

Case number: NAIH/4997-4/2022

History: NAIH/1471/2021

Subject: Approving the request

decision

H A T A R O Z A T

By the National Data Protection and Freedom of Information Authority (hereinafter: Authority) (...).

represented by (...) (... , hereinafter: Applicant) 05.09.2019 to the request submitted on (...)

regarding the data management complained about in connection with the website (hereinafter: website), the (...)

(headquarters: ..., United Kingdom, hereinafter referred to as: Respondent) was initiated against the data protection authorities

makes the following decisions in the procedure:

The Authority grants the Applicant's request as follows:

I. The Authority finds that the Respondent has violated Article 15 (1) and (3) of the GDPR<sup>1</sup>,

and Article 6 (4), Article 13 (3) and Article 6 (1) of the GDPR, as well as

Paragraphs (1)-(2) of Article 13 of the GDPR, therefore condemns the Applicant.

II. The Authority instructs the Applicant to:

II.1. 3.1 of this decision. taking into account point a

In relation to data processing of the applicant's personal data, Article 15 (1) of the GDPR and

(3) in such a way that, within the framework of this, both the information,

issuing a copy of all the personal data processed about the Applicant in full

come true.

II.2. 3.2 of this decision. taking into account point 2, review all such

data management purpose, in the framework of which you actually manage phone number data and check,

whether each of these objectives is supported

legal basis. Where the investigation

justified as a result, take steps to make the data processing legal or

termination, so that you pay special attention to Article 13 (3) of the GDPR, a

To comply with Article 6 (4) of the GDPR and Article 6 (1) of the GDPR, this properly refrain from using personal data for a purpose other than its original purpose without a legal basis from its use, from not providing information prior to the start of further data management, and from data management without a proper and legal legal basis.

it is legal

II.3. 3.3 of this decision. change the data management

information sheet in such a way that it includes all data management purposes for which in the framework of telephone number data management can be implemented, ensuring that the data management

1 On the protection of natural persons with regard to the management of personal data and the free flow of such data, and Regulation 2016/679 (EU) on the repeal of Directive 95/46/EC (hereinafter: "GDPR" or "general data protection regulation").

.....  
1055 Budapest

Falk Miksa utca 9-11

Phone: +36 1 391-1400

Fax: +36 1 391-1410

ugyfelszolgalat@naih.hu

www.naih.hu

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information according to Article 13 (1)-(2) of the GDPR for all such data management is fully included in relation to the purpose. The thus amended data management information a provide preliminary and factual information about legally established data management practices.

Your customer information (for example, website, Terms of Use) with the data management information bring it into line.

II.4. 3.4 of this decision. taking into account the provisions of this decision

with the modified data management information, compare it with the data of the Applicant's phone number

ongoing data processing and take action where justified as a result

to legalize or terminate data processing. Through the execution of this instruction

the Respondent must ensure that the Applicant's phone number is the only one

carry out data management according to your data management information, i.e. you must ensure the

information and actual practice of synchronizing the data of the Applicant's telephone number

in connection with its treatment. Inform the Applicant of the result.

The Applicant has the above II.1.-II.4. its obligations according to points to this decision

30 after the expiry of the deadline for initiating a judicial review

must be completed within days. Where the Applicant was obliged by the Authority to perform the performance

also to certify to the Authority, there also this obligation of the Requested within the above deadline

must be completed within.

II.1. the Applicant must fulfill his obligation according to point 1

towards and the fulfillment of this must be proven to the Authority within the deadline indicated above

by submitting a document confirming its dispatch and a copy of the answer (the answer

pictures and video recordings to be sent as part are not part of the certificate to be attached to the Authority).

II.2. The Respondent must fulfill its obligations according to point II.3. according to point

prevent the fulfillment of its obligations in time.

II.3. the Respondent's obligation according to point II.2. obligation according to point

it must be completed taking into account the experience of its performance, and the implementation of this is indicated above

the documents affected by the amendment must be certified to the Authority within the deadline (minimum

the data management information sheet and the Terms of Use) and relevant information on the website

by submitting a copy of its sub-pages.

II.4. in relation to his obligation under point, the Applicant's telephone number

about the results of its review of its data management on your data, as well as where applicable

you must inform the Applicant about your further planned steps in a verifiable manner. The Applicant

the Applicant is obliged to inform the Authority within the deadline indicated above

to confirm the sending of the shipment and a copy of the reply

by submitting.

III. The Authority will consider the part of the request regarding the imposition of a data protection fine in section 3.5 of this decision.

rejected based on the provisions of

If the II. does not fulfill its obligations in the prescribed manner

confirms, the Authority orders the implementation of the decision.

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There is no place for administrative appeal against this decision, but from the announcement

within 30 days of the date of the appeal addressed to the Metropolitan Court in a public administrative case

can be attacked. The statement of claim must be submitted electronically to the Authority dealing with the case

forwards it to the court together with its documents. The request to hold the hearing must be indicated in the claim.

For those who do not receive full personal tax exemption, the judicial review procedure

the fee is HUF 30,000, the lawsuit is subject to the right to record fees. In the proceedings before the Metropolitan Court

legal representation is mandatory.

## I N D O C O L A S

### 1. Course of the procedure, clarification of the facts

#### 1.1. The basic case

The applicant applied as a registered user of the website in April 2019 through the website

for an organized photo competition. 30/04/2019 on the day the Applicant was notified by e-mail that the

from the competition he won on 28.04.2019. the competition series named on the day was excluded, on the grounds that

"Several VIP memberships were purchased from the same phone number, which invalidates the series with votes

they wanted to give him an advantage."

23/07/2019 on the day of the Applicant - through its legal representative - contacted the Respondent by letter

representative (hereinafter: Representative) and the data protection officer of the Respondent (a

hereinafter: Data Protection Officer).

The Applicant to the Representative on 23.07.2019. in his complaint sent on and explained that the "Terms of Use" document available on the website is not states that a user can only purchase one VIP membership, thus disqualifying him according to his point of view, this cannot be an adequate reason anyway.

The Applicant also requested information on how the Respondent knew link the Applicant's identity and phone number, if that is true on the website published information, according to which the SMS is sent in connection with the activation of the VIP status anonymous. In his letter, the Applicant also emphasized in relation to the latter question that a Based on the data management information requested, it is not clear to him how they know to connect the telephone number with the data subjects, if the data of the data subjects' telephone numbers is provided by the Requested doesn't handle it.

The Applicant to the Data Protection Officer on 23.07.2019. in his letter sent on "Article 15 of the GDPR" requested to send the personal data stored on the Applicant to the Applicant.

The Representative is the Applicant on 23.07.2019. at the request sent on 23.08.2019. sent on the day in his reply, he informed the Applicant that after 10 VIP memberships in the competition in question with registration, votes were cast showing unusual tendencies, the Applicant is manual carried out an inspection, as a result of which he found that the VIP involved in the case memberships were purchased from the same phone number connected to one of the starters. He pointed out in his answer to the fact that the competition rules specifically state that "one person once a day

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vote", thus submitted by the Applicant from the photo competition due to a violation of the competition rules image sequence was excluded.

