information on it

should be provided essentially free of charge. If the data subject's request is clearly unfounded

- due in particular to its repetitive nature - excessive, the data controller, depending on the information requested or the administrative costs of providing the information or taking the action requested,

may charge a reasonable fee or refuse to act on the request. The application

the burden of proving that it is manifestly unfounded or excessive is on the controller.

Pursuant to Article 58 (2) (b) of the General Data Protection Regulation, the supervisory authority

(b) reprimands the controller or the processor if

breached the provisions of this Regulation.

According to the preamble to the General Data Protection Regulation (148), it is required by this Regulation

in order to strengthen compliance with the rules in the event of any breach of this Regulation

in addition to or instead of appropriate measures imposed by the competent authority under this Regulation

- including administrative fines.

Unless otherwise provided in the General Data Protection Regulation, data protection was initiated upon request

Act CL of the General Administrative Procedure of 2016 (a

hereinafter: Ákr.) shall apply with the exceptions specified in the Information Act.

In the present proceedings, as the requested official decision of the Notified Data Controller has the right or legitimacy directly affects the interests of the Company. Pursuant to Section 10 (1) - with counter-interest - participates as a customer.

The Ákr. Pursuant to Section 103 (1), the Ákr. Initiated ex officio proceedings upon request provisions of the Act on It shall apply with the exceptions set out in Sections 103 and 104.

Infotv. Pursuant to Section 61 (1) (a), it was taken in a data protection official proceeding

In its decision, the Authority With the data management operations specified in Section 2 (2)

in accordance with Article 58 (2) of the General Data Protection Regulation

may apply legal consequences.

Pursuant to Article 58 (2) (b), (c) and (d) of the General Data Protection Regulation

the data controller or the processor, acting in accordance with the corrective powers of the competent authority, if

6

its data processing activities have infringed the provisions of this Regulation; instructs the data controller or the

to exercise the data subject's rights under this Regulation

application; instructs the controller or processor to perform its data processing operations

bring this Regulation into line with the provisions of this Regulation

provisions.

Infotv. 75 / A. §, the Authority shall comply with Article 83 (2) to (6) of the General Data Protection Regulation

shall exercise its powers in accordance with the principle of proportionality, in particular by:

legislation on the processing of personal data or binding European Union law

for the first time in the event of a breach of the rules laid down in

in accordance with Article 58 of the General Data Protection Regulation, in particular

by alerting the controller or processor.

\*\*\*

### III. Decision of the Authority

In the context of the right to information, the Authority states that “(...) information

In particular, in the age of society, there is a risk that some public and market players will

using large amounts of information using modern infocommunication technologies

collect, store and process it without the knowledge and consent of those concerned. This kind

dominance entails an increased risk of abuse, violation of the rights and interests of individuals.

The information is primarily intended to prevent the data controller from having “information

monopoly ”.” 3

It should also be emphasized that the information provided is timely and tailored to the request

transparency of the operation of the data controller, the data processing regime and the fair procedure

is also crucial for the enforcement of its requirement. The above principles

pursuant to Article 12 (3) of the General Data Protection Regulation

without undue delay, but in any case from the receipt of the request

inform the data subject within 15 to 22 months. following an application under Article

measures. If necessary, taking into account the complexity of the application and the number of applications,

this period may be extended by a further two months.

Pursuant to Article 12 (4) of the General Data Protection Regulation, if the controller does not do so

measures at the request of the data subject without delay, but at the latest at the time of the request

within one month of receipt of the measure

and that the person concerned may lodge a complaint with a supervisory authority and may reside

with the right to judicial redress.

The right of access of data subjects is a constitutive element of the right to self-determination of information,

and, as such, is a key aspect of the fundamental right to the protection of personal data. E

the essence of the right is that the data subject may receive information in connection with the processing. THE

and the information received enables the data subject to process the data in progress

exercise its rights or seek redress

you can take.

3

Explanation of GDPR - Wolters Kluwer Hungary, Budapest 2018. Page 150

7

Act V of 2006 on Company Disclosure, Court Proceedings and Liquidation 7.

