

Case number: NAIH-924-10 / 2021

Former Case NAIH / 2020/8890

Clerk:

Subject: Decision

DECISION

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

.....

(address:

.....;

postal address:

.....) to the applicant (hereinafter: the Applicant) in 2020.

On December 18, Magyar Telekom Plc. (registered office: 1097 Budapest, Könyves Kálmán körút

36.) unlawful processing of personal data against the applicant (hereinafter: the Requested)

following a request from a data protection authority. The Authority on Data Protection

take the following decisions in official proceedings:

1. The Authority shall request the Applicant to provide the Applicant with the Applicant's email address

order it to be canceled because it has become impossible to

rejects.

2. The Authority shall establish of its own motion that the Applicant has infringed the Applicant

with regard to the processing of personal data by natural persons

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

Article 5 of Regulation (EU) 2016/679 (hereinafter referred to as the General Data Protection Regulation)

Article 6 (1) (d), Article 6 (1), Article 12 (2), (3) and (4), Article 17 (1)

and violates the general practice of the Applicant in relation to the above data processing

Articles 12 (2) and 25 (2) of the General Data Protection Regulation.

3. The Authority shall act ex officio in accordance with Article 58 (2) (d) of the General Data Protection Regulation

instructs the Applicant to change its data management practices so as to remove customer status regardless of the rights of the data subject, no additional surplus should be required by default a condition which is not necessary to assess the admissibility of the application, unlawfully restricted the possibility for the data subject to exercise his or her rights, in particular contact email addresses.

4. The Authority shall examine the applicant ex officio

HUF 10,000,000, ie ten million forints

data protection fine

obliges to pay.

The fulfillment of the obligation provided for in Clause 3 from the time the Debtor becomes final of this decision within 30 days of receipt of the supporting evidence.

to the Authority.

The fine referred to in point 4 shall be imposed within a period of 30 days from the date on which this decision becomes final

Authority's centralized revenue collection special purpose forint settlement account (10032000-0104042500000000

Centralized collection account IBAN: HU83 1003 2000 0104 0425 0000 0000)

must be paid for. When transferring the amount, "NAIH-924/2021 JUDGMENT." number should be referred to.

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If the Debtor fails to meet the obligation to pay the fine within the time limit, a late payment allowance is obliged to pay. The amount of the late payment allowance is the statutory interest affected by the delay equal to the central bank base rate valid on the first day of the calendar half-year.

Failure to pay the fine and the late payment allowance and the obligation under point 3 above shall not the Authority shall order the enforcement of the decision.

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

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

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

forward it to the court together with his documents. A hearing may be requested in the application. The entire

for those who do not receive personal tax exemption, the fee for the administrative lawsuit is HUF 30,000, a

is subject to the right to record material taxes. Legal representation in proceedings before the Metropolitan Court obligatory.

Act CXII of 2011 on the right to information self-determination and freedom of information. Act (a hereinafter referred to as the Information Act) Section 61 (2) (c), the Authority shall

It shall be published on the Authority's website by anonymising the applicant's identity.

EXPLANATORY STATEMENT

I. Establishment of the facts and procedure

I.1. Facts

The Applicant submitted an application to the Authority on 18 December 2020, in which he

that he received an unsolicited e-mail from the Applicant on 13 November 2020

..... to your email account, as it is assumed that a third party entered it incorrectly

..... address (which is considered the same by gmail before any @ sign

points

separated

version).

Because of this

Applicant

2020.

November

On the 13th

the

sent an email request from to the email address ugyfelszolgalat@telekom.hu

to delete the email address owned by him, indicating that he is not the Customer of the Requested.

Because he received unsolicited emails again on November 17, 2020 and November 24, 2020

from the Applicant and the Applicant on 20 November 2020 in response to a template login

The requesting newsletter sent an unsubscribe link to the Applicant, therefore the Applicant 's request was sent in 2020.

reiterated on 24 November, requesting confirmation of the cancellation, again indicating that

you do not want to unsubscribe from the newsletter, but the Applicant requests the complete deletion of the email address on behalf of.

Subsequently, on 8 December 2020, the Applicant again received an unsolicited e-mail a

An application that again asked you to delete your email address on December 11, 2020. For this, the former received a repeat reply from the newsletter about unsubscribing. THE

In its reply to information no

redirects to a login page where - as a customer - you cannot proceed. The Requested

The customer service response of 12 December 2020 again suggested unsubscribing as a solution

stating that the link in the unsolicited email is not required to log in

when using.