The Applicant was appointed on 23.07.2019. to the request sent on 22.08.2019, the Data Protection Officer on the day of informed that the request received from the Applicant's lawyer directly from the Applicant's legal does not respond to his representative, as he believes that he is authorized to receive this data

does not cover, but instead sends directly to the Applicant the requested in the solicitor's request data (a .zip file consisting of excel files). The .zip file consisted exclusively of excel files, each excel and identifiers, codes, logos, date and time data in tables visible within files, phone numbers, texts of messages, amounts paid, referring to used electronic devices logos are included. Some data types (user\_id) are different recurring in tables they appear. A table for the clear identification of the codes, a description that facilitates their interpretation the answer does not contain. The text response to the data subject request or its content none of the tables contain a matching answer.

The Applicant - through his legal representative - 05.09.2019. submitted his application to the Authority on in his opinion, the consultation with the Petition did not lead to results. The Applicant a Attached to his application submitted to the authority, he sent, among other things, the 23.07.2019 on the day of also the responses received from the Data Protection Officer and the Representative to the requests sent.

## 1.2. Content of the application submitted to the Authority

The Applicant to the Authority on 05.09.2019. in relation to the website in the application submitted on indicated the following complaints against the Application:

### 1.2.1. The Applicant explained that on the webpage related to the activation of VIP status

from the provided information text, the anonymity of the telephone number follows, and thus the data management finds it aggrieved that in the competition in question the phone number is with the person on the page its operator was able to connect.

From the Terms of Use document, according to the Applicant's point of view, it is also not it follows that a user cannot have more than one VIP membership, so this is the question in the given case it should not result in automatic disqualification in the competition or constitute fraud.

According to the Applicant's point of view, the Terms of Use, the communication available on the website and it cannot be deduced from the combined interpretation of the data management information that the telephone number how they were able to connect him to the person of the Applicant. Based on the Applicant's point of view, the different

information in this area is not in sync with each other, and in response to a question in this regard,

The Respondent did not respond to the Applicant either.

1.2.2. According to the Applicant, the Data Protection Officer's answer is not satisfactory either

the requirements according to Article 15 of the GDPR, nor the Respondent's own regulations.

According to the Applicant's point of view, the answer received is difficult to handle formally and in terms of content

partly incomplete, partly inaccurate. According to his opinion, information according to Article 15 of the GDPR a

answer does not contain, it does not reveal which data, for what purpose, the Respondent

for how long it manages, whether data has been transferred, whether profiling has been carried out in relation to the

Applicant's data and

nor how they were able to link his phone number to his person. The Applicant is the content

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he also complained that the answer was not about the photographs uploaded by the Applicant

contained information. In addition, the Applicant objected that the response was late and it was not

contained remedy information.

1.2.3. The Applicant also complained about the Data Management information of the Respondent. E

in particular highlighted the following:

a) In his opinion, information about the identity of the Applicant is misleading,

thereby violating the requirement of transparency. From the outset, it is ambiguous and inaccurate data management

information is also inconsistent with the Terms of Use. The contradictory

information on the nationality of the Applicant and the jurisdiction related to the remedy

also appears in information on rules.

b) The Applicant's designation of the legal basis for individual data management is also debatable on several points

found it emphasized that the data management information sheet is not adequate in this regard either, it is

not suitable for ensuring transparency. In this round, the Applicant also highlighted that a

in the case of the consent legal basis, there is a stricter condition regarding special data

in force, as a result of which, in the absence of informed consent, the consent

its validity is questioned from the outset.

c) The Applicant also objected to the fact that it builds on some concepts in such a way

the Requested, that they do not clarify their content (relevant profile data), or the processed data

information about the scope of the application is sometimes uncertain or with the answer sent to the Applicant is in contradiction with.

d) In his complaint, the Applicant objects to certain points of the data management information

related additional solutions, as well as shortcomings (indicating the purpose of data management

absence, unreasonably long or unclear storage time, for "cookie" management and profiling

complete lack of relevant information).

e) In the Applicant's opinion, the solution of the data management information sheet is also flawed

does not indicate the data processor only in connection with the data management purposes where a

The applicant employs such an actor.

Based on the above, the Applicant requested the Authority's procedure because, in his opinion, the Applicant

The applicant's personal data is not in accordance with the GDPR and its data management information

managed, its general information is incomplete and incorrect, it was provided individually at the request of the Applicant

his information did not comply with Article 15 of the GDPR, he did not answer that the Applicant

what kind of data, for which purpose, legal basis, and for how long is processed by the Respondent, as well as did not clarify the

nor the method of connecting telephone number data with the Applicant, which the Applicant otherwise

it is considered to be data management contrary to the previous information.

### 1.3. Powers and procedural rights of the Authority

1.3.1. Based on his request, the Applicant considered the Applicant to be a data controller. To the Authority

in his submitted application, he also referred to the fact that some of the data published on the website are subject to data management

information documents (data management information and Terms of Use) as a data manager a

The applicant is listed and, accordingly, the applicant submits its stakeholder requests to the applicant



arranged.

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The document "Terms of Use" published on the website clearly names the

The applicant, as the service provider operating the website and at the same time the "IX. Privacy policy

(management of personal data)" clarifies the data management quality of the service provider. THE

document, in accordance with the ones referred to by the Applicant, does indeed contain the "XV. Closing

provisions", referring to the service provider as a company with Swiss citizenship

refers to, but further specifics regarding this are provided in individual customer information documents

it is not listed anywhere.

The data management information published on the website also names the Applicant as the data controller.

Based on the information specified in point 3 of the data management information, the Applicant is the United

Kingdom and this information from the Requested public source

it is also supported by its available company data<sup>2</sup>.

1.3.2. According to recital (122) of the GDPR, each supervisory authority has its own

the powers and tasks assigned to them in accordance with this regulation are competent in the territory of their Member State

practice or execution. This applies in particular to data controllers or data processors

completed in the territory of their Member State in connection with the activities carried out at their place of business

for data management, personal data by public authorities or private parties acting in the public interest

for processing by organizations, for data processing for data subjects living in the territory of their Member State,

or by data controllers or data processors that do not have a place of business in the Union

for data management, if the data subjects are located in the territory of the given Member State. That in itself

includes that this regulation acts and conducts in relation to the complaints submitted by the affected parties

investigations related to its use, as well as related to the management of personal data

it also informs the public about risks, rules, guarantees and rights.

Based on Article 51 (1) of the GDPR, the fundamental rights of natural persons and

the protection of their freedoms with regard to the management of their personal data, as well as the personal

In order to facilitate the free flow of data within the Union, all Member States require that for monitoring the application of this regulation, one or more independent public authorities (supervisory authority) is responsible.

Based on Article 55 (1) of the GDPR, the supervisory authority is in the territory of its own Member State is competent to carry out the tasks and exercise the powers assigned to him based on this regulation.

According to Article 56 (1) of the GDPR, carried out by the data controller, at the border of personal data with regard to its cross-cutting data management, the supervisory authority according to the activity center of the data controller authorized to act as the main supervisory authority.

As the registered address in the United Kingdom was indicated in the Applicant's data, above all, the Authority held the determination of the main supervisory authority authorized to act as necessary.

