

Case number: NAIH-180-16/2022.

(NAIH-5378/2021.)

Subject: infringement notice and request

partially rejecting decision

H A T A R O Z A T

The National Data Protection and Freedom of Information Authority (hereinafter: Authority) [...]

(place and time of birth: [...]; residential address: [...]; hereinafter: Applicant) to the Authority in 2021.

received on June 4 at the request of [...] (headquarters: [...]; company registration number: [...]; a

hereinafter: Respondent) in the official data protection procedure initiated concerning the data management of

makes the following decisions:

1. The Authority grants the Applicant's request in part and condemns the Applicant

because he did not delete the Applicant's personal data from his online directory at the request of the Applicant,

in violation of the personal data management of natural persons

on the protection of data and the free flow of such data, as well as Directive 95/46/EC

repealing Regulation (EU) 2016/679 (hereinafter: general

data protection decree) point b) of Article 17 (1).

2. The Authority ex officio condemns the Petitioner because of general data protection

not in violation of the requirement of accountability according to Article 5 (2) of the Decree

proved that the Applicant had indeed consented to the Respondent's personal data

for its publication in its online directory.

3. The Authority ex officio condemns the Applicant because of the general data protection

was made public by the Applicant without a legal basis, in violation of Article 6 (1) of the Decree

your personal data in your online directory.

4. The Authority ex officio condemns the Applicant for not facilitating a

Deletion of the Applicant's personal data by classifying it as a complaint by the Applicant

your requests recorded over the phone, in violation of Article 12 (2) of the General Data Protection Regulation

paragraph.

5. The Authority ex officio

HUF 5,000,000, i.e. five million forints

data protection fine

obligates the Applicant to pay.

6. The Authority rejects the request in the part that the Authority calls a

Request for the immediate deletion of the Applicant's personal data in a certified manner

from its public directory, as the request has become moot in this section.

The data protection fine shall be paid within 30 days of this decision becoming final

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

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

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0000 0000) must be paid. When transferring the amount, NAIH-5378/2021. FINE. for number

must be referred to.

If the Respondent does not comply with the obligation to pay the fine within the deadline, the above

must pay a late fee to the account number. The amount of the late fee is the legal one

interest, which is the central bank interest valid on the first day of the calendar semester affected by the delay

equal to the base interest rate.

In the event of non-payment of the data protection fine and late fee, the Authority orders a implementation of the decision.

There is no place for administrative appeal against this decision, but from the announcement within 30 days from the date of issue, with a letter of claim addressed to the Capital Tribunal can be challenged in a lawsuit. The claim must be submitted to the Authority electronically, which forwards it to the court together with the case documents. The request for the holding of the trial is submitted by the must be indicated in the application. For those who do not receive full personal tax exemption the fee for the judicial review procedure is HUF 30,000, the lawsuit is subject to the right to record fees. THE Legal representation is mandatory in proceedings before the Metropolitan Court.

## I N D O C O L A S

### I. The sales process

Data protection authority procedure in the letter sent by the Applicant on June 4, 2021 appealed to the Authority with a request to start it, according to which he objected that your personal data - name, address, phone number - are nevertheless publicly available a He requested from his public directory ([...]) that he did not agree to their publication.

The Applicant indicated all this, as well as its cancellation request, on May 2, 2021, to the Respondent on its telephone customer service, which was recorded as a complaint by the Respondent, at [...] THE The Respondent promised the Applicant a thirty-day deadline to remove his personal data, however, they are until the date of the date of your application for the data protection authority procedure - 2021. until June 3 - were still publicly available and from the Application on this has not received any feedback until date.

The Applicant asked the Authority to call the Applicant for proof of his personal data for its immediate deletion from the public directory.

### I I . Cleaning up the reality

1. On June 15, 2021, the Authority, NAIH-5378-3/2021. the case file number clarifies the facts

issued an order in which the Applicant was notified of the official data protection procedure about its launch and invited him to make a statement.

2. The Applicant - the Authority dated July 20, 2021, NAIH-5378-7/2021. case file number to the repeated fact-finding order - he sent his answers on August 3 and 16, 2021 to the Authority.

The Authority also has at its disposal three audio recordings in which the Applicant is the Respondent telephone conversations with his clerks can be heard.

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3. The Applicant is May 2021. Audio recorded on day 2 (13 minutes 29 seconds) sent to the Authority. According to this, the Applicant indicated to the Respondent's administrator that your personal data can nevertheless be seen in the public directory on the [...] website, that the Applicant about two weeks before the phone call on the online interface of the Applicant initiated their deletion. The Respondent's administrator informed the Applicant that he even if you search for the Applicant's personal data in the directory, no results will appear for him and phone number. Since they did not make any progress in solving the problem, the Respondent his administrator consulted with a staff member of another organizational unit, who received him by name results, no phone number. A staff member from the other organizational unit suggested that the problem of the Applicant must be recorded in the complaint. An employee of the other organizational unit in the subsequent subsequent check, a phone number was also found, so it was repeated advised the administrator to record in the complaint that although it was done according to the system the deletion of the Applicant's personal data from the directory, but in practice this is the case it was not fulfilled, because the system gives results for both name and phone number. After consultation with the employee of the other organizational unit, the Applicant administrator with a staff member from another organizational unit about the conversation and the informed the Applicant about recording it as a complaint report, as well as that a

the time to investigate a complaint is officially 30 days, but according to the administrator, it will not take that long take advantage of the process. Based on the information provided by the Applicant's administrator by e-mail will inform the Applicant about the result of the investigation of the complaint.

