

Registration number:

NAIH / 2020/5553

Former case number: NAIH / 2019/346

Object:

partially granting the application

decision, ex officio procedure

terminator

decision

finding an infringement

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

..... (Hereinafter referred to as the Applicant)

Szemben against Google Ireland Ltd (Google Building

Gordon House, 4 Barrow St, Dublin, D04 E5W5, Ireland; hereinafter referred to as "Requested")

violated the obligation to provide information and was initiated ex officio by Google

Stakeholders in Hungary are concerned about AdWords

extended to the examination of general data management practices relating to the exercise of

in the data protection authority proceedings

Decision

1. The Authority shall grant the application in part and declare that: a

Applicant violated the Applicant's right of access by failing to provide a deadline

adequate information regarding the processing of the Applicant's "name" personal data a

Google AdWords. The Applicant thereby violated the processing of personal data

the free movement of such data and Directive 95/46 / EC

Regulation (EU) No 2016/679 repealing Directive

Data Protection Regulation) with regard to Article 15, Article 12 (3).

2. The Authority shall require that the Authority order the applicant to reply,

and examine the Applicant's general practice regarding the rights of the data subject, rejects.

3. The Authority in connection with the Google AdWords service in Hungary

general data management practices relating to the exercise of the rights of data subjects

terminate the extended procedure of its own motion.

4. The Authority finds that it has exceeded the administrative deadline and therefore as such

provides that HUF 10,000, ie ten thousand forints, shall be indicated to the Applicant in writing

at your choice - pay by bank account or postal order.

5. The Authority further provides that during the proceedings on the applicant's side

incurred in connection with the exercise of access to documents in the amount of HUF 6,100, ie HUF 6,000

the costs of the proceedings incurred shall be borne by the Applicant.

There is no administrative appeal against the decision, but from the communication

by application to the Metropolitan Court within 30 days of

may be challenged in an administrative action. The application shall be submitted to the Authority,

electronically, which forwards it to the court together with the case file. Holding the hearing

must be indicated in the application. Not in full personal exemption

for the beneficiaries, the fee for the court review procedure is HUF 30,000, the lawsuit is substantive

subject to the right to record duties. Legal representation in proceedings before the Metropolitan Court

obligatory.

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EXPLANATORY STATEMENT

Procedure and clarification of the facts

I.

1. In his application to the Authority on, the Applicant stated that as

concerned by Article 15 of the General Data Protection Regulation

You contacted the AdWords operator, the Applicant, electronically and as follows

requested information from him in connection with the processing of the personal data of the Applicant's name.

2. According to the Applicant, on the Google AdWords web

with a reference to Article 15 of the General Data Protection Regulation

sent a request to exercise the right of access to the Applicant with the following content:

(i)

which ads, websites, advertisers are treated in the context of your name, such as

advertising keyword;

(ii) when and how many times Google's Internet search engine made a search for your name

Google AdWords advertising;

(iii) if Google AdWords does not use your name as your advertising keyword

based on what algorithm, for what reason, as an ad for a given keyword,

when and how many times a Google AdWords ad was displayed to search for your name

related to Google web search.

3. Searching for the Applicant és and in his / her own name (the)

untitled) Google's Internet search engine has shown ads that

..... are related to other service providers and therefore assume that a

his name is treated in conjunction with his profession and in automatic decision-making procedures

used.

4. Ads with ads-support@google.com and legal-notice@google.com

after several correspondence, the Applicant replied to the Applicant that they did not know

to tell which organizational unit could answer the above questions and therefore not

they can answer your questions.

5. In view of the above, the Applicant requested from the Authority the rights of the Applicant concerned

and the conviction of the controller

obligation to provide information.

6. On request, on the right to information and freedom of information

CXII of 2011 on the basis of Section 60 (1) of the Information Act (hereinafter: the Information Act)

an official procedure was initiated, which the Authority extended ex officio to Google AdWords

the rights of the data subjects in Hungary in connection with the service

to examine the general data management practice related to the exercise of the

on the basis of the individual request of the Applicant.