The United Kingdom as a result of a proceeding under Article 56(1) of the GDPR supervisory authority (hereinafter: ICO) explained in its response that the Respondent is the United Takes seat service in the Kingdom avail. Personal at the registered office address

2 (link)

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does not carry out any activity. The domicile service is not sufficient for the ICO to be the Applicant consider its seat as the company's activity center from a data management point of view, so it is given did not establish his own procedural rights in the case.

The Authority has suspended the official procedure for the duration of the procedure according to Article 56 (1) of the GDPR, however, based on the ICO's response, the suspension of the procedure was lifted and the known circumstances based on (the website is in Hungarian and offers services for a Hungarian target audience - a

The applicant is also a Hungarian person - both the Representative and the Data Protection Officer are Hungarian persons) established their own procedural rights.

1.3.3. After that, the Authority contacted (...) as a witness and with questions clarifying the facts (a hereinafter: Registrar), as the registrar of the domain in question.

As part of its response, the Registrar informed the Authority that from 04.01.2019 to 08.31.2019.

between "the operator of the website was the Applicant". He attached a position to prove this

according to the contract between the Respondent and the Registrar, which is not the subject matter

period, but 28.10.2014-28.10.2016 for the period between and not with the Application, but

entered into with (...) (hereinafter: Company).

In evaluating the above, the Authority took into account the following circumstances:

According to the information in the www.domain.hu database, the domain in question is

the Company is currently registered as its user.

The Company is public

from the company data available from the source, it can be established that he is active in it

contributed in the role of (...), who also has an active role in the organization of the Applicant

has

Bearing in mind the organizational connection between the Company and the Applicant, and the

Registrar's statement referred to above, according to which the operator of the website a

In the period affected by the applicant's request, the applicant was the applicant, and the authority was merely the company

through his domain user status, not the Data Controller status of the Requested

found it

questioned.

The Applicant is available on the website

information,

terms of use) is indicated as a data controller. The Representative in the public database

according to the available organizational data, he has an active representation right. The Representative

the procedural authority of the Data Protection Officer in his declaration to the Authority

confirmed. For the Applicant's stakeholder requests, both representing the Applicant

they answered. The Data Controller's quality was never disputed, nor was it given to the requests of the data subjects their answers, nor during their statements made during the official procedure.

In view of the above, the Authority did not consider further evidentiary measures to be justified conducted to find out who qualifies as a data controller, found that the complainant in terms of data management, the Respondent is the data controller.

in documents made

(data management

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Since the ICO's previous inquiry took place in relation to the Respondent and the Authority's procedure during the process, the identity of the data controller was not questioned, and the ICO was not contacted again justified, the Authority conducted the official procedure against the Application.

The Authority would also like to point out that the United Kingdom withdrew from the from the EU, and the transition period related to the exit process also ended on December 31, 2020, therefore, the ICO does not qualify as a supervisory authority within the meaning of Article 51 (1) of the GDPR. In view of the above, the Authority's procedural authority is based on Article 55 (1) of the GDPR established.

#### 1.4. Procedure of the Authority

##### 1.4.1. The Applicant 05.09.2019 in response to the request received by the Authority

NAIH/2019/6663/2. in his order with case file number, he invited the Applicant to fill in the gaps.

In his response, the Applicant requested that

1) the Authority determines that the Respondent does not continue its data management in accordance with the GDPR and convict him of the offence;

2) instruct the Requested Party to provide the Applicant's information with the content according to Article 15 of the GDPR fulfill;

3) instruct the Requested Party to bring its data management in line with the law in general regulations, as part of this, clarify your data management information;

4) requested that the Authority impose a fine.

The Authority NAIH/2019/6663/4. in the order of file number 21.10.2019. on Article 56 of the GDPR suspended the official procedure for the duration of the procedure, then NAIH/2020/2951/2. case file number in its order dated 30.06.2020. lifted the suspension on the ICO's response established his own procedural rights.

After that, the Authority addressed the Respondent with questions in order to clarify the facts

(order with file number NAIH/2020/2951/3), as a data controller,

and to the Representative

(order with file number NAIH/2020/2951/4) and as the Hungarian domain provider of the website, the

To the Registrar (order with file number NAIH/2020/2951/5), as witnesses.

The Registrar is the Authority NAIH/2020/2951/5. in response to his order with file number, he explained that a

It has no relationship with the Applicant, but it has a business relationship with the Application, server rental

and provided IT system operation services to the Respondent. The Registrar

based on his statement on 01.04.2019. - 31.08.2019 between the operator of the website was the Respondent.

The Representative is the Authority NAIH/2020/2951/4. in response to his order with file number, he explained that a

The applicant does not have a postal address in Hungary, in data protection matters the Data Protection

official acts as the contact person as the data protection officer of the Respondent. In his answer,

As the requested central decision-making place (including decisions concerning data management) of it

indicated its seat. The Representative did not respond to the Authority's data management questions because

in his opinion, the Respondent can answer that.

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Questions related to data management not answered by the Representative and the Requested a

NAIH/2020/2951/3. the questions asked in the order with case file number are identical in content. For these

the Data Protection Officer only partially answered the questions.

In his answer, he explained that the relevant competition notice contains the requirement that a person,

vote once a day (he also explained that the competition announcement is available on the website and that

rules are accepted by the applicant by checking the checkbox when applying for the competition). THE  
in the competition in question, this determines the purpose of the data management in relation to the telephone number data,  
and the legal basis of the data management, according to its point of view - taking into account its purpose - Article 6 (1) of the  
GDPR

legitimate interest according to point f) of paragraph

Based on his answer, the Respondent considers that the telephone number data is related to the competition  
informing the Applicant about its management via e-mail notification of the fact of exclusion  
was realized. In addition, he submitted in his answer that the information regarding the management of the telephone number  
is included in point 4. (4) i) of the data management information, to which for accounting reasons the data management  
information linked a 9-year retention period.

According to his point of view, both the data management information of the Respondent and the Applicant  
the information provided complies with the provisions of the law, so in the opinion of the Applicant  
his complaint is actually the exclusion  
can be traced back to its legitimacy. He explained the data management  
this data management activity is specifically not shown separately in the information sheet  
named because a similar case had not occurred before.

The Data Protection Officer did not answer the Authority's question about whether the Respondent a  
In respect of the applicant's data, the Authority carries out or carried out data management  
despite his request, the Respondent did not submit his answer on 23.07.2019. on the day of  
Upon request sent to the Data Protection Officer. In the response sent to the Authority - the data management  
in addition to information - two letters of response sent to the Applicant are attached: one is from the Representative  
response letter to the Applicant's letter of 23.07.2019, the other is the response letter of the Data Protection Officer  
to the Applicant's letter of 09/04/2019.

The Authority NAIH/4997-3/2022. recorded in a memo with file number that the Respondent  
The Terms of Use document and the data management information document are the procedure  
was modified during the process, the modified documents were attached by the Authority as an appendix to its record.

## 2. Applied legal provisions

According to Article 2 (1) of the GDPR, the general data protection regulation must be applied a for the processing of personal data in a partially or fully automated manner, as well as for the non-automated processing of personal data that is are part of a registration system or are intended to be part of a registration system to do.