The Applicant submitted two audio recordings (1: May 2, 2021, 9 minutes: 46 seconds; 2: June 25, 2021, 20 minutes 23 seconds) made available to the Authority. The first shot is the same as the

With an audio recording sent by the Respondent, with the fact that the Respondent cannot be heard on it coordination between the administrator and the employee of the other organizational unit.

In the second recording, during the telephone inquiry of the Applicant on June 25, 2021 inquired about May 2021. on the 2nd day

deed

measures and requested a copy of the phone call of May 2, 2021 and June 25, 2021

sending. The Respondent's administrator informed the Applicant that May 2021

Complaint No. 2 was recorded improperly by the Respondent internally due to a one-off operator error

in its records, and the complaint was unreasonably closed, therefore for the report as

no further investigation or action was connected to a closed complaint. Given that

the Applicant's personal data recorded as a complaint at the Applicant's [...] number online

his request to be deleted from the directory was not fulfilled, the complaint states

it has entered a closed status, which cannot be modified due to the system, so it is new again

the problem was recorded as a complaint at [...] The Applicant May 2, 2021 and June 2021

his request for the release of a copy of the audio recordings of the telephone conversation on the 25th

was also recorded separately.

4. Statements by the Respondent and the Authority by him and by the Applicant

on the basis of the audio recordings made available to him, the Applicant is May 2021. on the 2nd day

initiated telephone administration, indicated to the Respondent that his personal data

despite the fact that they are visible in the public directory on the website [...]

Applicant on the online interface of the Applicant approximately two weeks before the phone call

initiated their deletion. Based on the data of the Respondent's internal records, although a

The Requester processed the Requester's request for deletion and the steps necessary for the deletion performed, due to a technical error the personal data were not actually deleted, they

they remained available on the public inquiry interface.

The Applicant recorded this telephone call as a complaint at the Respondent [...] number, and a

The applicant's administrator informed him that he officially had thirty days to deal with the case available to the Applicant.

based on his complaint recorded at [...]

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In the absence of an answer, the Applicant will also be contacted by phone on June 25, 2021

inquired about the measures taken based on the complaint No. [...], and also requested the 2021.

also sending a copy of the phone call of May 2 and June 25, 2021. The Applicant

its administrator informed the Applicant that his complaint of May 2, 2021 was a one-off, administrative

due to an error, it was not properly recorded in the internal records of the Respondent, and a

the complaint was closed without reason, therefore additional to the report as a closed complaint

investigation and action were no longer connected. Given that the Applicant at [...]

of personal data recorded as a complaint from the Respondent's online directory

your request for deletion was not fulfilled, the complaint was placed in a closed status,

which cannot be modified due to the system operated by the Applicant, therefore

the problem was recorded again as a new complaint, at [...] The Applicant on May 2, 2021 and

for the release of a copy of the audio recordings of the telephone conversation on June 25, 2021

his request was also recorded separately, at [...]

5. The Requester finally repeated the Requester's cancellation request on June 25, 2021

on the basis of a claim report, on July 5, 2021 - informing the Applicant of the error

about the circumstances of its occurrence - which he also sent to the Authority, July 19, 2021.

confirmed back to the Applicant in his letter dated [...], thus the Applicant

your personal data is no longer available in the Applicant's online directory. In addition to the

The requested was sent to the Applicant on August 2, 2021

sound recordings.

The Respondent also offered HUF 5,000 gross compensation to the Applicant for the

to alleviate discomfort.

6. As acknowledged by the Respondent, the Requester's May 2021 cancellation requests - the 2021

approximately 2 weeks prior to the telephone transaction initiated on May 2; in 2021.

request recorded as a complaint on May 2 - not due to technical and administrative errors

was realized. First, the Requester initiated the Requester's cancellation request online

processed it and took the necessary steps to delete it, due to a technical error

however, the personal data has not been actually deleted, they are still available

remained on the public inquiry interface. After that, the Applicant's complaint of May 2, 2021

due to a one-time operator error, the Requested internal was recorded incorrectly

in its records, and the complaint was unjustifiably closed.