7. In order to clarify the cross-border nature of data processing, the general data protection

a procedure under Article 56 of that Regulation was necessary to decide which Member State

data protection authority is entitled to act as the main authority in the case and which are concerned

authorities. As foreign bodies had to be contacted, the Authority

suspended the present administrative procedure and Article 56 (2) of the General Data Protection Regulation

requested data protection supervision in accordance with paragraph 1

authority to state whether it intends to act as the main supervisory authority in the matter.

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The Authority justified the question on the grounds that it is natural for a person residing in Hungary

relating to the exercise of the rights of a person who has lodged an application with the Authority

there are no data subjects in other Member States, so it is appropriate for the Authority to act

on the merits.

8. As a result of the procedure under Article 56 of the General Data Protection Regulation a

In its replies to the Authority, the Irish Data Protection Authority stated that Google

The Irish Privacy Authority is the primary authority for AdWords.

Furthermore, the Irish Data Protection Authority, as the main authority, is Article 56 of the General Data Protection Regulation

In accordance with paragraphs 3 and 5, it has decided that, for the reasons set out above, the Authority

may handle the request as the Irish Data Protection Authority does not wish to take action in this regard.

9. Following the clarification of jurisdiction set out above, the Authority will issue NAIH / 2019/346/10. number

ordering the suspension of the proceedings and the conduct of the proceedings

decided.

10. The Authority NAIH / 2019/346/11. In his order no., he called on the

Applicant, which is based on the certificate issued by Magyar Posta

He received it on, but no return receipt was received.

11. After inspecting the applicant's file, the Authority shall:

repeatedly called on the Applicant to make a statement, to which the Applicant

By letter from his legal representative.

12. The Applicant sent a substantive response to the Applicant's access

requesting the data used and indicating when, how many times, which

method, based on which results related to the Applicant's personal data were displayed

in your search engine.

13. The Applicant is not the data subject specified in the Applicant's data protection information

sent an online application form on the General Data Protection Regulation

His application under Article 15 and was therefore not sent to the department dealing with the exercise of the right concerned.

THE

Applicant alleges that he was not forwarded to the wrong address due to an individual clerk error

received a request from the competent authorities and is not aware of a similar case.

14. According to the applicant in its reply, the Authority did not

has the power to examine its general data management practices.

II.

Applicable legal provisions

According to Article 2 (1) of the General Data Protection Regulation, the Regulation shall apply to

the processing of personal data in a partially or fully automated manner, and

for the non-automated handling of data contained in a registry

which are part of a registration system or which are intended to be part of a registration system.

The Infotv. Section 2 (2)

the general data protection regulation in the provisions indicated therein

shall apply with the additions set out in

Infotv. Enforcement of the right to the protection of personal data pursuant to Section 60 (1)

To that end, the Authority shall, at the request of the data subject, initiate a data protection authority procedure and may initiate ex officio data protection proceedings.

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In order to conduct the official procedure, the Act no. Pursuant to Section 7 (1), Ákr. provisions of this Regulation apply.

Infotv. Section 60 (2) and Infotv. Pursuant to Section 2 (2) of the Data Protection Authority

The request to initiate proceedings is covered by the General Data Protection Regulation

in the case provided for in Article 77 (1) of the General Data Protection Regulation

may be submitted.

Pursuant to Article 77 (1) of the General Data Protection Regulation, other administrative or

without prejudice to judicial remedies, any person concerned shall have the right to lodge a complaint with a

supervisory authority, in particular where he has his habitual residence, place of employment or

in the Member State of the alleged infringement, if it considers that the

processing of personal data in breach of this Regulation.

Pursuant to Article 56 (1) of the General Data Protection Regulation, without prejudice to Article 55,

the center of activity or a single activity of the controller or processor

the supervisory authority of the place of business is entitled to act as the main supervisory authority

with regard to cross-border data processing by the controller or processor,

in accordance with the procedure laid down in Article 60.

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.

Where appropriate, taking into account the complexity of the application and the number of applications, this shall be

this period may be extended by a further two months. The extension of the time limit is

the controller shall indicate the reasons for the delay from the date of receipt of the request

inform the data subject within one month. If the person concerned has submitted the application by electronic means the information shall, as far as possible, be provided by electronic means, unless concerned requests otherwise.