Following the submission of the application, on 15 January 2021, the Applicant again received an unsolicited newsletter a

From application. The Authority will send the following email unsubscribe links to the Applicant

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examined

and

those

no

unsubscribe,

but also

login

screen

(<https://www.telekom.hu/telekomfiok/belepes?0&successUrl=/telekomfiok/telekom-profil>)

redirected.

I.2. Procedure

In its application submitted to the Authority on 18 December 2020, the Applicant is a data protection authority

the applicant requested an order to delete the above e-mail address.

The Authority asked the following questions to clarify the facts:

(i)

For what reason did the Applicant fail to comply on 13 November 2020, 24 November 2020, and

Legal action to delete an email address filed on December 11, 2020

your requests?

(ii)

Examination of the above application submitted on 11 December 2020 to which organizational unit

belongs to? Support your answer with rules!

(iii)

We are based on the proposed cancellation instead of unsubscribe, the cancellation and unsubscribe request a

how do you differentiate it in practice? Support your answer with rules!

(arc)

The reason why the unsubscribe link in the emails sent to the Applicant does not work is

why are you redirecting me to a login page?

(v)

The databases of the Applicant to be deleted are in which databases and which are organizational and logical

methods to ensure that in the event of a cancellation request, the email address will be deleted from each of them

should be avoided, including for gmail.com domains or similar

are they just the point in the position or absence of different variations? Support your answer

with regulations!

(vi)

As in the data protection authority proceedings, the Authority found an infringement

may impose a data protection fine ex officio, therefore present all relevant facts and

a circumstance which may be relevant in the possible imposition of a fine, inter alia

the value of its total annual worldwide turnover in the accounts according to its most recently published accounts

supported!

At the request of the Authority, the Applicant received the following letter in a letter dated 19 February 2021
made statements:

(i) The address was entered incorrectly by one of their customers in their own electronic form as your contact address. For this reason, newsletters sent to this email address will not be unsubscribed provided a link that can be used by anyone, but an unsubscribe link to the account will take you to the unsubscribe interface within your account after you sign in can be used by the subscriber to unsubscribe.

(ii) Within customer service, a special affairs group deals with general privacy applications under this Regulation.

(iii) Their administrative colleague did not recognize that in the present case it was not one of their clients need to provide technical assistance as the email address is the same as a customer email therefore did not forward the Applicant's requests to the Special Cases Group.

(iv) The Special Affairs Group is aware of the operation of the Gmail Service as detailed above the specificity of which az. and that email addresses belong to the same account and respond to affected requests accordingly.

(v) The erasure requested by the Applicant was carried out at the request of the Authority.

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(vi) According to the applicant, neither the misrepresentation of the third party customer nor the The specifics of the Gmail mail system are not the responsibility of the Applicant, so they are not may be assessed at the expense of the Applicant.

(vii) Applicant supplemented the Internal Administrator's Manual to be even larger emphasis on the proper handling of cancellation and other data protection requests; and consider further steps.

(viii) In the opinion of the Applicant, the inconvenience experienced by the Applicant is a rooted in third-party customer misrepresentation and the Gmail email system

which the Applicant has no control over and is not aware of

problem would affect another person and the Applicant would not have any financial or legal disadvantages for him.

The Authority's CL of 2016 on General Administrative Procedure. Act (hereinafter: Act)

Upon request pursuant to Section 76, the Applicant requested access to the file, of which the Authority separately ordered in the order. Furthermore, the Applicant stated that between 18 January 2021 and 2021.

received further emails from the Applicant on 19 January, not thereafter.

The Authority § 25, on 25 March 2021, he invited the Applicant to submit comments

and may make a statement in connection with the present proceedings and ex officio in the present proceedings

to be taken into account NAIH / 2018/4939 / V, NAIH / 2019/192, NAIH / 2019/5205, NAIH / 2020/4999,

Cases NAIH / 2020/6469.

The Authority Ákr. Upon request pursuant to Section 76, the Applicant shall history detailed in point

In those cases, it stated that they were significantly different from the present case

compared to the fact that the circle of stakeholders is different, the recording of incorrect contact details can be attributed to other reasons

and the rights of various stakeholders have been enforced in the cases. According to his statement

in isolated, individual cases, an error occurred that the complainants did not know about

validate their needs.

The Applicant will also take the individual into account when modifying its internal book (Magic Book)

experience, and the curriculum for customer service places a special emphasis on the stakeholder

exercise their rights. In the cases, the similarity is the individual clerical mistakes, to be followed

was a deviation from the procedure for unauthorized data processing and the requests concerned were not

led to the proper settlement. In his opinion, in case NAIH / 2020/4999

an official statement that "Based on the available information, it is not appropriate

the lack of technical, organizational measures in the prior proceedings allowed for consent

unauthorized modification of the data. " by managing the contributions of non-customer (non-subscriber) stakeholders

they can also be traced back to a non-systemic error.