According to the Respondent's statement, the statements related to data management,

including to modify the inclusion in the online directory for customers on several channels

they also have the option through The Applicant's statement and the one sent by him, a

according to the process description containing the modification of inclusion in the directory, online

changes initiated on the interface automatically run through the systems of the Applicant, whose

based on this, the data in the Applicant's own reference book will be updated within 48 hours. In effect

according to existing processes, the amendment is also sent to the domestic inquiry within 48 hours,

however, the national database is only updated every two weeks. Given that the objected to

in this case, the automatic deletion did not run properly, the technical problem that arose

for the purpose of investigation and the subsequent fulfillment of the subscriber's request of the related subscribers

reports were recorded as complaints in the internal records of the Respondent.

7. The Respondent also sent it between himself and the Applicant on April 30, 2015

a copy of the subscription contract for the top-up card service,  
according to which the Applicant did not consent to the fact that the Respondent is  
of your subscriber data, the Applicant should publish your name, permanent address and phone number  
reserved and in the national directory.

According to the Respondent's statement, based on the data recorded in his records, a  
Due to the applicant's failure to reconcile the annual data, the electronic communication

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according to the declaration of § 134 of Act C of 2003 on services (hereinafter: Eht.)

(1a), actually based on point d) of paragraph (10a), the Respondent was obliged to the Applicant

terminate the subscription contract with immediate effect. Given that it's years old

due to failure to match data, the termination has taken place, the Applicant only re-

you could keep your phone number after signing the contract, so you signed a new contract on June 12, 2018

with the Application, in which case the statements given by him were also amended.

According to the Respondent's statement, the re-contract took place over the telephone channel ([...]) when  
is also valid

in accordance with the process, only the reconciliation of the data, as well as the

requesting consents - including the provision of the Applicant's personal data in the directory

your consent to publication - takes place. The Applicant is the administrator of the Respondent

based on his answers, the necessary data reconciliation was required according to the re-contracting process

perform or request the declarations, and then the Applicant must reactivate the phone number

for. In the process of re-contracting, no contract was sent out and signed by the parties

by, taking into account that the subscriber contract is Eht. as enabled by, referencing

behavior, in which process the subscriber gives the contractual statement to the SIM

by activating the card and using the service as indicative behavior

yes. At the time of re-contracting, the Applicant also gave consent to the phone book

on the part of



According to the Respondent's statement, the one in force at the time of the re-contract, however currently repealed, electronic communications subscriber contracts are special 2/2015 on its rules. (III. 30.) Based on Section 25 (1) of the NMHH Decree, the Applicant audio recordings of calls to the telephone customer service from the time of recording he kept it for 2 years, so the audio recording concerning the re-contracting of the Applicant can now be deleted was incurred, therefore the Respondent sent the re-contract to support the consent screenshot of registered system data.

### III . APPLICABLE LAW REGULATIONS

According to the present case, based on Article 2 (1) of the General Data Protection Regulation the general data protection regulation shall be applied to data management.

CXII of 2011 on the right to information self-determination and freedom of information.

Act (hereinafter: Infotv.) pursuant to Section 2 (2) of general data protection regulation shall be applied with the additions contained in the provisions indicated therein.

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

In order to do so, the Authority will initiate a data protection official procedure ex officio upon a request to this effect may initiate a data protection official procedure. The general procedure for data protection authorities

CL of 2016 on public administration. the rules of the Act (hereinafter: Act) must apply with the additions specified in Infotv. and the general data protection with deviations according to the decree.

Infotv. Based on § 60, paragraph (2): "Regarding the initiation of the official data protection procedure request in Article 77 (1) of the General Data Protection Regulation, as well as Article 22 b) can be submitted in the case specified in

Pursuant to Article 77 (1) of the General Data Protection Regulation: "Other without prejudice to administrative or judicial remedies, all stakeholders are entitled to file a complaint with a supervisory authority – in particular your habitual residence, a workplace or in the Member State where the alleged violation occurred - if the person concerned

in his opinion, the processing of his personal data violates this regulation."

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According to Article 6 (1) of the General Data Protection Regulation: "Management of personal data

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

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

b) data management is necessary for the performance of a contract to which the data subject is a party party, or the steps taken at the request of the data subject prior to the conclusion of the contract necessary to do;

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) data processing is in the public interest or the data controller is authorized by a public authority necessary for the execution of a task performed in the context of its exercise;

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

Point f) of the first subparagraph does not apply to the performance of their duties by public authorities for data management during

Based on Article 7 (3) of the General Data Protection Regulation: "The data subject is entitled to to withdraw your consent at any time. Withdrawal of consent does not affect the the legality of consent-based data management prior to withdrawal. The consent the data subject must be informed of this before giving it. The withdrawal of consent is the same it must be made possible in a simple way, such as giving it."

Pursuant to paragraphs (1)-(6) of Article 12 of the General Data Protection Regulation: "(1) The data controller

takes appropriate measures to ensure that the personal data is provided to the data subject

all the information referred to in Articles 13 and 14 and Articles 15-22 and

All information according to Article 34 is concise, transparent, understandable and easily accessible

provide it in a clear and comprehensible form, especially to children

for any information received. Information in writing or otherwise - incl

where appropriate, the electronic route must also be provided. Verbal information at the request of the person concerned

can also be given, provided that the identity of the person concerned has been verified in another way.