For data management under the scope of the GDPR, on the right to self-determination of information and that CXII of 2011 on freedom of information. Act (hereinafter: Infotv.) Section 2 (2)

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according to the General Data Protection Regulation as defined in the provisions indicated there must be applied with supplements.

Infotv. According to Section 60 (1), enforcement of the right to the protection of personal data in order to do so, the Authority initiates an official data protection procedure at the request of the data subject and may initiate official data protection proceedings ex officio.

Infotv. Pursuant to § 60, paragraph (2), for the initiation of official data protection proceedings request in Article 77 (1) of the GDPR, as well as Infotv. defined in point b) of § 22 can be submitted in this case.

Infringement of other administrative or judicial remedies based on Article 77 (1) of the GDPR without, all data subjects have the right to complain to a supervisory authority - in particular a in the Member State of your habitual residence, place of work or the place of the alleged infringement - if, according to the judgment of the data subject, the handling of personal data relating to him/her violates this regulation. In the absence of a different provision of the General Data Protection Regulation, data protection initiated upon request for official procedure CL of 2016 on the general administrative procedure. law (a hereinafter: Ákr.) shall be applied with the deviations specified in the Infotv.

The Ákr. According to Section 35 (1), the request is made in writing or in person by the customer submitted statement, with which he requests the conduct of official proceedings and the authority's decision

in order to enforce your right or legitimate interest.

The Akr. Pursuant to § 38, the application must be judged according to its content, even if the client does not agree with it with the name used by

Infotv. Pursuant to paragraph (5) of § 60, for the initiation of official data protection proceedings application contains more than what is specified in the Acr

- indication of the alleged infringement,
- a description of the specific behavior or state that caused the alleged infringement,
- to identify the data manager or data processor who carried out the alleged violation

necessary data available to the applicant,

- the

assumed

supporting allegations of infringement

facts and those

your evidence,

- a definite request for a decision to remedy the indicated infringement.

Pursuant to Article 4, point 7 of the GDPR, the "data controller" is a natural or legal person, public authority body, agency or any other body that determines the purposes of personal data management and determines its assets independently or together with others; if the purposes and means of data management are determined by EU or member state law, concerning the data controller or the designation of the data controller special aspects may also be determined by EU or member state law.

Based on recital (36) of the GDPR, the data controller's center of activity within the Union is

The place of its central administration within the Union, unless for the purposes of processing personal data and

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decisions regarding its assets in another place of activity of the data controller within the Union are brought, in which case the latter activity center needs another activity center to consider.



Pursuant to Article 56 (1) of the GDPR without prejudice to Article 55, the data controller or data processor's center of activity or supervisory authority based on its sole place of activity authority is entitled to act as the main supervisory authority by the said data manager or data processor regarding cross-border data management carried out in accordance with the procedure according to Article 60.

Pursuant to Article 55 (1) of the GDPR, the supervisory authority is competent in the territory of its own Member State to carry out tasks and exercise powers assigned under the GDPR.

Based on Article 57 (1) point a) of the GDPR, it is the duty of the data protection authorities of the Member States to monitor and enforce the application of the GDPR.

Infotv. Based on paragraphs (2)-(2a) of § 38, the Authority's task for the protection of personal data, as well as for learning data of public interest and public in the public interest law

control and promotion of its validity, as well as personal data within the European Union facilitating its free flow. In the general data protection regulation, the supervisory authority tasks and powers established for legal entities under the jurisdiction of Hungary as defined in the general data protection regulation and Infotv. a

Exercised by authority.

On the basis of Article 6 (1) of the GDPR, personal data is processed only when and to the extent that legal if at least one of the following is met:

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, or to take steps at the request of the data subject prior to the conclusion of the contract required;

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

d) the data processing is for the vital interests of the data subject or another natural person necessary for its protection;

e) the data management is in the public interest or for the exercise of public authority delegated to the data controller necessary for the execution of the task carried out in the context of;

f) data management to enforce the legitimate interests of the data controller or a third party necessary, unless the interests of the data subject take precedence over these interests or fundamental rights and freedoms that require the protection of personal data, especially if a child is involved.

Point f) of the first subparagraph cannot be applied by public authorities in the performance of their duties for data management.

Based on Article 6 (4) of the GDPR, if data is processed for a purpose other than the purpose of data collection not based on the data subject's consent or any EU or Member State law which

Article 23 (1) is considered a necessary and proportionate measure in a democratic society to achieve the goals set out in paragraph

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is compatible with the purpose for which the personal data was originally collected, that is the data manager takes into account, among other things:

- a) any conflict between the purposes of collecting personal data and the purposes of planned further data management relationships;
- b) the circumstances of the collection of personal data, in particular the data subjects and the data controller on relationships between;
- c) the nature of the personal data, in particular that it is personal data according to Article 9 whether it is about the management of special categories, or whether it is to establish criminal liability and whether it is about the processing of data related to crimes in accordance with Article 10;
- d) the potential consequences of the data for the data subjects further treatment;
- e) the existence of appropriate guarantees, which may also mean encryption or pseudonymization.

Based on paragraphs (1)-(2) of Article 9 of the GDPR, racial or ethnic origin, political opinion,

personal data referring to religious or worldview beliefs or trade union membership,  
as well as genetic and biometric data aimed at the unique identification of natural persons, that is  
health data and the sexual life or sexual orientation of natural persons  
processing of relevant personal data is prohibited. Based on paragraph (2), paragraph (1) does not  
applicable - among other things - in the event that

a) the data subject has given his express consent to one or more specific personal data  
purposes, unless EU or Member State law provides that (1)

the prohibition referred to in paragraph cannot be lifted with the consent of the data subject;

e) the data management refers to personal data that the data subject expressly requests  
made public;

f) data processing is necessary for the submission, enforcement and protection of legal claims,  
or when courts are acting in their judicial capacity.

Based on Article 12 (3)-(5) of the GDPR:

(3) The data controller without undue delay, but in any case from the receipt of the request  
informs the person concerned within one month of the 15-22 brought as a result of a request pursuant to art  
measures. If necessary, taking into account the complexity of the application and the number of applications,  
this deadline can be extended by another two months. It is about extending the deadline  
data controller, indicating the reasons for the delay, one month from the date of receipt of the request  
informs the person concerned internally. If the person concerned has submitted the request, the information electronically  
if possible, it must be provided electronically, unless the data subject requests otherwise.

(4) If the data controller does not take measures following the data subject's request, without delay, but  
informs the person concerned no later than one month from the date of receipt of the request  
about the reasons for the failure to take action, as well as about the fact that the person concerned can submit a complaint to a  
with a supervisory authority, and can exercise his right to judicial redress.

(5) The information according to Articles 13 and 14 and Articles 15–22 and information according to Article 34 and  
measure must be provided free of charge. If the data subject's request is clearly unfounded

- especially due to its repetitive nature - excessive, the data controller, taking into account the requested information or for administrative costs associated with providing information or taking the requested measure:

- a) may charge a fee of a reasonable amount, or
- b) may refuse to take action based on the request.

It is the responsibility of the data controller to prove that the request is clearly unfounded or excessive.