Regarding the requirement to unsubscribe from Telekom branch registration, the Applicant stated that that this is necessary because in some cases a contact can be linked to more than one person, thus, it is not possible to identify the appropriate subscription with the data alone, it is necessary to determine it also the identity of the subscriber.

According to the Applicant's statement, to eliminate and correct individual errors it constantly takes steps that it recognizes the need for.

II. Background cases which may be relevant to the subject - matter of the present case ('the case - law') affairs)

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II.1. NAIH / 2018/4939 / V

In investigation case NAIH / 2018/4939 / V, the complainant complained that the a third party customer incorrectly provided the complainant 's mobile phone number as contact information To the contract with the Applicant, and the Applicant therefore sent it to the complainant several times text messages and unidentified calls made under a third-party contract connection. Despite the complainant's request, the Applicant did not delete this contact details and did not restrict its use. The Candidate relied on an individual clerical error as well as that stated that he had once again drawn the attention of his administrators to the proper handling of the applications concerned, improve its procedure. As the Applicant provided the contact details in the Authority's fact-finding letter after receipt, it was not necessary to initiate official data protection proceedings, so the Authority closed the investigation and found that the request for cancellation had not been made earlier the Applicant has infringed Article 12 (2) to (4) of the General Data Protection Regulation and Article 17 (1) (d).

II.2. NAIH / 2019/192

In investigation case NAIH / 2019/192, the complainant erred in concluding his contract online recorded the complainant's statement concerning the marketing inquiries. The Requested

his clerk erroneously informed the complainant that a signed statement was required for marketing consent to change the terms of the email address for marketing purposes

cessation of his treatment, which was excessive for the complainant, and in his absence refused the complainant's request that his email address not be used for marketing purposes. The Authority does not investigate the sending of unsolicited messages, the National Media and Communications Authority authority, the authority of the email address data management legislation and the general examined the enforcement of data subjects' rights under the Data Protection Regulation. As the Requested stated in a statement (not in real terms) that the marketing request for consent consent setting canceled by the Authority upon receipt of a letter clarifying the facts, data protection authority proceedings

According to the information available, it was not necessary to initiate the procedure terminated the investigation and found that, following the previous failure to comply with the request, the The applicant infringed Article 5 (1) (d) of the General Data Protection Regulation appropriate information in accordance with Article 13 of the General Data Protection Regulation due to unjustified data processing for marketing purposes due to general data protection Article 6 of the General Data Protection Regulation and that Articles 12 (2) and 24 of the General Data Protection Regulation Pursuant to Article 1 (1), the controller is responsible for the adequacy of the data processing that the controller provides under Article 5 (2) of the General Data Protection Regulation. THE

Applicant also informed the Authority that its systems were similar to the above made changes from May 2018 to eliminate administrative errors.

II.3. NAIH / 2019/5205 (NAIH / 2020/2679)

The investigation case NAIH / 2019/5205 was initiated because II.2. in the case detailed in point Despite the statement made by the Applicant, the Applicant again sent a marketing email to the II.2. complainant under point email address, and the complainant found in his settings that the marketing consent was in place marked, although the complainant did not change it. According to the Claimant's statement, the cause of the error is not could not be saved in the previous case, probably due to an individual clerk error indicated change in marketing settings. For this reason, the Applicant repeatedly took the a

prohibiting the handling of email addresses for marketing purposes, and at the request of the Authority, from your system confirmed by screenshots. As the Applicant's violation of the Authority's facts are clarified upon receipt of the letter, no data protection authority proceedings were initiated

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necessary, the Authority closed the investigation and found that it was Applicant repeatedly infringed Article 5 (1) (d) of the General Data Protection Regulation appropriate information in accordance with Article 13 of the General Data Protection Regulation due to unjustified data processing for marketing purposes due to general data protection Article 6 of the General Data Protection Regulation and that Articles 12 (2) and 24 of the General Data Protection Regulation Pursuant to Article 1 (1), the controller is responsible for the adequacy of the data processing that the controller provides under Article 5 (2) of the General Data Protection Regulation.

II.4. NAIH / 2020/4999

The above II.2. and II.3. In cases NAIH / 2020/4999, the Authority initiated an official inspection of

The management of contributions related to the direct acquisition requested is general the adequacy of its practice, in particular Article 32 of the General Data Protection Regulation to verify compliance with the requirements of The case did not raise any related issues fact or circumstance that it is related to the direct acquisition of business at the Applicant there would be a lack of action on the management of contributions. Available

According to the information provided, the lack of appropriate technical and organizational measures did not allow the unwanted changes to consent data in prior proceedings.