(2) The data controller facilitates the relevant 15-22. the exercise of his rights according to art. Article 11

In the cases referred to in paragraph (2), the data controller is the person concerned in Articles 15-22. your rights under Art

may not refuse to fulfill your request for exercise, unless you prove that

that the person concerned cannot be identified.

(3) The data controller

without undue delay, but by all means the request

within one month of its receipt, informs the person concerned of the 15-22. according to article

on measures taken following a request. If necessary, taking into account the request

complexity and the number of applications, this deadline can be extended by another two months.

Regarding the extension of the deadline, the data controller shall indicate the reasons for the delay

informs the person concerned within one month of receiving the request. If it is affected

submitted the application electronically, the information was provided electronically if possible

must be provided, 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 whether the person concerned can file a complaint

with a supervisory authority and may exercise his right of judicial remedy

(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

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

a) may charge a fee of a reasonable amount, or

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must be deleted, it is available

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 is burdened.

(6) Without prejudice to Article 11, if the data controller has reasonable doubts regarding Articles 15-21.

in relation to the identity of the natural person submitting the application pursuant to Article, further, the person concerned you can request the provision of information necessary to confirm your identity."

According to Article 17 of the General Data Protection Regulation: "(1) The data subject is entitled to, upon request the data controller shall delete the personal data relating to him without undue delay, that is and the data controller is obliged to provide the personal data concerning the data subject without justification delete it without delay if any of the following reasons apply:

a) the personal data are no longer needed for the purpose for which they were collected or treated differently;

b) the data subject withdraws it pursuant to point a) of Article 6 (1) or Article 9 (2)

pursuant to point a), the consent that forms the basis of the data management, and the data management has no other legal basis;

c) the data subject objects to the data processing on the basis of Article 21 (1), and there is no an overriding legitimate reason for data processing, or the data subject is Article 21 (2). objects to data processing based on;

d) personal data were handled unlawfully;

e) the personal data is legal as prescribed by EU or member state law applicable to the data controller

must be deleted to fulfill an obligation;

f) for the collection of personal data referred to in paragraph 1 of Article 8, informational

it took place in connection with the offering of services related to society.

(2) If the data controller has disclosed the personal data and pursuant to paragraph (1).

that

technology and implementation costs

takes the reasonably expected steps into consideration, including technical ones

measures - in order to inform data controllers that

the data subject requested from them links to the personal data in question or e

deletion of copies or duplicates of personal data.

(3) Paragraphs (1) and (2) do not apply if data management is necessary:

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

b) EU or Member State law applicable to the data controller, which prescribes the processing of personal data

fulfillment of a legal obligation, or entrusted to the data controller in the public interest

for the purpose of carrying out a task in the exercise of a public authority;

c) in accordance with points h) and i) of Article 9 (2) and Article 9 (3)

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

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

for historical research purposes or for statistical purposes, if the right referred to in paragraph (1).

would likely make this data management impossible or seriously jeopardize it;

obsession

e) to present, enforce and defend legal claims."

Based on Article 24 of the General Data Protection Regulation: "(1) The data controller is the nature of the data management,

its scope, circumstances and purposes, as well as the rights and freedoms of natural persons

appropriate, taking into account the reported risk of variable probability and severity

implements technical and organizational measures to ensure and prove it,

that personal data is handled in accordance with this regulation. These are measures are reviewed by the data controller and updated if necessary.

(2) If it is proportionate in relation to the data management activity, referred to in paragraph (1).

as part of the measures, the data manager also applies appropriate internal data protection rules.

(3) For approved codes of conduct pursuant to Article 40 or approved pursuant to Article 42

joining a certification mechanism can be used as part of its proof,

that the data controller fulfills its obligations."

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Pursuant to Article 25 of the General Data Protection Regulation: "(1) The data controller is the science and the state of technology and the costs of implementation, as well as the nature and scope of data management, its circumstances and purposes, as well as the rights and freedoms of natural persons, taking into account risk of variable probability and severity, all data management when determining the method, as well as during data management such appropriate technical and implements organizational measures, such as aliasing, which are aimed, on the one hand, at effective implementation of data protection principles, such as data saving, on the other hand, e to fulfill the requirements contained in the decree and to protect the rights of the data subjects the inclusion of necessary guarantees in the data management process.

(2) The data controller implements appropriate technical and organizational measures for it to ensure that, by default, only such personal data is processed take place, which are necessary from the point of view of the given specific data management purpose. This obligation applies to the amount of personal data collected, the extent of their processing, for the duration of their storage and their accessibility. In particular, these measures should to ensure that the personal data is by default the natural person an unspecified number of people should not become accessible without his intervention for.