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Based on paragraphs (1)-(3) of Article 13 of the GDPR:

(1) If personal data concerning the data subject is collected from the data subject, the data controller is the personal one provides the following information to the data subject at the time of data acquisition

all of them:

- 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;
- 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 to forward the personal data to, as well as the Commission's compliance decision existence or absence thereof, or in Article 46, Article 47 or the second subparagraph of Article 49(1) in the case of data transfer referred to in subsection as well as the methods for obtaining copies of them or their availability reference.

(2) In addition to the information mentioned in paragraph (1), the data controller is the personal data at the time of acquisition, in order to ensure fair and transparent data management ensure, informs the data subject of the following additional 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 personal data relating to him/her

access, their correction, deletion or restriction of processing, and may object to such

against the processing of personal data, as well as the data subject's right to data portability;

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.

(3) If the data controller performs additional data processing on personal data for a purpose other than the purpose of their

collection

wish to perform, you must inform the data subject about this different purpose before further data processing

and all relevant additional information referred to in paragraph (2).

Pursuant to Article 15 (1) and (3) of the GDPR:

(1) The data subject is entitled to receive feedback from the data controller regarding whether

whether your personal data is being processed, and if such data processing is underway,

you have the right to access your personal data and the following information:

a) the purposes of data management;

b) categories of personal data concerned;

c) recipients or categories of recipients with whom or with which the personal data

communicated or will be communicated, including in particular to recipients in third countries, or

international organizations;

d) where appropriate, the planned period of storage of personal data, or if this is not possible,

criteria for determining this period;

e) the data subject's right to request personal data relating to him from the data controller

rectification, deletion or restriction of processing and may object to such personal data

against treatment;

f) the right to submit a complaint addressed to a supervisory authority;

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

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

also profiling, as well as, at least in these cases, the applied logic and that

understandable information about the significance of such data management and what it is like for the data subject

has expected consequences.

(3) The data controller shall provide the data subject with a copy of the personal data that is the subject of data management

makes available. For additional copies requested by the data subject, the data controller is administrative

may charge a reasonable fee based on costs. If the data subject provided it electronically

application, the information must be available in a widely used electronic format

to forgive, unless the person concerned requests otherwise.

Pursuant to points b)-d) and i) of Article 58 (2) of the GDPR, the supervisory authority

acting within its competence:

b) condemns the data manager or the data processor if his data management activities have violated it

the provisions of this regulation;

c) instructs the data manager or the data processor to fulfill the data subject's requirements according to this regulation

your request to exercise your rights;

- d) instructs the data manager or the data processor that its data management operations - where applicable in a specified manner and within a specified time - bring it into line with the provisions of this regulation;
- i) imposes an administrative fine in accordance with Article 83, depending on the circumstances of the given case, in addition to or instead of the measures mentioned in this paragraph.

Based on Article 83 (2) of the GDPR, the administrative fines depend on the circumstances of the given case depending on the measures mentioned in points a) to h) and j) of Article 58 (2).

must be imposed instead. When deciding whether it is necessary to impose an administrative fine, and when determining the amount of the administrative fine, sufficiently in each case the following should be taken into account:

- a) the nature, severity and duration of the infringement, taking into account the data management in question nature, scope or purpose, as well as the number of persons affected by the infringement, as well as by them extent of damage suffered;

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

- c) mitigating the damage suffered by the data controller or the data processor any action taken in order to;

- d) the degree of responsibility of the data manager or data processor, taking into account the 25. and technical and organizational measures taken pursuant to Article 32;

- e) relevant violations previously committed by the data controller or data processor;

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- f) with the supervisory authority to remedy the violation and the possible negative effects of the violation extent of cooperation to mitigate;

- g) categories of personal data affected by the infringement;

- h) the manner in which the supervisory authority became aware of the violation, in particular the fact that whether the data controller or the data processor reported the violation, and if so, what kind with detail;

- i) if against the relevant data controller or data processor earlier - in the same subject

- one of the measures referred to in Article 58 (2) was ordered, in question

compliance with measures;

j) whether the data controller or the data processor considered itself approved according to Article 40

to codes of conduct or approved certification mechanisms under Article 42;

as well as

k) other aggravating or mitigating factors relevant to the circumstances of the case, for example a

financial benefit obtained or avoided as a direct or indirect consequence of infringement

loss.

Infotv. 75/A. According to §, the Authority has the powers contained in paragraphs (2)-(6) of Article 83 of the GDPR

practices taking into account the principle of proportionality, especially with the fact that personal data

regarding its handling - defined in legislation or in a mandatory legal act of the European Union

- in the case of the first violation of regulations, to remedy the violation - the general one

in accordance with Article 58 of the Data Protection Regulation - primarily the data manager or data processor

takes action with his warning.

The Akr. Pursuant to Section 10 (1), a customer is a natural or legal person, other organization,

whose right or legitimate interest is directly affected by the case, for whom the

official register contains data, or who (which) has been subject to official control.

Infotv. Pursuant to paragraph (1) of § 60/A. in the official data protection procedure, the administrative deadline

one hundred and fifty days, which does not include the data necessary to clarify the facts

the time from the notification to its completion.

The Akr. Based on § 51 (1) point b), if the authority exceeds the administrative deadline, the procedure

of the fee payable for its execution or of the public administrative authority according to the Act on Fees

administrative services paid for procedures or for the use of administrative services

an amount corresponding to the fee (hereinafter: fee), failing which ten thousand forints shall be paid by a

to the requesting client, who is also exempt from paying the procedural costs.

3. Decision



### 3.1. The Requester's request for access pursuant to Article 15 of the GDPR

3.1.1. The Applicant submitted the Application on 23.07.2019. on the day of the Representative and Data Protection he also sought it out in letters written to officials.

In the letter sent to the Representative, the Applicant - based on the questions summarized above - in part a asked for an explanation of the exclusion, objecting to its legitimacy, and partly to the question of

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answering how the telephone number data could be linked to the person of the Applicant,

bearing in mind that according to the text of the cited information on the website, the Applicant's telephone number is a

The Respondent does not see it either, and that, according to the Applicant, the management of the telephone number is data management

it does not follow from the information sheet either.

In his answer to the questions, the Representative stated that the exclusion is according to the position of the applicant right, but he didn't answer the other question.

In his letter to the Data Protection Officer, the Applicant asserts his right of access pursuant to Article 15 of the GDPR wished to exercise, requesting that the stored personal data be sent to him. The Data Protection as an official, the Applicant submitted his response to the Authority. The Authority found that the answer consists of excel files, which were sent by e-mail as .zip files, compressed official to the Applicant.

3.1.2. The Authority reviewed the excel files and found that one of the excel files

nor, the content of which corresponds to Article 15 (1) of the GDPR, is relevant to this

information is missing from the answer. Legal redressal information is also part of this, therefore it is part of it the Authority does not assess its absence as an independent deficiency.

If the Applicant's question is not clear to the Respondent, he or she must ask the

Requester to clarify their request or all information according to Article 15 of the GDPR

must make available. The answer is no in terms of Article 15 (1) of the GDPR

was realized.