II.5. NAIH / 2020/1773

In consultation case NAIH / 2020/1773, Article 57 of the General Data Protection Regulation is concerned

Pursuant to paragraph 1 (e), it requested the Authority to inform it of its rights

may be exercised if the Applicant treats your e-mail address as if they were a customer, unsolicited receives messages from the Applicant referring to contracts which he has not concluded, and you cannot unsubscribe from these emails. The Authority informed the data subject of the general data protection

Article 17 of the General Data Protection Regulation and Article 12 (3) to (4) of the General Data Protection Regulation.

obligations of the controller under paragraph 1.

III. Applicable legal provisions

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

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

and the non - automated processing of personal data which:

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

they want to do.

The Infotv. Section 2 (2)

according to the general data protection regulation in the provisions indicated therein

shall apply mutatis mutandis.

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

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.

Infotv. Pursuant to Section 71 (2), the Authority has lawfully obtained a document in the course of its proceedings,

data or other means of proof in another procedure.

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

for official proceedings under Ákr. shall apply with the exceptions specified in the Infotv.

The Ákr. Pursuant to § 36, the application is a written or personal statement from the customer

requesting an official procedure or a decision of the authority in the interests of his right or legitimate interest

in order to enforce it.

Infotv. Pursuant to Section 60 (2), the request to initiate official data protection proceedings is

Article 77 (1) for data processing covered by the General Data Protection Regulation

may be submitted in a specific case.

Pursuant to Article 77 (1) of the General Data Protection Regulation, all data subjects have the right to:

lodge a complaint with a supervisory authority if it considers that it is relevant

the processing of personal data violates the general data protection regulation.

According to Article 5 (1) (d) of the General Data Protection Regulation

they must be accurate and, where necessary, kept up to date; all reasonable measures must be taken

in order to ensure that personal data are inaccurate for the purposes of data processing

deleted or corrected immediately ("accuracy").

Processing of personal data under Article 6 (1) of the General Data Protection Regulation

lawful only if and to the extent that at least one of the following is met:

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

purposes

treatment;

(b) processing is necessary for the performance of a contract to which one of the parties is a party;

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

required;

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

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

necessary for its protection;

(e) the processing is in the public interest or a public authority vested in the controller

necessary for the performance of the task

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

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

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

especially if the child concerned.

Point (f) of the first subparagraph shall not apply to the performance of their duties by public authorities

data management.

According to Article 12 (2) of the General Data Protection Regulation, the controller shall assist the data subject

15–22. exercise of their rights under this Article.

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

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

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

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

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

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

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According to Article 12 (3) of the General Data Protection Regulation, if the controller does not do so

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

within one month of receipt of the measure

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

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

that, at his request, the controller deletes his personal data without undue delay

data, and the controller is obliged to provide personal data concerning the data subject

delete without undue delay if personal data have been processed unlawfully.

According to Article 25 (2) of the General Data Protection Regulation, the controller is technically appropriate

and implements organizational measures to ensure that, by default, only

the processing of personal data for a specific purpose

necessary for This obligation applies to personal information collected

the extent of their handling, the duration of their storage and their availability. These are

measures in particular need to ensure that personal data is provided by default

they cannot be accessed indefinitely without the intervention of a natural person

for number of persons.

According to Article 57 (1) (a) of the General Data Protection Regulation, the general data protection without prejudice to the other tasks set out in this Regulation, the supervisory authority in its territory monitors and enforces the application of the General Data Protection Regulation.

Pursuant to Article 58 (2) of the General Data Protection Regulation, the supervisory authority is corrective acting under the authority of:

(a) warn the controller or processor that certain data processing operations are planned

its activities are likely to infringe the provisions of this Regulation;

(b) reprimands the controller or the processor if he or she is acting in a data-processing capacity has infringed the provisions of this Regulation;

(c) instruct the controller or processor to comply with this Regulation the exercise of his rights under this Regulation;

(d) instruct the controller or processor to carry out its data processing operations, where applicable in a specified manner and within a specified period, bring this Regulation into line with its provisions;

(e) instruct the controller to inform the data subject of the data protection incident;

(f) temporarily or permanently restrict the processing, including the prohibition of the processing is;

(g) order personal data in accordance with Articles 16, 17 and 18 respectively rectification or erasure of data and restrictions on data processing, as well as Article 17 (2) order notification to the addressees in accordance with

with whom or with whom the personal data have been communicated;

(h) withdraw the certificate or instruct the certification body in accordance with Articles 42 and 43 revoke a duly issued certificate or instruct the certification body not to issue the certificate if the conditions for certification are not or are no longer met;

(i) impose an administrative fine in accordance with Article 83, depending on the circumstances of the case in addition to or instead of the measures referred to in this paragraph; and

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(j) order the flow of data to a recipient in a third country or to an international organization suspension.