§ (1), the registered office of the company is the registered office of the company. The registered office of the company is mailing

address, the place where the company's business and official documents are received, received, kept, available and, where specified in a separate law, related to the registered office

obligations are met.

If the registered office of the company is not the same as the place of central administration, the central administration its place must be indicated in the memorandum and articles of association. This can happen if you are headquartered delivery address only; administration and decision-making related to the operation of the company from the registered office takes place in a different place (central administration).

The Authority shall, on the basis of the information available to it, establish that the Notifier is a Notifier sent his written application not to the registered office of the Notified Body but to its registered office, thus, the First wave of the COVID-19 coronavirus epidemic was a difficulty for the Notifier caused it to be known in an emergency and to provide a meaningful response in due time.

However, the data controller shall take all measures required of him during the processing of the data must do and develop all work organization solutions in order to:

its own data management set out in and based on the General Data Protection Regulation

the completeness of the data subject's exercise in accordance with the data management principles set out in the prospectus to comply with a mandatory obligation.

Therefore, the Authority does not consider it acceptable for the Client to claim that the Applicant and the on the basis of requests from the parties concerned in the exercise of their rights as a data subject he did not take action because he did not receive them.

Based on the above, the Authority has decided in accordance with the provisions of the operative part, but at the same time it is general

taking into account Article 83 of the Data Protection Regulation, in particular that

The Client shall submit the application of the Applicant and the persons involved in the case indicated by him through the Authority

fully complied with the recurrence of the infringement after becoming aware of it

measures taken in the future to prevent

did not consider it justified to impose a fine.

The Authority took into account as a mitigating circumstance that

- negligence on the part of the Notifier for an infringement found by the Authority and not intentional his conduct led;

- receipt of the Authority's order for clarification of the facts in the present case

after, the Client from the website operated by the Client in the case of the Applicant and the case indicated by him

immediately, at the request of the parties concerned, deleted the content complained of, and

- set the personal profile of the data subjects in such a way that it affects their educational activities

further evaluations in the future should only be performed by registered users.

By alerting the Notifier, the Authority aims to give firm momentum to the Client

emphasis on data protection awareness and responsibility, the data management it performs

the need to make the activity more thoughtful. The Authority emphasizes that data protection

developing rights in accordance with rules and expectations, and

to help enforce their legitimate interests, control over the processing of their personal data

8

provide the information and other conditions necessary for the exercise of the

required.

\*\*\*

ARC. Other issues

The powers of the Authority shall be exercised in accordance with Infotv. Section 38 (2) and (2a) defines its jurisdiction as a whole country.

The Ákr. Pursuant to § 112 and § 116 (1) and § 114 (1) there is an administrative remedy against him.

The rules of administrative litigation are laid down in Act I of 2017 on the Procedure of Administrative Litigation (a hereinafter: Kp.). A Kp. Pursuant to Section 12 (1) by decision of the Authority

The administrative lawsuit against the court falls within the jurisdiction of the court Section 13 (3) a)

Pursuant to sub-paragraph aa) of the Act, the Metropolitan Court has exclusive jurisdiction. Section 27 (1)

(b), legal representation shall be required in legal proceedings before the General Court. A Kp. Section 39 (6)

the submission of the application for the entry into force of the administrative act has no suspensive effect.

A Kp. Section 29 (1) and with this regard Pp. Applicable in accordance with § 604, electronic

CCXXII of 2015 on the general rules of public administration and trust services. Act (a

hereinafter: the e-administration Act), the client's legal representative pursuant to Section 9 (1) (b) obliged to communicate electronically.

The place and time of the submission of the application is Section 39 (1). The trial

Information on the possibility of requesting the maintenance of the It is based on § 77 (1) - (2). THE

the amount of the fee for an administrative lawsuit in accordance with Act XCIII of 1990 on Fees. Act (hereinafter:

Itv.) 45 / A. § (1). From the advance payment of the fee, the Itv. Section 59 (1)

and Section 62 (1) (h) shall release the party initiating the proceedings.

Budapest, October 19, 2020 "19"

Dr. Attila Péterfalvi

President

c. professor

sk.