3.1.3. Based on Article 15 (3) of the GDPR, the answer is not complete, as it depends on the main case

it is clear that in addition to the data provided (entries, logos, codes, identifiers,

etc.), other data (such as the file uploaded to the competition) is also managed. Handled from the Applicant

to the Authority's question regarding the completeness of the data, neither the Representative nor the Data Protection Officer

official did not respond. On the other hand, the files according to the competition series are included as part of the .zip file

The applicant was not informed, it can be evaluated as a deficiency, so based on this it is justified that the applicant

reviews the completeness of its response in accordance with Article 15 (3) of the GDPR and fills in its gaps.

In this regard, the goal is that the Applicant receives copies of the personal data processed about the Applicant

make it fully available to the Applicant.

3.1.4. A

The applicant only asked the Representative, not the Data Protection Officer. The Representative has

his answer only justified the exclusion (which is not a data management issue), the Data Protection Officer a

did not answer this question.

The response to the Requester's data management inquiries cannot be dependent on

whether the Applicant asked his questions to the person designated for this purpose at the Respondent. The Applicant

he did not give a specific, exact answer to his question through any of the Respondent's representatives, at the same time

the answer of the Data Protection Officer carries relevant information, from which the question

related conclusion

file

clearly contains phone number data linked to an identifier that is the purchased VIP

membership, and the use of which, in connection with voting, "a person,

named transactions.xlsx

can essentially be read: a

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it became possible to check the implementation of the "one day, vote once" rule. 3 A

Regarding the representative's answer to the same question, at this point the Authority only

would like to note that it is not relevant from a data management point of view, because it was not the question is whether there is a rule of the game, the violation of which justifies the exclusion, but whether a what data management operations take place within the framework of the control of game rules and the Applicant where informed. In this regard, the answer was not sufficiently specific, in terms of the content of the relevant information deciphering is so difficult that the Respondent has merit to this question of the Applicant he didn't answer.

3.1.4. Answering in tabular form is not a mistake, it may even make the information clearer you can do it too. In this case, the lack of information according to paragraphs (1) and (3) of Article 15 of the GDPR is not a it follows from tabular editing. Regarding the content of the tables, however, the answer is difficult can be interpreted, since the conclusions regarding the connection of the data are more empirical basis, they can be deduced by comparing the data, there was no description to facilitate their interpretation available and, as a result, given to the Data Protection Officer in particular to the specific question your answer is difficult to read from the tables. If the data provided necessary for understanding, operational information must also be known from the answer they should be.

3.1.5. Regarding the Applicant's objections regarding the Respondent's failure to meet the deadline the Authority would like to point out the following: the request of the Applicant pursuant to Article 15 of the GDPR 23/07/2019 sent it to the Data Protection Officer on 22.08.2019. on the day of arrived at the Applicant. Based on Article 12 (3) of the GDPR, the data controller is unjustified without delay, but in any case within one month of receipt of the request informs the person concerned in paragraphs 15-22. on measures taken following a request pursuant to Art. Need taking into account the complexity of the application and the number of applications, this deadline is two more can be extended by a month. Regarding the extension of the deadline, the data controller explains the reasons for the delay informs the data subject within one month of receiving the request. If the person concerned submitted the application electronically, the information is provided electronically if possible must be provided by road, unless the data subject requests otherwise.

The GDPR does not provide an authentic interpretation of the 1-month turnaround in the referenced article of the GDPR away, it also does not clarify whether the date of submission of the application is included. In this case, if a we calculate the deadline starting from the day the request was sent, then you have fulfilled the

The applicant requested a response, which was given within a month even with the strictest interpretation can be considered as an answer. In this regard, the answer is not objectionable.

3.1.6. During its procedure, the Authority took into account that the application was in effect when it was submitted the Terms of Use document, as well as the data management information document has been modified, at the same time the modification of these documents e is not relevant in this regard, because their text does not constitute the infringements established above in direct connection.

3 The file called transactions.xlsx clearly contains phone number data (in the "buyer" column). This data is assigned by the table for the data according to the "account" column. The "account" data appears in one of the tables provided to the Applicant and: in the file named log\_vip.xlsx (under the column named "vip\_code"). This last table connects the "vip\_code" data to the with "user\_id" data, and essentially - based on the available information - according to the log\_ratings.xlsx file, this is what made voting possible

in connection with the verification of the cited competition rules regarding the Applicant (one person, one day, one vote).

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towards, accounting

user

performance of the service

3.1.7. Based on the above, the Authority established a violation of Article 15 (1) and (3) of the GDPR and based on Article 58 (2) point c) of the GDPR, made a decision in accordance with the provisions of the operative part.

3.2. Objected data processing performed on phone number data

3.2.1. The Applicant handles the phone number data in connection with the payment of the VIP membership via SMS with data management and with data management in connection with the control of compliance with the rules of the game objected in connection. In their case, the phone number data management is different data management

is carried out in connection with goals, thus their legality examination must also be done independently to happen.

3.2.2. 3.3. of this decision is not repeated. points, the VIP membership is sent via SMS

in connection with your purchase, the relevant information needs to be amended. At the same time, on this

in terms of data management, the telephone number data could be read from the data management information

management and the actual data management practice based on the data available to the Authority

showed a match. Furthermore, based on the circumstances of the case that have become known, the data management is actual

purposes (contract

yogi

fulfillment of obligations) can be verified and supported by an appropriate legal basis, actual

and in relation to its data management activities, there is no indication that the Respondent

his practice would have differed from these. Thus, the Applicant has, with regard to the objective data management purposes,

a

damages arising in connection with actual data management practices are appropriate and preliminary

information can be caught in the errors detailed below (point 3.3), it does not extend beyond that.

3.2.3. The situation is different in connection with data processing in connection with vote verification:

In addition to the fact that legal data management is provided in advance with regard to the specific data management purpose

cannot be imagined without information, - which also violates Article 13 (3) of the GDPR

failed to comply with the GDPR - with its data processing for the purpose of vote verification, the Respondent complies with the

GDPR

Taking into account Article 6 (4), the phone number data for a purpose other than its original purpose

used it illegally, and the data management is not appropriate for this purpose, a

Legal basis according to Article 6 (1) GDPR.

On data management for the purpose of checking the votes cast in the competition - as per

Also referred to by the respondent - the information on data management does not contain any information. The Data

## Protection

based on the official's reply to the Authority, the Respondent did not plan for such a purpose decided to continue data management, solely due to the "unusual tendency" of voting by doing a "manual check". In the processing of data for this purpose with the VIP membership used phone number data managed in connection with this and in his response to the Authority the legal basis for the data management purpose is a legitimate interest according to Article 6 (1) point f) of the GDPR turned it on.

Article 6 (4) of the GDPR allows for the processing of personal data to be original be processed by the data controller for purposes other than its purpose, provided that the data management is compatible with the original purpose of the data management for which the personal data were originally collected.

In this case, the data controller must take into account several aspects, one of which is the GDPR

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Paragraph 4 of Article 6 highlights in an illustrative list the circumstances which considers its consideration to be the most important.

In the present case, it can be established that the Respondent is the original as detailed above also handled the data of the Applicant's phone number for purposes other than data management purposes. This is the goal should have applied in Article 6 (4) of the General Data Protection Regulation included, and should have determined that the original and different purpose of the data management is it compatible? The Respondent is a preliminary consideration according to Article 6 (4) of the GDPR did not certify its completion to the Authority.