According to Article 83 (1) of the General Data Protection Regulation, all supervisory authorities ensure that the general data protection Regulation referred to in Article 83 (4), (5) and (6)

The administrative fines imposed for breach of this Directive shall be effective and proportionate in each case and be dissuasive.

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

Article 58 (2) (a) to (h) and (b) of the General Data Protection Regulation, depending on the circumstances of the case in addition to or instead of the measures referred to in point (j). When deciding that

whether it is necessary to impose an administrative fine or 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 breach, taking into account the processing in question

the nature, scope or purpose of the infringement and the number of persons affected by the infringement;

the extent of the damage they have suffered;

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

(c) the mitigation of damage caused to the data subject by the controller or the processor

any measures taken to

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

technical and organizational measures taken pursuant to Articles 25 and 32 of the General Data Protection Regulation measures;

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

(f) the supervisory authority to remedy the breach and the possible negative effects of the breach

the degree of cooperation to alleviate

- (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 controller or processor has reported the breach and, if so, what in detail;
- (i) if previously against the controller or processor concerned, in the same referred to in Article 58 (2) of the General Data Protection Regulation compliance with one of those measures;
- (j) whether the controller or processor has complied with the general data protection rules codes of conduct approved pursuant to Article 40 of this Regulation or general data protection approved certification mechanisms in accordance with Article 42 of the Regulation; and
- (k) other aggravating or mitigating factors relevant to the circumstances of the case, such as financial gain gained or avoided as a direct or indirect consequence of the infringement loss.

Pursuant to Article 83 (5) of the General Data Protection Regulation, the following provisions apply an administrative fine of up to EUR 20 000 000 in accordance with paragraph 2 or, in the case of undertakings, the total worldwide turnover in the preceding business year up to a maximum of 4%, with the higher of the two amounts to impose:

- (a) the principles of data processing, including the conditions for consent, are laid down in the General Data Protection Regulation

In accordance with Articles 5, 6, 7 and 9;

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- (b) the rights of data subjects under Articles 12 to 22 of the General Data Protection Regulation. in accordance with Article

- (c) the transfer of personal data to a recipient in a third country or to an international organization

Articles 44 to 49 of the General Data Protection Regulation in accordance with Article

- (d) Article IX of the General Data Protection Regulation. in accordance with the law of the Member States adopted pursuant to

this Chapter

liabilities;

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

temporary or permanent restriction of data processing or the flow of data

non-compliance with the request for suspension or general data protection

failure to grant access in breach of Article 58 (1) of the Regulation.

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

shall exercise the powers set out in paragraph 1, taking into account the principle of proportionality, in particular:

by the law on the processing of personal data or by the European Union

in the event of a first breach of the requirements laid down in a mandatory act of the

in accordance with Article 58 of the General Data Protection Regulation

it takes action by alerting the controller or processor.

The Basic Law of Hungary VI. According to Article 3 (3), everyone has the right to personal data protection and dissemination of data of public interest.

According to Article 8 (1) of the Charter of Fundamental Rights of the European Union, everyone has the right to benefit from it protection of personal data relating to

ARC. Decision of the Authority

IV.1. Assessment of an individual infringement

The Applicant was canceled by the Applicant upon receipt of the Authority's fact-finding order email address data from its database, therefore fulfilling the request for an order for deletion it became impossible.

The Applicant did not have a provision under Article 6 (1) of the General Data Protection Regulation in connection with any of the legal bases of the Applicant's email address and to become aware of this - despite repeated express indications from the Applicant - did not comply with the general data protection the obligation under Article 5 (1) (d) of the Regulation is undoubtedly incorrect

expected the cancellation of the application from the Applicant, who, moreover, for reasons falling within the for some reason he was not even able to. The email address holder is easily identifiable as it appears in the correspondence as the sender, so there was no circumstance that the data subject's request would have justified not correcting the error.

The Applicant did not respond to the request of the Applicant concerned, the non-client is concerned reference to an unsubscribe link which cannot be used by the Commission - repeated several times without change Article 12 (3) and (4) of the General Data Protection Regulation or a duly substantiated rejection.

Pursuant to Article 17 (1) (d) of the General Data Protection Regulation, the Applicant became obliged would have deleted the contact details immediately at the request of the Applicant, but this has been repeatedly requested did not do so and only complied with the Applicant's request for cancellation when the Authority became aware of the present proceedings, without which the cancellation would not have taken place.