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 data have been or will be communicated, including in particular in third countries recipients and international organizations;

(d) where applicable, the intended period for which the personal data will be stored or, failing that possible criteria for determining this period;

(e) the data subject's right to request from the controller the personal data concerning him or her rectification, erasure or limitation of the processing of such data and may object to such against the processing of personal data;

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

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

(h) the fact of automated decision-making referred to in Article 22 (1) and (4), including profiling as well as, at least in these cases, the logic used and comprehensible information on the significance of such data processing, and the expected consequences for the data subject.

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

In its decision, the Authority Data management specified in Section 2 (2)

defined in the General Data Protection Regulation in the context of

may apply legal consequences.

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

exercise the powers set out in paragraph 1 in accordance with the principle of proportionality,

in particular by providing for the law or regulation on the processing of personal data

Requirements laid down in a binding act of the European Union

Article 58 of the General Data Protection Regulation

in particular by alerting the controller or processor.

Pursuant to Article 83 (2) of the General Data Protection Regulation, administrative fines are imposed by

referred to in Article 58 (2) (a) to (h) and (j), as the case may be

should be imposed in addition to or instead of measures. When deciding if it is necessary

to impose an administrative fine or to determine the amount of the administrative fine

in each case due account shall be taken of the following:

(a) the nature, gravity and duration of the infringement, taking into account the nature of the infringement in question

the nature, scope or purpose of the data processing and the number of data subjects affected by the

the extent of the damage they have suffered and the damage they have suffered;

(b) the intentional or negligent nature of the infringement;

(c) the damage suffered by the data subject by the controller or the processor

any measures taken to alleviate

(d) the degree of responsibility of the controller or processor, taking into account:

the technical and organizational measures it has taken pursuant to Articles 25 and 32;

(e) relevant infringements previously committed by the controller or processor;

(f) with the supervisory authority, remedy the breach and the breach may be negative

the degree of cooperation to mitigate its effects;

- (g) the categories of personal data concerned by the breach;
- (h) the manner in which the supervisory authority became aware of the infringement, in particular whether the breach has been reported by the controller or processor and if yes, in what detail;
- (i) if previously against the controller or processor concerned, in the same the measures referred to in Article 58 (2) have been ordered compliance with the measures in question;
- (j) whether the controller or processor has complied with Article 40 approved codes of conduct or an approved certification in accordance with Article 42 mechanisms; and
- (k) other aggravating or mitigating factors relevant to the circumstances of the case, for example, financial gain obtained as a direct or indirect consequence of the infringement profit or loss avoided.

III.

Decision

1. The period considered

In the subject matter covered by the application, the examined data processing period is the Applicant
From the date of the first application of the data subject sent to the applicant (.....)
until the date of reply to the request from the data subject).

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The data processing period covered by the ex officio extension is the general data protection
from the entry into force of this Regulation (25 May 2018) and to the Requesting Authority
until the date of receipt of your application (.....).

2. Data protection authority proceedings initiated upon request

As the Applicant filed on the Applicant általános, general data protection

The general has not provided a substantive response to the data subject's request under Article 15 of the Regulation

within one month within the meaning of Article 12 (3) of the Data Protection Regulation

the need to extend the deadline by a further two months and his reply to the

the Authority did not receive it within the extended deadline

found that the above conduct of the Applicant violated the general data protection

Article 12 (3) and Article 15 (1) of this Regulation.

In view of the fact that the Applicant has in the meantime complied with its obligation to provide information,

its obligation to comply with it has become devoid of purpose during the proceedings. For this reason, this part of the application

was rejected.

The Applicant shall inform Infotv. Section 60 (2) and Infotv. Section 2 (2) and

pursuant to Article 77 (1) of the General Data Protection Regulation

may request an examination of the practice only if it is in the applicant's right or legitimate interest

directly affected by it, but no evidence or circumstance has arisen in the present proceedings,

such has not been proved or probable by the Applicant. Where the Authority:

Applicant's decision on general data management practices is a right or obligation

does not arise for the Applicant, the Applicant shall not be considered a customer in this respect

the Ákr. § (1) of the Act, or - as the Act no. Does not comply with Section 35 (1)

there is no need to submit an application in this respect. In view of the above, the application

this part was rejected.