If, based on the assessment, the Respondent had come to the conclusion that its data management is compatible with the new purpose, in that case about the new data management purpose and for this related to all relevant information, the Applicant is informed of the General Data Protection Regulation 13. should have informed based on paragraph (3) of Article Incompatible data management purposes and in the event that the data management for the new purpose would obviously not have been possible.

According to the position expressed regarding the legal basis, the Respondent is the vote control

the legal basis of its data processing is legitimate according to Article 6 (1) point f) of the GDPR

interests as a legal basis, in connection with which the Authority wishes to point out that the substantive legal basis the condition of its applicability is that the data controller carries out a preliminary interest assessment. For this during the procedure, the Respondent did not refer to it.

The result of the interest assessment test does not necessarily support the legal basis of legitimate interest under and in such cases this legal basis cannot legally be invoked. It is questionable whether it is in this one in the event that the Respondent had conducted the interest assessment test, where appropriate a also an impact assessment, whether its results would have supported the legal basis of the legitimate interest for this data management purpose, would it have passed the necessity-proportionality test, or whether it is would you have found this to be the most effective of the available solutions, a the least burdensome on the private sector. As a general rule, it cannot be ruled out that the purpose of data management and a suitable preliminary and successful interest assessment test of its legal basis indicated as legitimate interest, (given in some cases, an impact assessment) and with the provision of adequate prior information, it may even be acceptable can be or can be made so by incorporating certain guarantees, however, the Requested consideration is not completed and thus the data management had no legal basis.

In the absence of a balance of interests, the various interests could not be considered and balanced and, guarantee measures could not be incorporated, with the data management of the data subjects and your expectations regarding it - precisely based on the information provided by the data controller - are the actual ones could be specifically contrary to data management practices. In the present case, one is expected in a good faith stakeholder acting with care, on the one hand, information related to VIP membership errors, on the other hand, as a result of the complete lack of information regarding vote verification, rightfully so the mistaken expectation that the telephone number data in connection with these two data management processes may have developed

The applicant does not handle it.

In its assessment of data management related to vote verification, the Authority also took into account that it is in its actual implementation, for the purpose indicated in the Data Protection Officer's response and

aligned with an assumed legal basis; according to the available information, the infringement is exclusively a

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The applicant was affected, on a one-time basis, in connection with an individual data management, which the Respondent performed manually, i.e. automated operation in its data management not built; based on what was presented by the Applicant, when the manual check was carried out a connecting the VIP membership and the cast vote via phone number data only a  
It became possible for the applicant.

3.2.4. The Applicant also complained about being excluded from the competition, given that

in his opinion, based on the document Terms of Use, it is not illegal that

one person can have more than one VIP membership. The Authority established that "one person, one day,

"vote once" exclusion due to violation of game rules, not a data management issue, but the above

the consequence of violating the rules of the game. The question of the legality of the exclusion is therefore a data protection one

cannot be judged from this point of view, in contrast to the above-evaluated question that the rules of the game the control of compliance is realized through what data management operations.

3.2.5. During its procedure, the Authority took into account that the application was in effect when it was submitted the Terms of Use document, as well as the data management

information document has been modified. Modification of the documents does not change the a

on the fact that, during the period indicated in the complaint, the Respondent is in violation of the above followed practice, so the modification of these documents is not relevant in this regard.

3.2.6. Based on the above, the Authority, Article 13 (3) of the GDPR, Article 6 (4) of the GDPR

found a violation of Article 6(1) of the GDPR and Article 58(2) of the GDPR

made a decision based on point d) of paragraph

3.3. Data management information according to paragraphs (1)-(2) of Article 13 of the GDPR

3.3.1. In the request submitted to the Authority, the Applicant provides the general data management information

he was affected by the complaint from two directions: on the one hand, specifically the phone number with the data person



in terms of its connection, on the other hand, in general.

3.3.2. The Applicant's specific objection to the handling of telephone number data is general

the fulfillment of the obligation to provide information was affected by two different types of data management: one, a Data management related to the payment of VIP membership by SMS, the other is the competition rules data management related to its control.

THE

regarding the adequacy of information

above all, it is necessary to clarify that the information must be provided in advance by the

to a data controller, namely in such a way that it is in accordance with paragraphs (1)-(2) of Article 13 of the GDPR

with content, in relation to all data management, be implemented independently for each data management purpose.

The same type of data – in this case the telephone number – can be managed for several different purposes

as well, so information about them must be provided for each purpose.

The data controller may not process certain data for a purpose other than the original one without this

the conditions of legality would be given and it would provide prior information about this to those concerned.

The information must be clear and the (legal) data management practices must be followed

actually reflect.

to be provided on the management of telephone number data

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3.3.3. In relation to the control of voting in the competition, the Data Protection Officer a

In his reply to the authority, he explained that the data management information sheet does not contain this

provision regarding data management, since no voting attempts have previously occurred,

which justified the inspection this time for the Respondent. From the Respondent's answer, it is

it follows that the Applicant is the first to be informed about the data management carried out in connection with the voting

times, he was only informed when he was notified of the fact of exclusion. So about data management

in connection with the control of the vote, the Applicant could not have been aware of it

received no prior information in any form. The complete lack of information is objective

can be determined in relation to the purpose of data management, this is per purpose in the data management information it is necessary to carry out taking into account the information provided (if the Applicant is the present decision plans to continue this data management even after receiving it).

Regarding the data management carried out in the context of the control of votes, the Requested Article 13 (3) of the GDPR did not provide information in accordance with paragraphs (1)-(2) of Article 13 of the GDPR in violation of paragraph THE information must be preliminary, therefore in this case the Requested is the original data used it for purposes other than its intended purpose without prior notification.

3.3.4. Regarding the payment of the VIP membership via SMS, the Applicant is clear handles phone number data. This is clear from the data management table called transactions.xlsx information and also from the response sent to the Authority, in which the Data Protection Officer is VIP regarding membership, the informative text is indicated in point 4. (4) i) of the data management information yes. The referenced point of the data management information specifically states that among the managed data a phone number data, but the website provided information to the contrary on the underside. The person concerned cannot be expected to choose between two contradictory pieces of information choose, and also not to take steps to clarify the information, because it is not the person concerned obligation to clarify the contradiction, but the obligation of the data controller to a information should be clear. At the same time, one cannot ignore the fact that it is relevant information from a data management point of view and the actual data management practice match, so a wrong displayed. THE

The applicant must ensure that its customer information documents are data management be in accordance with its information.

Point 4 (4) i) of the data management information sheet states that the purpose of data management is "to make paid content available item", and the retention period was determined with reference to its accounting obligations. THE problem

regarding the breakdown by objective

lack of information. In this form, the information is washed away for the accounting retention period taking into account the accounting purpose and the purpose of the VIP membership service (in addition to a does not include data processing for the purpose of checking competitive votes). These are separate goals, and therefore the information must also be provided by purpose, since within each purpose the information elements (e.g. retention time, scope of processed data, legal basis) may differ. Staying with the accounting objective, if data management is required by law, then the legal basis for data management for this purpose is legal fulfillment of an obligation, as other legal bases may be reasonable in relation to other purposes.