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In view of the above, the Authority decided on the individual application for cancellation in accordance with the operative part and of its own motion

Article 5 (1) (d), Article 6 (1), Article 12 (2), (3) and (4) of the Regulation, and a violation of Article 17 (1) (d) in respect of the Applicant.

IV.2. The role of general practice in relation to an individual infringement

(i) The Applicant's policy on the exercise of data subjects' contact details respect

Article 57 (1) (a) and Article 58 (2) (b) of the General Data Protection Regulation and (d), Article 83 (1), (2) and (5) and Infotv. 75 / A of the Authority

examined ex officio in the course of the proceedings the Applicant's general practice affecting the present case part. The Authority shall inform Infotv. Section 71 (2) in any other proceedings may use evidence in other proceedings.

According to the revealed facts, the Applicant is to record the contact details (telephone number, email address)

does not in any way control the right to control the given contact details,
or if the contact details - which are considered personal data - are not provided by the person entitled to them, no
asks for any proof that the contact information (phone number, email) is entitled to it
whether he contributed. The existence of a legal basis under Article 6 (1) of the General Data Protection Regulation is the
responsibility of the controller
at all stages of data management. For example, entering a one-time code
request, which is sent by SMS or email to the given phone number or email address, is
it can prevent a case similar to all Applicants, and in the case of a large communications provider, this is the case
in no way a disproportionate obligation.

The Applicant is considered a data controller and is obliged to comply with the general data protection regulation
this obligation may not be partially transferred by certain
administrators and their individual faults or other third parties who have personal data
sources. The data controller may only process personal data the source of which is lawful if this is the case
if he is not convinced in any reasonable way, he cannot be released from liability.

The Applicant's procedure did not facilitate the exercise of the rights of the Applicant concerned, it is unnecessary for him -
and, if applicable, impossible - login to a third party Telekom account
in the present case several times from the Applicant. General practice of the Applicant,
that in messages sent to the email address assigned to the Telekom account, the unsubscribe link is one
will take you to a login page, direct unsubscription is not possible.

(ii) Similarities of the present case with prior cases

Some parts of the present case and the pre-existing cases, highlighted by the Applicant, differ,
however, the identity exists in the relevant details below which are relevant to the present case.

The Applicant's common practice in both the present case and the individual antecedent cases is to use the newsletter
does not ask for any confirmation of the correctness of the given telephone number or e-mail address when signing up,
thus, the fault of either the third party customer or the Applicant may result in incorrect communication
record data.

Following the erroneous recording, there was no correction or erasure of the erroneous data in the individual antecedent cases possible by the person who owns the phone number or email address. In the present case, too

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data protection authority proceedings were initiated because the Applicant was unable to delete the email address himself because a condition - login to the Telekom branch - was required by the Applicant, which was impossible to comply with and, despite repeated requests, prior to the Authority 's proceedings, the Applicant did not remedy it.

The combination of circumstances detailed above has led to the applicant - and the NAIH / 2018/4939 / V, NAIH / 2019/192 and NAIH / 2019/5205, NAIH / 2020/1773, your rights under the General Data Protection Regulation have been violated.

(iii) Consideration of relevant statements made by the Applicant on the above issue

Contrary to the statements made during the Requested Procedure, it is detailed in the above paragraphs circumstances do not constitute an unavoidable cause beyond the control of the Applicant; Applicant could have effectively and effectively affected both the data collection and the erasure procedure.

In the Authority's view, contrary to the Applicant's allegations, the Applicant's infringement the direct reason was not that a third party misrepresented the Applicant's contact details to the Applicant, and not a feature of the Gmail system - of which his knowledge was expressly acknowledged by the Applicant in a letter received on 19 February 2021 in the present case. The Applicant 's good practice could nevertheless have ensured that the Applicant - and the the rights of those affected by precedent cases.

Confirmation and, if not, automatic deletion of the contact details at the time of data collection international practice and of a similar type and size to the Applicant highly expected from a telecommunications service provider.

The Applicant's argument that deleting contact information without logging in is specific using contact information is not allowed because some contact information is for multiple accounts

are also incorrect. On the one hand, if several subscribers have data (for example, email address, contact phone number) and is not allowed to access that contact information subscriber requests cancellation, it shall, as a general rule, in the absence of a specifically named subscriber, it is necessary to delete from all accounts, especially if the reason is explicitly above the data the data subject did not consent to the use of the data. In addition, for example, if will place a non-sign-in unsubscribe link in a newsletter and multiple accounts sent on behalf of an email address, you can place multiple unsubscribe links that are only available the email address will be deleted for each account (although as unauthorized as in the present case) person provided the contact address, this is not relevant either). From the above, it is clear that there is technically no obstacle to resolving them incorrectly without logging in deleted contact data provided at the request of the data subjects, therefore only at the request of the Applicant was a restriction based on that in both the present case and the individual antecedent cases led to unnecessary and unlawful processing of personal data.