(3) The approved certification mechanism according to Article 42 can be used to prove it

as part of that the data controller fulfills the requirements in paragraphs (1) and (2) of this article requirements."

According to Article 58 (2) of the General Data Protection Regulation: "The supervisory authority acting in its corrective capacity:

- a) warns the data manager or the data processor that some planned data processing its activities are likely to violate the provisions of this regulation;
- b) condemns the data manager or the data processor if its data management activities violated the provisions of this regulation;
- c) instructs the data manager or the data processor to comply with this regulation for the data subject your request to exercise your rights under;
- d) instructs the data manager or the data processor that its data management operations - given in a specified manner and within a specified period of time - harmonises this regulation with its provisions;
- e) instructs the data controller to inform the data subject about the data protection incident;
- f) temporarily or permanently restricts data management, including data management also its prohibition;
- g) in accordance with the provisions of Articles 16, 17 and 18, orders personal data rectification or deletion, or restriction of data processing, as well as Article 17 (2) and in accordance with Article 19, orders the notification of those recipients, with whom or to which the personal data was disclosed;
- h) revokes the certificate or instructs the certification body to comply with Articles 42 and 43 to withdraw 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) imposes an administrative fine in accordance with Article 83, depending on the circumstances of the given case depending, in addition to or instead of the measures mentioned in this paragraph; and
- j) orders the flow of data to a recipient in a third country or an international organization

suspension."

Based on Article 83 (2) and (5) of the General Data Protection Regulation: "[...]

(2) The administrative fines, depending on the circumstances of the given case, are subject to Article 58 (2)

must be imposed in addition to or instead of the measures mentioned in points a)-h) and j) of paragraph

When deciding whether it is necessary to impose an administrative fine or a

sufficiently in each case when determining the amount of the administrative fine

the following should be taken into account:

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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 the

the extent of the damage they have 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 a

technical and organizational measures undertaken on the basis of Articles 25 and 32;

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

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 infringement, in particular,

whether the data controller or the data processor reported the violation and, if so, how

with detail;

i) if against the relevant data manager or data processor previously - in the same a

subject - one of the measures mentioned in Article 58 (2) was ordered, a

compliance with said measures;



j) whether the data manager or the data processor has complied with Article 40

to approved codes of conduct or approved certification under Article 42

for mechanisms; as well as

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

for example, financial gain as a direct or indirect consequence of the infringement

or avoided loss.

[...]

(5) Violation of the following provisions - in accordance with paragraph (2) - at most 20

with an administrative fine of EUR 000,000 or, in the case of businesses, the previous one

shall be subject to an amount of no more than 4% of the total annual world market turnover of a financial year,

by imposing the higher of the two amounts:

a) the principles of data management - including the conditions of consent - of Articles 5, 6, 7 and 9

appropriately;

b) the rights of the data subjects in Articles 12–22. in accordance with Article;

c) personal data for a recipient in a third country or an international organization

44–49. in accordance with Article;

d) IX. obligations according to the law of the Member States adopted on the basis of chapter;

e) the instruction of the supervisory authority according to Article 58 (2), and data management

temporary or permanent restriction or suspension of data flow

failure to comply with its notice or access in violation of Article 58 (1).

failure to provide insurance."

Infotv. 75/A. pursuant to § 83 (2)-(6) of the General Data Protection Regulation, the Authority

exercises its powers in accordance with the principle of proportionality,

especially with the fact that you are in the legislation regarding the handling of personal data

The regulations defined in the mandatory legal act of the European Union are being implemented for the first time

in the event of a violation, to remedy the violation - 58 of the General Data Protection Regulation.

in accordance with Article - primarily with the warning of the data manager or data processor

takes action."

The Eht. According to § 134, paragraph (10a), point d): "The subscription contract is also terminated by mutual agreement of the parties, taking into account § 127, paragraph (4) and on the condition that, that the subscriber contract concluded with suggestive behavior is expressed with an oral or written statement, the orally concluded subscription contract is expressed verbally or with a written statement, while the written subscription contract is with an express written statement can be terminated by the parties."

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2/2015 on the special rules of electronic communications subscriber contracts. (III. 30.)

Based on Section 25 (1) of the NMHH Decree: "Subscribers of the telephone customer service the service provider is obliged to make an audio recording of complaints and error reports, which in a retrievable manner - with the exception of the case provided for in Section 22 (7) - the notification must keep it for 2 years from the date of

I V Decision making

ARC. 1. Requests to delete the Applicant's personal data

1. The Applicant's personal data (name, address, telephone number) requested by the Applicant deleting it from your online directory several times. First in mid-April 2021 a

The respondent initiated the deletion on his online interface, but did not due to a technical problem led to the result, since the automatic deletion affecting all systems of the Applicant process did not run properly, so the Applicant's personal data were not deleted from the reference book. Subsequently, on May 2, 2021, the Applicant initiated the cancellation, which was recorded as a complaint, but in this case the complaint was not due to a one-off operator error was properly recorded in the internal records of the Respondent, and the complaint was unjustifiably closed, so the online directory remained available

Applicant's personal data. The Applicant for the third time on June 25, 2021

initiated the deletion of his personal data from the online reference book, given that a

He did not receive a response to his request of May 2, 2021 and his personal data is still available

they stayed. It was canceled by the Respondent on this third request - also treated as a complaint

the Applicant's personal data from an online directory on July 5, 2021.