3. Ex officio extended procedure

Contrary to the position of the Applicant, the Authority is of the opinion that the Authority is general

identified as the main authority as a result of the procedure under Article 56 of the Data Protection Regulation

In agreement with the Irish Data Protection Authority, it is entitled to investigate the request and the facts are complete

to fully explore. Part of this is whether it is an individual case or a system-wide problem

weave. Where the circumstances of an individual application indicate that it is general

practice problem is in the background, the Authority should be referred to it

decision to the competent authority. However, it is necessary to establish this

clarification of certain factual elements concerning general practice.

The Authority examined the Applicant's general practice only in so far as it:

has an impact on the exercise of the rights of data subjects residing in Hungary, and

it is necessary to determine whether the Irish Data Protection Authority is justified as the main authority

to initiate proceedings. Continuation of the Authority's proceedings on this issue

not justified on the basis of the information available, as the Requested is general

There have been no systemic breaches of its practice

evidence that the Authority would know the procedure of the Irish Data Protection Authority

such evidence by the means available to the Authority

not expected to continue.

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4. Consideration of the legal consequence

Articles 12 (3) and 15 (1) of the General Data Protection Regulation

the Authority's statutory discretion

Acting in accordance with Infotv. § 61 (1) a), Infotv. 75 / A.

And Article 83 (2) of the General Data Protection Regulation and the General

Article 58 (2) of the Data Protection Regulation.

In the Authority's view, the breach is due to all the circumstances of the case

shall not be considered as serious in relation to the finding of an infringement

further action would be needed.

Based on the above, the Authority has decided in accordance with the operative part.

5. Decision on costs

In the course of the procedure, the Authority exceeded the Infotv. 60 / A. § (1), the procedure

the administrative deadline of one hundred and twenty days in force at the time of Section 51 (b)

pays ten thousand forints to the Applicant - Selection of the Applicant to be indicated in writing

by bank transfer or postal order.

The Authority found that during the proceedings the Applicant exercised his right of access to the file. In the process, he paid HUF 6,100 as a procedural cost as a copy fee.

The Ákr. Pursuant to Section 124, the costs of proceedings are all costs incurred in the course of the proceedings.

The Ákr. Pursuant to Section 125 (1), unless otherwise provided by law, the costs of the proceedings it is borne by those who have incurred them.

The Ákr. Pursuant to Section 126 (2) (b), in the dispute proceedings, the authority is the procedural order the opposing client to pay the costs in the event of a decision granting the application.

The Ákr. Pursuant to Section 126 (3), if the decision grants the application in part, the authority order the applicant client and the opposing client to bear the costs of the proceedings in a proportionate manner.

The Ákr. Pursuant to Section 129 (1), the procedural costs are determined by the authority and decide on the costs to be borne and any reimbursement of the advance.

The Authority found that the Applicant's claim in respect of the violation of the data subject's rights was for the most part thorough, the Authority is merely the proposed legal consequence

In view of the request, the applicant requested that the application be unfounded to remedy the infringement. In view of all this a

The Authority did not find it necessary to reduce the proportionate fee for copying documents ordered the Applicant to bear.

6. Any other business

The powers of the Authority shall be exercised in accordance with Infotv. Section 38 (2) and (2a) defines its jurisdiction It covers the entire territory of Hungary.

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The Ákr. Section 112 (1) and (2) and Section 116 (1) and Section 114 (1), respectively the decision is subject to administrative review.

The rules of the administrative lawsuit are set out in Act I of 2017 on the Rules of Administrative Procedure (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)

Under subparagraph (a) (aa), the Metropolitan Court has exclusive jurisdiction.

A Kp. Pursuant to Section 27 (1), legal representation in administrative proceedings before the Tribunal obligatory. A Kp. Pursuant to Section 39 (6), the filing of an application is administrative has no suspensory effect on the entry into force of the act.

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. law (hereinafter: the E-Administration Act), the customer is legal pursuant to Section 9 (1) (b) representative is required to communicate electronically.

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

Information on the possibility of requesting a hearing is provided in the CM. Section 77 (1) - (2)

based on. The amount of the fee for an administrative lawsuit shall be determined in accordance with Act XCIII of 1990 on Fees. law

(hereinafter: Itv.) 45 / A. § (1). From the advance payment of the fee

the Itv. Section 59 (1) and Section 62 (1) (h) shall exempt the person initiating the proceedings half.

Budapest, July 16, 2020

Dr. Attila Péterfalvi

President

c. professor