The official decision in case NAIH / 2020/4999 referred to by the Applicant III. point the last paragraph expressly stated that "The present official inspection shall be limited to the Customer's a its practice in managing contributions to a direct acquisition legal compliance, a bottleneck in data management and is not considered approval and auditing of the Client's general data management practices beyond the above, or certification of conformity. ". The general enforcement of the rights of data subjects shall be carried out by the Authority a In case NAIH / 2020/4999, it was not examined, it was not found to be the subject of the proceedings the data security compliance of the database that specifically handles the contributions was in that whether the fact of consent could have been altered unnoticed by an unauthorized person. For this reason, the Applicant

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the data processing detailed in this decision, which is the subject of the ex officio part of the present proceedings in Case NAIH / 2020/4999 they do not affect the findings of the present case.

The Authority also disagrees with the Applicant's view that the Applicant - and similar cases the persons concerned do not suffer any pecuniary or legal damage. The general

The Data Protection Regulation protects the right to the protection of personal data, which is VI of the Basic Law Article 8 (1) of the Charter of Fundamental Rights of the European Union constitutes a constitutional fundamental right. In the relevant legislation, such as

General Data Protection Regulation III. for the protection of fundamental rights unnecessary restrictions on the rights of those affected, made impossible by administrative barriers without direct financial loss.

Other than the data recording of the Requested and the practical feasibility of the exercise of the rights of the data subject statements as well as the Applicant's internal tutorials not addressing the above issues several amendments have not substantially affected the practice examined by the Authority above, thus, the Authority could not take them into account in the interest of the Applicant.

(iv) Illegality of the Applicant's investigated practice

Pursuant to Article 12 (2) of the General Data Protection Regulation, the Applicant has the rights of the data subject on the other hand, both the recording of contact details and the the procedure for requesting repair or cancellation by a person other than the customer in the Applicant's practice carries with it, in principle and in practice, the possibility of infringing the rights of the data subject, which has been proven in a number of antecedents.

The Authority shall as detailed in section 1, has repeatedly stated the general data protection Infringement of Article 12 of the Regulation by the Applicant in relation to contact details due to non-compliance with the exercise of rights.

The problem with the Application has been raised several times, as explained above occurred at the Applicant and did not cease despite the Applicant's repeated previous statements as evidenced by antecedent cases and the present case. In addition, the Applicant has no antecedents nor has it been shown in the present proceedings to change its practice in accordance with Article IV: 2. would be an effective solution to the problems identified in For this reason, the general

infringement of Article 25 (2) of the Data Protection Regulation, as the Applicant is solely in his own right defined its organizational procedures as organizational solutions that there is a real risk of harm to the data subject, either by the Applicant or by the in the event of a loss of data by a third party, and in several cases there has been a real breach of the law. In view of the above, the Authority is required by Article 58 (2) of the General Data Protection Regulation to pursuant to paragraph b) of this paragraph, found that by enforcing the rights of the Applicant concerned infringes Article 12 (2) of the General Data Protection Regulation and Article 25 (2) and Article 58 (2) (d) of the General Data Protection Regulation instructed to bring the infringing practice into line with the General Data Protection Regulation.

IV.3. The data protection fine

The Authority is the other measure under Article 83 (2) of the General Data Protection Regulation may also impose a data protection fine instead or in addition. The Authority shall apply the relevant case law In such a case, Article 83 (2) of the General Data Protection Regulation

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The decision sets out the merits of the aspects listed in paragraph in the explanatory memorandum.

