



Case number: NAIH/2020/4044/6
Antecedent case No : NAIH/2019/5418.
In charge: [REDACTED]

Attention [REDACTED]
[REDACTED]

Dear Sir,

On 29 May 2018, you lodged the complaint with the Romanian data protection authority, in which you presented that you received marketing messages from [REDACTED] (hereinafter: Controller) by e-mail. You attempted to unsubscribe the newsletter on several occasions and according to your complaint, in addition to unsubscribing, you requested the erasure of your e-mail address from the Controller also by e-mail without success as you continued to receive marketing messages. According to your complaint lodged with the Romanian data protection authority, you attempted to unsubscribe the newsletter on 24 May 2018 for the last time, yet you received the Controller's newsletter of 28 May 2018.

It was established under the procedure initiated by the Romanian data protection authority according to Article 56 of the General Data Protection Regulation that the Hungarian National Authority for Data Protection and Freedom of Information (hereinafter: Authority) is the lead supervisory authority in this case as the decisions concerning the purposes and instruments of the processing of personal data are made in Hungary within the Controller's organisation.

In its e-mail of 20 December 2018 sent to [REDACTED], the Authority requested you to make a statement within eight days whether the Authority may disclose your identity to the Controller in the course of the procedure and warned you that without disclosing your identity the investigation cannot be conducted. The Authority also requested you to send a copy of the erasure request addressed to the Controller and referred to in your complaint lodged with the Romanian supervisory authority and sent by e-mail, as well as copies of any other communications and correspondence with the Controller and the Controller's response to the erasure request, if any. With a view to your identification, the Authority called upon you to state your full name, your mother's name and place and date of birth to the Authority.

The Authority did not receive any answer from you to this inquiry. The Authority repeated its inquiry of 20 December 2018 with identical content on 28 July 2019 in an e-mail sent to [REDACTED] however, you did not respond to this inquiry either.

In the absence of a response from you, the Authority examined the documents and information made available to it by the Romanian data protection authority. It was not possible to establish from the screenshots enclosed when you unsubscribed the Controller's newsletter or on how many occasions as they are not dated and no other data are shown, from which the date of unsubscribing could be established, furthermore the e-mail messages, in which you requested the erasure of your e-mail address from the Controller according to your statement, were not available to the Authority either. Consequently, your statement according to which you unsubscribed the Controller's newsletter also on 24 May 2018 and that you requested the erasure of your e-mail address by e-mail were not in any way substantiated or verified.

The screenshots of the electronic newsletters of the Controller do not reveal who the addressee of these newsletters was and what e-mail address they were sent to by the Controller. Despite a newsletter sent after 24 May 2018 being included in the list, the above points remain *unverified*, and therefore no decision establishing an infringement can be based on it. Owing to the deficiencies of the facts of the case, the Authority took up contact with you by e-mail on two occasions, but you disregarded these inquiries.

Based on the above, the Authority rejects your complaint without an investigation of merit in accordance with Section 53(3)(c) of Act CXII of 2011 on the Right to Informational Self-Determination and the Freedom of Information as in the absence of evidence the complaint should be regarded as ungrounded.

Budapest, ²⁵ June 2020.

Yours sincerely,

On behalf


Dr. Attila Péterfalvi
President
Honorary university professor