2. The Applicant's statement and the inclusion in the directory sent by him

according to the process description containing the modification of the personal data in the directory

display by the person concerned

can regulate, disclosure is concerned

based on your consent. This is supported by the general information available on the Applicant's website

35-36 of Annex No. 3 on data management information to the terms of the contract.

point 1 as well. The Respondent therefore bases the consent on the legal basis of the

displaying and making public personal data in an online directory.

It is appropriate according to the definition of consent according to the General Data Protection Regulation

it must be based on information, must be voluntary and the will of the data subject specific,

by means of a clear statement or act of unmistakably expressing confirmation

must have a declaration.

In the case of data processing based on consent, the data subject is entitled to give his consent

withdraw at any time.

Based on the statements and documents available to the Authority, the Applicant and the Respondent

between subscribers of the top-up card service established on April 30, 2015

pursuant to the contract, the Applicant did not consent to the Respondent being its subscriber

of your data, your name, permanent address and phone number should be published by the Applicant

reserved and in the national directory.

However, at the time of the re-contract signed on June 12, 2018 - the Applicant's statement

according to - the statements given by the Applicant have been amended, according to the register

telephone directory consent was also given by the Applicant, and that is why they were included

the Applicant's personal data in the directory.

1 [...]

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At the same time, according to the Authority's point of view, all this is the granting of consent  
voluntariness, and that the Applicant's statement or confirmation is unmistakable  
has indicated through an expressive act that he gives his consent to the personal data concerning him  
to the public, those submitted by the Respondent and the one attached by him, the re-  
a screenshot made of the system data registered on the contract is not supported. Those  
they only certify that in the system data in the part of the register concerning the Applicant  
the box according to which your personal data can be displayed online has been checked  
in the reference book.

Based on consent pursuant to Article 7 (1) of the General Data Protection Regulation  
in the case of data management, the data controller must be able to prove that it is  
consented to the processing of the personal data concerned. Sent by the Applicant, the re-  
however, a screenshot taken of the system data registered on the contract, by the parties  
in the absence of a signed contract, it does not prove that the consent was given by the Applicant himself  
would have.

Accountability according to Article 5 (2) of the General Data Protection Regulation  
as a result of its requirement, the data manager is responsible for the basic principles of data protection  
for compliance and must be able to demonstrate that compliance. Based on this, the data controller  
is obliged to document and keep records of data processing in such a way that its legality is retrospective  
be provable.

Given that, pursuant to the above, it cannot be proven that it originates from the Applicant  
as a result of a voluntary statement or an act that unambiguously expresses the confirmation  
has been marked in the Applicant's system data in the personal data online enquiry  
field regarding disclosure, the Authority determines that a

The respondent is not able to prove compliance with the basic principles of data protection in terms of data management, therefore violated Article 5 (2) of the General Data Protection Regulation the basic principle of accountability according to para.

As a result, it has not been proven that the Applicant really consented

personal data of the Applicant online

to the public

to make it, i.e. that the Respondent would have provided for the disclosure

with an appropriate legal basis, the Authority determines that the Respondent is the general data protection officer

was made public by the Applicant without a legal basis, in violation of Article 6 (1) of the Decree

your personal data in your online directory.

3. The Respondent classified the Applicant's phone-recorded requests as a complaint, the Authority

according to his point of view, to exercise the rights of those concerned, to delete the Applicant's personal data

were classified as requests to the

Requested from your online directory.

Accordingly, the Authority ensures compliance with the rules on the deletion of personal data

investigated.

The general data protection regulation regulates personal data among the data subject rights

right to deletion. Based on this - in view of the fact that the Respondent in his statement and

of Annex No. 3 on data management information to the general terms and conditions of the contract

According to point 35, online

handling of personal data available in the directory

as its legal basis according to Article 6 (1) point a) of the General Data Protection Regulation

indicated the legal basis for consent - Article 17 (1) of the General Data Protection Regulation

According to point b), the data subject has the right to request that the data controller makes an unreasonable delay

delete the personal data concerning him without, and the data controller is obliged to do so

delete personal data concerning the data subject without undue delay, if the data subject is involved

in your reference book

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in your reference book

revokes the basis of data management pursuant to point a) of Article 6 (1).

consent, and there is no other legal basis for data processing.