The purpose-specific information in the data management information is implemented in the expected form if the information according to paragraphs (1)-(2) of Article 13 of the GDPR is clear for all purposes, their content can be clearly interpreted. Recurrently applied within the scope of this managed data information in the referenced sentence on the bottom page of the website

source of these data treatments

22

The phrase "data subject profile" does not match. As part of the information, the scope of the processed data it must be listed objectively, collective concepts with vague content and meaning cannot be used to trigger this are applicable. When preparing the information broken down by purpose, the data controller among other things, you must also assess whether you need a specific one for the goal you want to achieve personal data or not. In the present case, for example, it has not been proven that it is also necessary for accounting purposes would be the management of the phone number data for the purpose of providing the VIP status service it is marked as data required for the performance of the contract. The storage time may also vary depending on the specific data management purpose: the situation is different if some legislation does not consider it granted, it is determined objectively and again if it is related to the provision of the service depending on the requirements, it can be determined by the data controller.

### 3.3.5. The data management

regarding the adequacy of information provided by the Applicant

with regard to additional objections formulated in general, the Authority requests the following

point out:

The subject of the present procedure is the presumed violation of the Applicant's individual stakeholder rights and not the

Your general data management practices are requested. In view of this, the data management

information and its coherence with other customer information documents

within the framework of an official procedure, the subject of the investigation is only to the extent that the Applicant has a

it is related to the specific violation of the rights of the data subject related to the management of telephone number data. For

this

within its limits, the Authority with the additional objections formulated in this part of the application

in addition to the above, makes the following findings regarding:

Information on the identity of the data controller was included in the data management information, a

The Respondent was available to the Applicant, he did not dispute his quality as a data controller and thus the complaint

in this regard, it is unfounded, but the customer information documents must be provided here as well (present

in the case of the document entitled Conditions of Use) data management

with information

harmony.

The information on data processors is content according to paragraphs (1)-(2) of Article 13 of the GDPR

part, therefore the related complaint does not require a separate evaluation beyond the above (so the question

to be clarified as part of the information provided in the breakdown by purpose).

In addition to what is detailed in relation to the handling of telephone number data, - what the Authority mentioned above

assessed - all additional objections related to the purpose of data management, legal basis, retention period, scope of data

managed

the adequacy of the information given regarding some of its elements was generally affected by the present Authority

is outside the scope of the procedure, as it is a question concerning the Respondent's general practice and not a

it was formulated in connection with a specific stakeholder violation.

During its procedure, the Authority took into account that the status in effect at the time of the submission of the application

compared to the document entitled Terms of Use and the information on data management document has been modified. Modification of the documents does not change the fact that a during the period indicated in the complaint, the Respondent followed unlawful practices as indicated above. THE At the same time, the authority examined the two documents within the framework of the above effective versions and found that the conceptual errors indicated in this point are in them they still exist, so the changes made to these documents over time are the above

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findings are not affected. The Authority also established that the website is an informative one its texts and the effective text of the two referenced documents still do not match in sync.

3.3.6. Based on the above, the Authority partially approves the Applicant's request, Article 13 (1) of the GDPR- (2) of the GDPR and, based on Article 58 (2) point d) of the GDPR, the decided in accordance with the provisions of the

#### 3.4. Review of the data management of the Applicant's phone number

After the Respondent revises its data management practices in accordance with the above bring your data management information, it is inevitable that the Applicant's personal data compare your ongoing data processing with these, and in addition to informing the Applicant, it is necessary in the event that the Applicant's personal data is used only legally carry out data management.

Considering that the present decision 3.2. and 3.3. as a result of fulfilling its points data management information will be amended, the Authority based on point d) of Article 58 (2) of the GDPR decided in accordance with the provisions of the operative part.

#### 3.5. Fine

The Authority rejects the Applicant's request for the imposition of a data protection fine, since e the application of a legal consequence does not directly affect the rights or legitimate interests of the Applicant, for him, such a decision of the Authority does not create any right or obligation, as a result of this

- with regard to the application of the legal consequence that falls within the scope of enforcing the public interest a in relation to the imposition of a fine, the Applicant is not considered a customer under Art. Paragraph (1) of § 10 on the basis of, and since the Ákr. It does not comply with paragraph (1) of § 35, a request in this regard there is no place for its submission, this part of the submission cannot be interpreted as a request.

At the same time, the Authority examined ex officio whether it was justified against the Application ex officio imposition of a data protection fine. In this context, the Authority is Article 83 (2) of the GDPR and Infotv. Based on § 75/A, he considered all the circumstances of the case and found that the material the procedure dragged on, the Respondent did not receive a complaint on other occasions, thus the present procedure imposing a fine based on the violations discovered during the investigation is not justified.

#### 4. Other questions

4.1. During the procedure, the Authority exceeded Infotv. One hundred and fifty days according to paragraph (1) of § 60/A administrative deadline, therefore the Ákr. Pursuant to point b) of § 51, paragraph (1), ten thousand HUF is due a Applicant - according to his choice - by bank transfer or postal order.

4.2. This decision of the Authority is based on Art. §§ 80-81 and Infotv. It is based on paragraph (1) of § 61. The decision the Ákr. Based on § 82, paragraph (1), it becomes final upon its publication. The Ákr. § 112 and § 116 (1) against the decision on the basis of paragraph and paragraph (4) point d) and § 114 paragraph (1) there is room for legal redress through an administrative lawsuit.

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\* \* \*

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, paragraph (3) a)

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

Based on point b), legal representation is mandatory in a lawsuit within the jurisdiction of the court. Cp. Section 39 (6) according to paragraph - if the law does not provide otherwise - the submission of the statement of claim a

does not have the effect of postponing the entry into force of an administrative act.

The Kp. Paragraph (1) of Section 29 and, in view of this, CXXX of 2016 on the Code of Civil Procedure. law

(hereinafter: Pp.) applicable according to § 604, electronic administration and trust

CCXXII of 2015 on the general rules of services Act (hereinafter: E-

administrative tax.) According to point b) of § 9, paragraph (1), the client's legal representative is electronic

obliged to maintain contact.

The time and place of submitting the statement of claim is set by Kp. It is defined by § 39, paragraph (1). The

information about a simplified trial in Kp. Paragraphs (1)-(2) of Section 77 and Paragraph (1) of Section 124 and

It is based on paragraph (2) c) and paragraph (5). The amount of the administrative lawsuit fee is

XCIII of 1990 on fees. Act (hereinafter: Itv.) 45/A. Section (1) defines.

Regarding the advance payment of the fee, the Itv. Section 59 (1) and Section 62 (1) h)

exempts the party initiating the procedure.

Infotv. According to § 38, paragraph (2), the Authority is responsible for the protection of personal data, as well as

the enforcement of the right to access data of public interest and public interest

control and promotion, as well as the free flow of personal data within the European Union

facilitating. According to paragraph (2a) of the same § in the general data protection regulation, the supervisory

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

with regard to legal entities, they are defined in the general data protection regulation and this law

according to the Authority.

The Authority's jurisdiction covers the entire territory of the country.

Budapest, 03.08.2022.

Dr. Attila Péterfalvi

president

c. professor