The Applicant handles a huge amount of personal data, with millions of affected customers and - as in the present case and in Annex II. The cases detailed in point 1 also show an unspecified number non-customer handles affected personal data, aggregate annual revenue for 2020 accounts according to which it was HUF 524,131,000,000, ie five hundred and twenty-four billion to one hundred and thirty-one million forints

In 2020. In addition, the Applicant's first breach of the General Data Protection Regulation is not the first established by the Authority on several occasions, not once on a substantially related issue. THE Applicant has repeatedly indicated that he will take steps to avoid similar cases in the future, however, non-customer stakeholders are still not provided easily and unnecessarily without administration, under the minimum conditions necessary for data security

right of cancellation. It has long been used, repeatedly causing problems and unjustified solutions to even in some cases, only the customer knows the contact information provided incorrectly by the customers rectify if the data subject is requesting the deletion via the contact details complained of, and the decision rests with clerks who misjudge such obvious cases. Neither contact information immediately after the grant of the application does not provide an effective means for the Applicant to stakeholders to deal with the deletion (e.g. with a link that can be used by anyone, etc.). All this confirms that the protection of personal data, which is the responsibility of the Authority, is not achievable without imposing a data protection fine. Infotv. None of the mitigating circumstances under § 75 / A exists, whereas the Applicant is not an SME and is not in breach of the General Data Protection Regulation for the first time. THE the imposition of fines serves both special and general prevention, for which the decision will also be published on the website of the Authority, the identification data of the Applicant anonymisation.

In determining the amount of the data protection fine, the Authority took it as an attenuating circumstance taking into account that

(a) the applicant has, at the request of the Authority, deleted the

Applicant has unlawfully processed personal data,

(b) the root of the problem was the misrepresentation of a third party (however, the acquisition of knowledge)

after which an effective solution to the problem would have been the duty of the Claimant would have been general under Article 25 of the Data Protection Regulation, failure to do so would result in a fine due to incorrect data alone),

(c) the nature and gravity of the breach is moderately significant in the individual case (General Data Protection Act) infringements other than Article 25 of the Regulation),

(d) the duration of the infringement was not significant in the individual case,

(e) the personal data affected by the breach were contact details only, not sensitive data,

(f) the internal rules were designed to commit an unintentional breach of data protection.

The Authority took this as an aggravating circumstance when setting the amount of the data protection fine

taking into account that

(a) the internal procedural problem giving rise to the infringement has persisted for a long time and the general data protection breach of the obligation under Article 25 of that Regulation,

(b) the applicant's commitments in previous similar cases and the Authority's previous findings

despite the fact that the actual solution to the problem has not been worked out to date, the solution

attempts at the merits of the problem, the right of cancellation is easy and without unnecessary administration

have not been addressed, in particular in view of the legitimate need of those concerned to

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that account without registration and other unnecessary administration, the actual data over the disposition

be able to act by presenting the right,

(c) based on the extent and market position of the Requested 's data processing, it would be expected that

It is up to the data subject not to depend on the individual and unsupervised decision of each clerk

the exercise of those rights, especially if it is much simpler for the data subject

the solution can also ensure the erasure of incorrectly entered data,

(d) available online, according to the financial statements of the 2020 Requested Entity

It had an annual income of HUF 524,131,000,000, ie five hundred and twenty-four billion to one hundred and thirty-one million forints,

thus, a very small fine would have no punitive or deterrent effect.

Based on the above, the Authority considers that the maximum amount that can be imposed is approx. four

ten thousand (0.04%) considered the imposition of a data protection fine in all cases

proportionate and dissuasive in relation to the Applicant.

V. Other issues

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

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

free movement of personal data within the European Union

promoting. Infotv. Pursuant to Section 38 (2a) of the General Data Protection Decree a

the tasks and powers established for the supervisory authority under the jurisdiction of Hungary in the General Data Protection Regulation and in this Act exercised by the Authority. The competence of the Authority is the whole of Hungary covers its territory.

The Ákr. Pursuant to Section 112 (1), Section 114 (1) and Section 116 (1) by decision there is an administrative remedy against him.

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) a) Pursuant to point (aa) of the Act, 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 regard to this, Act CXXX of 2016 on Civil Procedure. law

Applicable according to § 604, electronic administration and trust services are general CCXXII of 2015 on the rules of According to Section 9 (1) (b) of the Act, the customer is legal representative is required to communicate electronically.

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

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

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

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

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

If the Debtor does not duly prove the fulfillment of the prescribed obligations, the Authority shall

considers that it has not fulfilled its obligations within the time allowed. The Ákr. According to § 132, if a
The debtor has not complied with the obligation contained in the final decision of the Authority, it is enforceable.
The decision of the Authority Pursuant to Section 82 (1), the communication becomes final. The Ákr. 133.
§, unless otherwise provided by law or government decree - a
ordered by the decision-making authority. The Ákr. Pursuant to § 134, enforcement - if law,
a government decree or, in the case of a municipal authority, a local government decree, otherwise
by the state tax authority. Infotv. Pursuant to Section 61 (7), the Authority
to carry out a specific act, to behave
the Authority shall enforce the decision in respect of the obligation to tolerate or discontinue
implements.

Budapest, June 18, 2021

Dr. Attila Péterfalvi

President

c. professor