In the present case, even without examining the validity of certain conceptual elements of the consent

it can be established that the Respondent - based on his statement and his registration system - a

managed and made public on the basis of consent in its online directory a

Applicant's personal data after the renegotiation of June 12, 2018. According to the above

The Authority found that it was not proven that the Applicant really consented

personal data of the Applicant online

to the public

but this fact was only discovered during the present procedure. The Applicant

when submitting requests for the deletion of personal data, the Respondent in that a

was aware that it was disclosed based on the consent of the Applicant

data, and the Applicant requests the withdrawal of this consent. The Respondent is therefore the Applicant

at his request was based on Article 17 (1) point b) of the General Data Protection Regulation

is obliged to delete the applicant's personal data from the directory.

Regarding the method of providing information related to the deletion of personal data

the data controller's obligations are detailed in Article 12 of the General Data Protection Regulation.

It can be established that the Applicant withdrew his personal data for the first time in April 2021

processing and initiated their deletion by the Applicant online

from its directory, to which, due to technical and clerical errors, only on July 5, 2021

took place, already the data protection official procedure, as well as the Requested official procedure

after becoming aware of it.

The Applicant, on the occasion of his telephone inquiry on May 2, 2021, a previous

initiated by electronic means about two weeks earlier

deletion from the online directory. However, based on this information, it can be established that

exceeding the deadline, more than two months later, the Applicant's personal

to delete your data, without extending this time for fulfillment

governing deadline, or that he would have provided information on the basis of the request

measures. If the Applicant had not indicated his problem over the phone two

times, the Respondent would not have taken measures to fulfill the stakeholder's request

in order to Consequently, the Authority concludes that the Respondent did not comply with

The applicant's request to delete his personal data, in violation of the general

Article 17 (1) point b) of the Data Protection Regulation. The technical error, as well as administrative errors

error does not exempt the Applicant from data controller responsibility.

4. The Authority also takes into account the statement made in point 3 above, according to which,

although the Respondent classified the Applicant's phone-recorded requests as complaints, they

for the exercise of data subject rights, for requests to delete the Applicant's personal data

qualified, examined ex officio in accordance with Article 12 (2) of the General Data Protection Regulation

enforcement as the data subject's rights - in this case, a request for the deletion of personal data

- a provision requiring the provision of its fulfillment. Based on this, the data controller is obliged

facilitate the exercise of the stakeholder rights of the affected party. The Respondent's present case is contrary to this

according to his conduct, according to which the Applicant's personal data is deleted

recorded requests as complaints. It had to be clear to the Applicant that

that in relation to the Applicant's requests, he must proceed in accordance with the general data protection regulation,

since the Applicant clearly referred to the personal from the online directory

requests the deletion of his data - which was preceded by one on his own, on the Requested's online interface

initiated electronic deletion program - and not another one provided by the Respondent

made a complaint against his service.

Based on all of this, the Authority ex officio determines that the Respondent has violated the Article 12 (2) of the General Data Protection Regulation, as it was not facilitated by the Applicant deletion of personal data.

## ARC. 2. Partial rejection of the request

On July 5, 2021, the Respondent deleted the Applicant's personal data from the online from the directory. The Requester also sent the deletion of personal data to the Authority in 2021. confirmed it back to the Applicant in his letter No. [...] dated July 19. The Authority a after reviewing its inquiry page, found that the Applicant's personal data are indeed they are not available in the public directory.

Consequently, the Authority, although the Applicant asked the Authority to call the A request for the immediate deletion of your personal data in a certified manner is public from the enquiry, the Authority rejects the request in this respect, as it has run out of reasons changed.

## Sun. Legal actions

In the Authority's decision, Article 58 (2) point b) of the General Data Protection Regulation based on the Applicant's request, he condemned the Applicant because from his online directory did not delete the Applicant's personal data at the request of the Applicant, thus violating the general Article 17 (1) point b) of the Data Protection Regulation.

The Authority ex officio based on Article 58 (2) point b) of the General Data Protection Regulation condemned the Applicant also because Article 5 (2) of the General Data Protection Regulation in violation of the requirement of accountability according to paragraph, he did not prove that a The Applicant would have actually consented to his personal data on the Applicant online for its publication in the directory. The Authority is therefore ex officio condemned the Applicant also because Article 6 (1) of the General Data Protection Regulation in violation of paragraph 1, disclosed the Applicant's personal data without legal basis in your online directory.



The Authority ex officio based on Article 58 (2) point b) of the General Data Protection Regulation condemned the Applicant for not being assisted by the Applicant's personal data cancellation by recording the requests made by the Applicant over the phone as a complaint, thereby violating Article 12(2) of the General Data Protection Regulation, as no facilitated the deletion of the Applicant's personal data.

The Authority examined whether a data protection fine against the Application was justified imposition. In this context, the Authority is in accordance with Article 83 (2) of the General Data Protection Regulation and the Infotv. 75/A. based on §, considered all the circumstances of the case and established that a in the case of violations discovered during this procedure, the warning is neither proportionate nor not is a deterrent sanction, therefore a fine must be imposed.

When determining the amount of the fine, the Authority first of all took into account that the violation committed by the Respondent is Article 83 (5) of the General Data Protection Regulation according to paragraph b) of the violation belonging to the higher fine category it counts as.

The Authority as an aggravating circumstance when determining the amount of the data protection fine took into account that

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- it took place after the active cooperation of the Applicant, a total of three requests to delete your personal data from an online directory [Article 83 of the General Data Protection Regulation (2) point a)];
- the personal data of the Applicant over a long period of time, from June 12, 2018 to 2021. were available in the online directory without legal basis until July 5 [general Article 83 (2) point a) of the Data Protection Regulation];
- the Applicant's personal data became public [general data protection decree 83. Article (2) point (g)];
- the Respondent has committed several legal violations, [Article 83 (2) of the General Data Protection Regulation

paragraph d));

- the violations committed by the Respondent are technical resulting from gross negligence

and resulted from administrative errors [General Data Protection Regulation Article 83 (2)

point b));

- the Authority has already condemned the Applicant on one occasion for what he committed

data protection violation - data subject right, according to Article 16 of the General Data Protection Regulation

correction

[general

Article 83 (2) point (e) of the Data Protection Regulation].

due to violation of law (decision with file number [...])

The Authority as a mitigating circumstance when determining the amount of the data protection fine

took into account that

- the Respondent offered HUF 5,000 gross compensation to the Applicant for the

in order to alleviate inconvenience [General Data Protection Regulation Article 83 (2)

paragraph c));

- the Applicant deleted the Applicant's personal data as a result of the official data protection procedure

your data from your online directory [Article 83 (2) of the General Data Protection Regulation

point (f));

- the Authority exceeded the administrative deadline [General Data Protection Regulation Article 83 (2)

paragraph (k)].

When determining the data protection fine imposed against the Application, the Authority did not

considered relevant Article 83 (2) points h), i) and j) of the General Data Protection Regulation

circumstances, as they cannot be interpreted in relation to the specific case.

The net sales revenue of the requested 2020 sales is HUF 284,000.00 million

was, so the imposed data protection fine is far from the maximum fine that can be imposed.

V I . Other questions

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

This decision of the Authority is based on Art. 80-81. § and Infotv. It is based on paragraph (1) of § 61. THE decision of the Akr. Based on § 82, paragraph (1), it becomes final upon its publication. The Akr. § 112, and § 116, paragraph (1) and (4), point d), and on the basis of § 114, paragraph (1) a decision can be appealed through an administrative lawsuit.

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The Akr. According to § 135, the debtor is in arrears corresponding to the legal interest he is obliged to pay a supplement if he does not fulfill his obligation to pay money within the deadline.

Act V of 2013 on the Civil Code 6:48 Based on paragraph (1) of § in case of money owed, the obligee is in default

starting from the date of

equal to the central bank base rate valid on the first day of the calendar semester affected by the delay is obliged to pay late interest.

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. Section 13, paragraph (3).

Based on subparagraph a) of point a), the Metropolitan Court is exclusively competent. The Kp. Section 27

According to point b) of paragraph (1) in a legal dispute in which the court exclusively competent, legal representation is mandatory. The Kp. According to § 39, paragraph (6), the statement of claim its submission does not have the effect of postponing the entry into force of the administrative act.

The Kp. Paragraph (1) of Section 29 and, in view of this, CXXX of 2016 on the Code of Civil Procedure. applicable according to § 604 of the Act, electronic administration and trust services

CCXXII of 2015 on its general rules. according to § 9 (1) point b) of the Act, the

the client's legal representative is obliged to maintain electronic contact.

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

The amount of the fee for the administrative lawsuit is determined by Act XCIII of 1990 on fees. law (hereinafter: Itv.) 45/A. Section (1) defines. From the advance payment of the fee the Itv. Paragraph (1) of § 59 and point h) of § 62 (1) exempt the person initiating the procedure half.

If the Respondent fails to fulfill the required payment obligation in an appropriate manner certifies, the Authority considers that the obligation has not been fulfilled within the deadline. The Akr.

According to § 132, if the Respondent does not comply with the obligation contained in the Authority's final decision fulfilled, it is enforceable. The Authority's decision in Art. According to paragraph (1) of § 82 a becomes final with notification. The Akr. Pursuant to § 133, enforcement - if you are a law government decree does not provide otherwise - it is ordered by the decision-making authority. The Akr. 134. pursuant to § the execution - if it is a law, government decree or municipal authority the local government decree does not provide otherwise - the state tax authority undertakes.

During the procedure, the Authority exceeded Infotv. One hundred and fifty days according to paragraph (1) of § 60/A administrative deadline, therefore the Ákr. On the basis of point b) of § 51, he pays HUF ten thousand to the Applicant - according to your choice - by bank transfer or postal order.

Dated: Budapest, March 2, 2022.

Dr. Attila Péterfalvi

c. professor

president